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BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke Energy Ohio for Approval of an Electric Security Plan	)))	Case No. 08-920-EL-SSO
In the Matter of the Application of Duke Energy Ohio for Approval to Amend Accounting Methods	)))	Case No. 08-921-EL-AAM
In the Matter of the Application of Duke Energy Ohio for Approval of a Certificate of Public Convenience and Necessity to Establish an Unavoidable Capacity Charge(s)	)))))	Case No. 08-922-EL-UNC
In the Matter of the Application of Duke Energy Ohio for Approval to Amend its Tariff	)))	Case No. 08-923-EL-ATA

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DUKE ENERGY OHIO'S APPLICATION FOR APPROVAL OF AN ELECTRIC SECURITY PLAN

Introduction

The Public Utilities Commission of Ohio (Commission) issued its orders in case number 03-93-EL-ATA, *et al.*, establishing a market-based standard service offer (MBSSO) pursuant to R.C. 4928.14 for Duke Energy Ohio (DE-Ohio).[1]

In August 2007, Governor Strickland announced his Energy, Jobs and Progress plan that was designed to accomplish three main

[1] *In re DE-Ohio's MBSSO,* Case No. 03-93-EL-ATA, *et al.* (Order on Remand) (October 24, 2007); Ohio Rev. Code Ann. § 4928.14 (Baldwin 2008).

objectives: ensuring affordable and stable energy prices; attracting jobs to the State through an advanced energy portfolio standard; and modernizing Ohio's energy infrastructure. It also sought to benefit consumers by empowering consumers to make reasonable energy choices through transparent processes. Consistent with many elements of Governor Strickland's plan, the General Assembly recently enacted Amended Substitute Senate Bill No. 221 (SB-221), restructuring Ohio's competitive retail electric service market and establishing advanced energy resource standards including renewable energy and energy efficiency targets.[2] Among other things, SB-221 requires an electric distribution utility, such as DE-Ohio, to provide consumers a standard service offer (SSO) of competitive retail electric service.[3] Revised Code Section 4928.141 also requires the utility to establish such SSO by applying to the Commission for approval of an electric security plan (ESP) or for approval of an ESP and a Market Rate Offer (MRO).

Accordingly, DE-Ohio hereby applies for Commission approval of its ESP, pursuant to R.C. 4928.141, R.C. 4928.143, and the Rules proposed by the Commission in Case No. 08-777-EL-ORD, including, but not limited to, Appendix B of proposed O.A.C. 4901:1-35-03. This Application accomplishes the goals set forth by the Governor, the General Assembly, and the Commission, including the State policy in R.C. 4928.02(A) favoring reliable generation service at reasonable prices

[2] Substitute Senate Bill 221, 127 General Assembly (April 23, 2008).
[3] Ohio Rev. Code Ann. §§ 4928.14, 4928.141 (Baldwin 2008).

for all energy consumers. The ESP is consistent with DE-Ohio's long-term strategy, a summary of which is set forth at Part F.

The ESP represents DE-Ohio's best efforts to meet the requirements of all stakeholders and to provide relatively stable prices for consumers as well as maintaining a financially viable utility. To that end, DE-Ohio proposes to implement an ESP that includes: dedicated efficient generating assets; reasonably priced capacity additions to reduce its current short position and supply consumers' future needs; a renewable and energy efficiency portfolio to meet statutory mandates; and opportunities to enhance economic development within DE-Ohio's certified territory. Moreover, this ESP will continue the development of a competitive retail electric service market. The ESP will provide consumers with more choices and greater transparency regarding the SSO price, enhance consumers' ability to compare pricing, and facilitate the Commission's oversight of competitive prices. Upon approval of this application, DE-Ohio will submit compliance tariffs consistent with the Commission's Order of approval.

I. Length of the ESP:

DE-Ohio's initial ESP shall be for a period of three years ending December 31, 2011.

II. Summary of DE-Ohio's ESP Standard Service Offer and Affirmative Case:

Attached to, and immediately following this Application is an index permitting interested parties to locate all of the attachments by type and topic. The index is divided into six parts: Part A sets forth all testimony; Part B sets forth schedules supporting the Price to Compare (PTC); Part C sets forth schedules supporting System Resource Adequacy (SRA); Part D sets forth schedules supporting Transmission Cost Recovery (TCR); Part E sets forth schedules supporting proposed Distribution Rider (DR) adjustments; and, Part F sets forth the schedules and documents supporting other substantive proposals necessary to meet DE-Ohio's burden of proof.

DE-Ohio's ESP SSO improves upon the structure set forth in DE-Ohio's current MBSSO. The generation price and the transmission and distribution rate under the proposed ESP are made up of four base components: (1) an avoidable PTC charge to compensate DE-Ohio for several components such as: base generation;[4] costs of fuel, emission allowances, energy from renewable resources, economy purchased power costs, congestion and losses, and financial transmission rights;[5] environmental compliance costs, homeland security, and changes in tax law costs;[6] and, a consumer price index adjustment to account for future inflationary pressures on the base generation component of PTC; (2) an unavoidable SRA charge compensating DE-Ohio for market capacity

[4] Consistent with "little g" in DE-Ohio's current MBSSO price.
[5] Consistent with the Fuel and Purchased Power (FPP) tracker in DE-Ohio's current MBSSO price.
[6] Consistent with the Annually Adjusted Component (AAC) tracker in DE-Ohio's current MBSSO price.

purchases,[7] the dedication of capacity for reliability purposes to retail load in DE-Ohio's certified territory,[8] and capacity newly dedicated to retail load in DE-Ohio's certified territory, including capacity designed to produce renewable energy; (3) an avoidable TCR tracker;[9] and (4) an unavoidable distribution component including three unavoidable distribution riders: (a) Rider DR-Infrastructure Modernization (IM) that includes charges to recover incremental costs associated with maintaining and modernizing distribution infrastructure, including SmartGrid investments, as well as the costs incurred to set up an Electronic Bulletin Board (EBB) to provide consumers with market choices; (b) Rider DR-Save-a-Watt (SAW) to provide compensation to achieve DE-Ohio's statutory energy efficiency mandates;[10] and (c) Rider DR-Economic Competitiveness Fund (ECF) to assess prices associated with economic development and maintenance contracts approved by the Commission.

DE-Ohio's proposed ESP structure does not eliminate any cost recovery or revenue component other than the planned expiration of the residential and non-residential regulatory transition charges (RTC) on December 31, 2008, and December 31, 2010, respectively. To provide more transparency, the ESP pricing proposal clarifies the distinction

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[7] Consistent with the System Reliability Tracker (SRT) in DE-Ohio's current MBSSO price.
[8] Identical to the Infrastructure Maintenance Fund (IMF) in DE-Ohio's current MBSSO price.
[9] Consistent with the Transmission Cost Recovery (TCR) tracker in DE-Ohio's existing MBSSO price.
[10] Consistent with, and replaces, DE-Ohio's current Rider DSM.

between DE-Ohio's avoidable PTC[11] and unavoidable SRA charges. In addition, it simplifies consumer bills by properly categorizing ESP price components as generation, including PTC and SRA charges, transmission, and distribution charges. Finally, DE-Ohio retains the right to seek Commission approval for adjustments to its riders during the ESP period.

DE-Ohio's ESP proposes an initial adjustment to its prices by a total of 6.2%, or $110 million effective January 1, 2009. This proposed price adjustment includes projected increases to various generation components and the elimination of the residential RTC. The estimated price proposal excludes adjustments for newly dedicated capacity, including renewable capacity, and the impact of distribution riders. Effective after December 31, 2010, DE-Ohio will also eliminate the non-residential RTC as scheduled. DE-Ohio's ESP price adjustment includes a $20 million deferral to levelize the pricing impact associated with the different termination dates of the residential and non-residential RTC, respectively.

DE-Ohio will meet its statutory burden of proof by supporting each element of its proposal, demonstrating that its ESP price is below the price that would be available to consumers in the competitive retail electric service market, requesting a certificate to dedicate additional capacity necessary to serve load in its certified territory, and supporting

[11] PTC means all avoidable generation charges.

cost and risk factors justifying each ESP price element. Additionally, DE-Ohio will propose an excess earnings test to be used at the end of each year of DE-Ohio's ESP as applicable. DE-Ohio witness Sandra P. Meyer sponsors testimony providing an overview of DE-Ohio's ESP Application. Mrs. Meyer's testimony is set forth at Part A.

The specific ESP components are as follows:

Part A. Testimony:

The testimony in support of DE-Ohio's ESP is attached hereto as Part A of this Application.

Part B. Price To Compare:

The PTC consists of various avoidable charges. The specific adjustments are set forth below.

1. **Price to Compare-Base Generation (PTC-BG):**

   DE-Ohio's Rider PTC-BG is currently known as "little g," which is the Commission-approved unbundled generation price less RTC. DE-Ohio proposes to adjust Rider PTC-BG to compensate it for generation production, associated operation and maintenance, and dedication of existing generating assets including fuel. DE-Ohio's offer to adjust Rider PTC-BG as set forth above includes avoidable capacity charges, as opposed to adjusting Rider SRA-CD discussed below and, therefore, represents part of DE-Ohio's commitment to develop the competitive retail electric service market by minimizing unavoidable charges. DE-Ohio also proposes to move its historical unbundled Commission-approved fuel and emission allowance price from PTC-BG to Rider PTC-FPP to make prices relative to fuel, economy purchased power, NO_x emission allowances, SO_2 emission allowances, and other future allowances, including but not limited to potential allowances for carbon and mercury, more transparent for all consumers. DE-Ohio witness Paul G. Smith sponsors schedules and testimony supporting the Rider PTC-BG. Mr. Smith's testimony is set forth at Part A. Schedules supporting PTC-BG are set forth at Part B.

2. PTC-FPP:

DE-Ohio will maintain its current Rider PTC-FPP to recover: all fuel and economy purchased power costs; any costs for environmental emission allowances including but not limited to SO_2, NO_x, carbon, and/or mercury emission allowances; and renewable energy costs. DE-Ohio will move certain costs currently embedded for recovery in Rider PTC-BG for recovery through Rider PTC-FPP to create a more complete and transparent Rider PTC-FPP. DE-Ohio will continue to adjust Rider PTC-FPP's price quarterly, although DE-Ohio requests authority to make interim updates as necessary to minimize the potential for significant over or under recovery.

On or about June 1 of each year, DE-Ohio will submit to an audit review and applicable due process regarding the prior year's Rider PTC-FPP price, thereby permitting DE-Ohio and interested parties appropriate due process. DE-Ohio witnesses Charles R. Whitlock and William Don Wathen, Jr. will sponsor schedules and testimony supporting the Rider PTC-FPP price and calculation. Mr. Whitlock's testimony is set forth at Part A. Mr. Wathen's testimony is set forth at Part A. Schedules supporting Rider PTC-FPP are set forth at Part B.

3. **PTC-AAC:**

DE-Ohio will continue Rider PTC-AAC to recover incremental costs associated with environmental compliance, including a return of and on incremental investment in plant and associated operating expenses, homeland security, and changes in tax law. Included in the recoverable environmental costs are expenses for reagents, a return of and on capital expenditures required to increase fuel flexibility, and, consistent with current practice, a return on construction work-in-progress from the date such expenditures begin. DE-Ohio will continue to adjust the Rider PTC-AAC annually. On or about September 1 of each year, DE-Ohio will file an application to adjust its revenue requirement associated with the Rider PTC-AAC permitting DE-Ohio and interested parties appropriate due process. The calculation of the Rider PTC-AAC component during the ESP period shall be substantially identical to the calculation of DE-Ohio's current AAC except that DE-Ohio also proposes to include, subject to the Commission's pre-approval during each annual AAC review process, new cost-effective generation projects not required for environmental compliance that would reduce FPP costs and benefit consumers. DE-Ohio witnesses Charles R. Whitlock and William Don Wathen, Jr. shall sponsor schedules and testimony to support the PTC-AAC price and calculation. The Schedule supporting Rider PTC-AAC is set forth at Part B.

4. Price to Compare-Inflation Adjustment (PTC-IA):

DE-Ohio has experienced a significant increase in operating costs since 1993, when its last base rate case that included generating costs was approved in Case No. 92-1464-EL-AIR. Compensation for inflationary cost increases since 1993 is included in DE-Ohio's avoidable Rider PTC-BG price proposal. Other than costs included in the AAC, DE-Ohio's current MBSSO has no mechanism to recover increases in other costs on an ongoing basis. Such generation costs include, but are not limited to, labor, retirement and health care benefits, and maintenance costs. DE-Ohio proposes Rider PTC-IA be calculated as a 3% annual adjustment of DE-Ohio's PTC-BG as set forth in DE-Ohio witness Paul G. Smith's testimony. DE-Ohio proposes to begin Rider PTC-IA January 1, 2010, for cost increases experienced during 2009. Rider PTC-IA is not intended to recover costs associated with SRA riders, PTC-FPP, or the PTC-AAC. DE-Ohio will assume the risks associated with managing its base generation costs to be below or equal to the annual Rider PTC-IA adjustment. DE-Ohio witness Paul G. Smith will sponsor schedules and testimony supporting Rider PTC-IA. The Schedule supporting Rider PTC-IA is set forth at Part B.

Part C: System Resource Adequacy:

There are three components to the SRA: (1) market capacity purchases (SRA-SRT); (2) capacity dedication (SRA-CD); and (3) newly dedicated capacity (SRA-NDC). These unavoidable charges, combined with the avoidable capacity charges embedded in Rider PTC-BG, permit DE-Ohio to fulfill its statutory provider of last resort (POLR) obligation set forth in R.C. 4928.14 and 4928.141, and allow DE-Ohio to provide an ESP below market price as required by R.C. 4928.143. The SRA also permits DE-Ohio to obtain additional capacity on behalf of its retail consumers in its certified territory in order to maintain an adequate long-term supply of generation capacity and to earn a reasonable return on its investment. In each instance, the proposed adjustment seeks only cost recovery, a stated adjustment approved by the Commission, or a Commission-approved return on equity. DE-Ohio witness Paul G. Smith will discuss in his testimony the affect SRA adjustments may have on earnings during the ESP period.

1. **Market Capacity Purchases:**

DE-Ohio will continue its current Rider SRT as part of the SRA except that it proposes to move to a three-year planning cycle, instead of the current one-year cycle. A three-year cycle will permit DE-Ohio to take advantage of opportunities to obtain low priced capacity beyond the subsequent year. As such, Rider SRA-SRT will continue without interruption through the agreed-upon ESP period. The annual due process and quarterly filings associated with Rider SRA-SRT will also continue. Because system reliability is paramount, DE-Ohio will continue to purchase capacity necessary to maintain an offer of firm generation service and to provide default service to all consumers in its certified territory; currently 115% of capacity necessary to serve all load in DE-Ohio's certified territory, whether switched or unswitched. DE-Ohio will make such purchases to comply with the higher of the Commission's or the Midwest Independent System Operator's (MISO) planning reserve requirements. DE-Ohio may make such purchases from its then-available gas-fired generating assets not previously used and useful where such purchases are economic.[12] Consistent with the current process, Staff may audit all market capacity purchases. DE-Ohio witnesses William D. Wathen Jr. and Charles R. Whitlock will sponsor schedules and testimony supporting Rider SRA-SRT. Schedules supporting Rider SRA-SRT are set forth at Part C.

2. Capacity Dedication:

For the ESP period, DE-Ohio is willing to continue dedicating its capacity used and useful prior to 2001, excluding the generating assets sold to DE-Kentucky, to help meet the load requirements in its certified territory for appropriate compensation. Specifically, DE-Ohio will continue to: (1) provide consumers first call on its capacity and forego the opportunity to sell capacity currently dedicated through its MBSSO to the competitive electric service markets; (2) permit consumers to switch to competitive retail electric service

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[12] DE-Ohio's gas fired assets have always been merchant plants and have never been included in rate base in a regulated state jurisdiction. Exhibit A to the term sheet sponsored by DE-Ohio witness James B. Gainer specifically identifies the generating assets at issue in this Application pursuant to O.A.C. 4901:1-35-03, Appendix B, Specific Information (A)(1).

(CRES) providers for their competitive retail electric service; and (3) assume the risk associated with maintaining a reasonably stable capacity price offer during the ESP period, all in exchange for reasonable compensation. DE-Ohio proposes a stated price for dedicating such capacity during the ESP period. The proposal will provide consumers an ESP price that is below market and will provide DE-Ohio reasonable compensation for making these commitments. DE-Ohio witness Paul G. Smith will sponsor schedules and testimony supporting Rider SRA-CD and DE-Ohio witness Judah L. Rose supports the current capacity market prices available to DE-Ohio from the MISO and PJM Interconnection (PJM) markets. Mr. Rose also explains the opportunity cost and risk to DE-Ohio of maintaining a stable ESP price. Mr. Rose's testimony is set forth at Part A. The Schedule supporting Rider SRA-CD is set forth at Part C.

3. **Newly Dedicated Capacity:**

DE-Ohio will assess a charge for any newly dedicated capacity (NDC) to reduce DE-Ohio's short capacity position, maintain system reliability, and help fulfill DE-Ohio's statutory POLR obligation. Any such capacity will be dedicated for the life of the asset(s) or related contract(s). DE-Ohio hereby applies to the Commission for approval in this case, of a Certificate of Public Convenience and Necessity (CPCN) pursuant to R.C. 4928.143(B)(2)(b) and (c), and upon approval, will dedicate the capacity to serve load in DE-Ohio's certified territory for the life of the asset(s) for traditional generation capacity and for renewable generation capacity. To support the CPCN granted by the Commission, DE-Ohio submits an Integrated Resource Plan (IRP) set forth at Part C. DE-Ohio also seeks Commission approval of bid processes pursuant to R.C. 4928.143(B)(2)(b) and (c) to assure the most prudent acquisition of required capacity. DE-Ohio's proposed bid processes are set forth at Part C at 4. Rider SRA-NDC shall also recover the cost of renewable capacity investment necessary to produce some, or all, of the energy needed to fulfill DE-Ohio's statutory renewable energy mandate pursuant to R.C. 4928.64. Any renewable energy charges are fully avoidable and shall be recovered through Rider PTC-FPP as previously discussed. The need for renewable capacity is also supported by DE-Ohio's IRP. DE-Ohio shall follow the applicable bid process discussed above to assure acquisition or construction of renewable capacity or procurement of purchase power agreements at the least cost. The charge for newly dedicated capacity shall be unavoidable by all consumers for the life of the capacity asset through Rider SRA-NDC. DE-Ohio witnesses James S. Northrup and Dr. Richard Stevie will sponsor schedules and testimony supporting the IRP. Mr. Northrup's and Dr. Stevie's testimony is set forth at Part A. DE-Ohio witness James M. Lefeld will provide testimony on DE-Ohio's investment in renewable capacity assets and intended compliance with SB 221's renewable energy requirements. Mr. Lefeld's testimony is set forth at Part A. DE-Ohio witness Paul G. Smith shall sponsor schedules and testimony supporting the proposed Rider SRA-NDC price. Schedules supporting Rider SRA-NDC are set forth at Part C.

Part D. Transmission Cost Recovery:

DE-Ohio's Rider TCR rate mechanism shall remain similar to the Rider TCR component of DE-Ohio's current tariffs. Future Rider TCR filings will comply with the Commission's rules pursuant to O.A.C. 4901-1-36. DE-Ohio notes that transmission service retail cost recovery remains fully regulated by the Commission but fully avoidable by consumers because CRES providers must provide transmission service on behalf of their consumers. With Commission approval, DE-Ohio currently recovers certain congestion costs and losses through Rider PTC-FPP because the specified costs are fundamentally related to fuel cost. DE-Ohio proposes to maintain its current cost recovery structure and, therefore, to the extent necessary, requests a waiver of O.A.C.

4901:1-35-03, Appendix (B) at Specific Information (F). DE-Ohio witness William Don Wathen, Jr. sponsors schedules and testimony supporting Rider TCR. The Schedule supporting Rider TCR is set forth at Part D.

Part E. Distribution Riders:

DE-Ohio proposes to establish three unavoidable distribution riders. First, DE-Ohio proposes that Rider DR-IM permit DE-Ohio to recover costs associated with the modernization, maintenance, and operation of its distribution system to replace aging infrastructure and to deploy the SmartGrid infrastructure. SmartGrid technology includes a platform to allow for the collection of additional data, automated meter reading, and the introduction of new energy efficiency programs, including real-time pricing. This rider will also recover startup costs associated with implementing an EBB to permit consumers transparent and instantaneous access to competitive retail electric service prices. Second, DE-Ohio proposes Rider DR-SAW to recover costs and provide compensation for achieving DE-Ohio's statutory energy efficiency mandates.[13] Third, DE-Ohio proposes Rider DR-ECF to recover costs associated with ECF contracts approved by the Commission to enhance economic development in Ohio.

DE-Ohio also proposes to amend its distribution rate design by adopting a more levelized pricing methodology. Such a rate design more accurately assigns costs to cost causers and provides more accurate

[13] Consistent with Rider DSM program content in DE-Ohio's current rate structure.

price signals to all consumers. DE-Ohio witness Paul G. Smith sponsors testimony supporting the levelized rate design and the low income pilot program described below.

1. **Distribution Rider-Infrastructure Modernization (DR-IM):** DE-Ohio seeks approval of Rider DR-IM pursuant to O.A.C. 4901:1-35-03, Appendix (B) at Specific Information (G) to permit a reasonable revenue requirement to maintain distribution system reliability and to purchase and deploy SmartGrid technology. Included in this filing is a cost/benefit analysis for the SmartGrid portion of this proposal and a discussion of the benefits of maintaining and modernizing distribution reliability. The cost/benefit analysis is set forth at Part E. DE-Ohio witnesses Tony R. Adcock, William Don Wathen Jr., Christopher D. Kiergan, and Todd W. Arnold shall support Rider DR-IM through schedules and testimony. The testimonies of Messrs. Adcock, Kiergan, and Arnold are set forth at Part A. Schedules supporting Rider DR-IM are set forth at Part E.

   DE-Ohio proposes to establish an EBB that will permit DE-Ohio, its consumers, and CRES providers to participate in the competitive retail electric service market through transparent price offerings. The EBB, which will be accessible through the internet and by phone, will enable DE-Ohio and CRES providers to publicly post market prices for consideration by consumers. Prices may be variable or fixed and applicable to consumer groups specified by DE-Ohio or the CRES provider. Consumers that switch to the EBB posted price must stay at the EBB posted price or take service from a CRES provider for the duration of the ESP. DE-Ohio expects the establishment of the EBB service to cost approximately $9 million and proposes to recover such costs through Rider DR-IM as an unavoidable charge to all consumers. DE-Ohio witness Dr. Richard Stevie will sponsor testimony supporting the EBB.

2. Distribution Rider for Energy Efficiency:

DE-Ohio plans to meet statutory energy efficiency mandates. To accomplish these mandates, DE-Ohio must take a new, more aggressive approach to energy efficiency program design, implementation, development, and cost recovery. DE-Ohio must develop new programs, which requires an increasing research and development effort, and must also encourage the participation of all consumers in energy efficiency programs. This program is a challenge in as much as CRES providers have no energy efficiency mandates. To accomplish these goals DE-Ohio proposes to establish Rider

DR-SAW. Rider DR-SAW will replace DE-Ohio's current Rider DSM, permit an increase to DE-Ohio's energy efficiency research and development efforts, and permit DE-Ohio to allow CRES provider's customers to participate in DE-Ohio's energy efficiency programs, thereby providing an incentive to such consumers to engage in energy efficiency practice while participating in the development of the competitive retail electric service market. DE-Ohio witness Theodore E. Schultz shall support Rider DR-SAW through testimony and schedules. Mr. Shultz's testimony is set forth at Part A. Schedules supporting Rider DR-SAW are set forth at Part E, Schedule 3.

Also, to incent low-income consumers to implement energy efficiency measures and in conjunction with its rate design proposal described above, DE-Ohio also seeks Commission approval for a low-income pilot program in which up to 10,000 consumers will be enrolled. The pilot program will encourage eligible low-income consumers to engage in energy efficiency measures and protect such consumers from a portion of the effect that may result from the rate design proposal.

3. **Distribution Rider Economic Competitiveness Fund:**

DE-Ohio proposes to establish Rider DR-ECF to permit the Commission and DE-Ohio to support public and private economic development. DE-Ohio proposes that Rider DR-ECF will be available to partially support green infrastructure for public entities, including public mass transit and renewable energy projects. DE-Ohio offers $1 million during the ESP period to support public green infrastructure and public renewable energy projects, provided DE-Ohio retains any Renewable Energy Credits associated with funded projects. This Rider also will enable DE-Ohio to support public and private job creation and job retention initiatives and respond to requests by business consumers for generation service discounts. The Commission shall review all contracts or grants, public or private, where DE-Ohio seeks Rider DR-ECF cost recovery, excluding the aforementioned $1 million. DE-Ohio shall recover the costs associated with Rider DR-ECF through an unavoidable charge. Rider DR-ECF shall be set at $0.00 until such time as the Commission approves a Rider DR-ECF program contract and price. DE-Ohio shall adjust Rider DR-ECF quarterly and shall make an annual filing, subject to Commission audit, no later than September 1 of each year.

In this manner, DE-Ohio and all interested parties shall have due process regarding program and price adjustments. Rider DR-ECF shall comply with the requirements of proposed O.A.C. Chapter 4901:1-38. DE-Ohio witness Barry W. Wood, Jr. shall sponsor testimony supporting Rider DR-ECF. Mr. Wood's testimony is set forth Part A.

Part F. Other Matters and Commitments:

There are a number of other matters not discussed above that are part of DE-Ohio's ESP application. These matters are set forth below.

1. **Home Energy and Weatherization Program**:

   DE-Ohio currently maintains contracts of approximately $850,000 per annum for home energy and weatherization programs. DE-Ohio commits to increase funding for these programs through the ESP period to $1 million annually.

2. **Operational Support Plan:**

   The Commission approved DE-Ohio's Operational Support Plan, which describes DE-Ohio's interactions with CRES providers and its technical support for the competitive retail electric service market, as part of Case No. 99-1658-EL-ETP. DE-Ohio's Operational Support Plan has been fully implemented as approved and there are no outstanding issues. DE-Ohio has met with interested parties and amended the plan with Commission approval from time to time. DE-Ohio Witness Daniel Jones sponsors schedules and testimony supporting DE-Ohio's Operational Support Plan. Mr. Jones' testimony is set forth at Part A. DE-Ohio's Operational Support Plan as amended is set forth at Part F.

3. Corporate Separation:

DE-Ohio is operating pursuant to its Corporate Separation Plan approved by the Commission in Case No. 99-1658-EL-ETP, and as amended in Case No. 03-93-EL-ATA, *et al.* The Commission approved DE-Ohio's Corporate Separation Plan as filed in Case No. 99-1658-EL-ETP, including a requirement that DE-Ohio transfer its assets to an Electric Wholesale Generator (EWG) by December 31, 2004. The Commission granted DE-Ohio one waiver in Case No. 03-93-EL-ATA, *et al.*, to avoid transferring its generating assets to an EWG until December 31, 2008. Subsequently, also in Case No. 03-93-EL-ATA, *et al.*, the Commission ordered DE-Ohio to amend its Corporate Separation Plan so that DE-Ohio does not transfer its generating assets to an EWG until after the expiration of its Rate Stabilization Plan. DE-Ohio seeks such approval pursuant to this application. Due to changing FERC regulations, an EWG is no longer the proper entity into which to transfer generating assets. DE-Ohio, therefore, seeks Commission approval to transfer its generating assets to an affiliated entity or entities that will directly or indirectly own or have contractual rights to the generating capacity of the designated units.[14] DE-Ohio witness James B. Gainer sponsors the Corporate Separation Plan. DE-Ohio's Corporate Separation Plan as amended is set forth at Part F. Mr. Gainer's testimony is set forth in Part A.

4. Generation Asset Transfer:

DE-Ohio respectfully requests Commission approval of DE-Ohio's transfer of its generating assets to Genco. In the event the Commission approves the transfer of DE-Ohio's generating assets to Genco, DE-Ohio will enter a contract with Genco committing its generating assets, excluding those generating assets previously transferred to DE-Kentucky, that were used and useful prior to January 1, 2001, to serve load in its certified territory.

The Genco's prices to DE-Ohio pursuant to the contract will be identical to the applicable ESP price. In the event that DE-Ohio and/or the Commission do not extend the ESP, the Genco contract shall remain in force for five years to the

[14] FERC has eliminated the EWG designation but the generating assets shall be transferred to a functionally equivalent entity or entities called "Genco" for the purpose of this Application.

extent necessary to transition DE-Ohio through its MRO filing. The Genco shall continue to charge DE-Ohio the Commission-approved ESP price, with all adjustments, during the transition period to an MRO, as the baseline to the blended MRO price.

In addition, the contract will commit the Genco to make available to the Commission, its Staff, or its auditor the information necessary to determine adjustments to the applicable Riders, including, but not limited to Rider PTC-FPP and Rider PTC-AAC. The Commission shall retain audit rights during the effective contract period to assure the proper baseline charge for the MRO under R.C. 4928.142. A term sheet for such a contract is set forth at Part F. DE-Ohio witness James B. Gainer shall sponsor the term sheet and testimony supporting the transfer of the generating assets to a Genco. Mr. Gainer's testimony is set forth at Part A.

5. Market Price Test and Excess Earnings Test:

DE-Ohio witness Judah L. Rose sponsors testimony demonstrating that DE-Ohio's ESP price complies with R.C. 4928.143 and the Commission's proposed rules. DE-Ohio witness Paul G. Smith sponsors testimony demonstrating that no ESP component later materially affects DE-Ohio's earnings during the ESP term and that the ESP price is below the MRO price. If appropriate, Mr. Rose also proposes a test to determine if DE-Ohio's earnings are significantly excessive at the end of each year of DE-Ohio's ESP.

6. Governmental Aggregators:

a. Phase-in prices:

Currently, there are no active governmental aggregators in DE-Ohio's certified territory. Revised Code Section 4928.20(I) permits governmental aggregation consumers to pay their proportionate share of phase-in charges approved by the Commission pursuant to R.C. 4928.144. DE-Ohio Witness Paul G. Smith supports the lack of phase-in charges to governmental aggregation groups.

b. Governmental Aggregation "Standby Service" Policy:

Revised Code Section 4928.20(J) permits governmental aggregators to provide written notice to the Commission that they elect not to receive "standby service" as that term is defined by R.C. 4928.143(B)(2)(d). That section, however, does not define "standby service" and it is not otherwise defined in the Revised Code. Revised Code Section 4928.20(J) expressly does not permit governmental aggregators to avoid charges for "default service" as it is set forth separately from "standby service" in R.C. 4928.143(B)(2)(d).

Given the conflicting elements of the Revised Code, DE-Ohio proposes to credit governmental aggregation customers five percent (5%) of its SRA-SRT and SRA-CD as a proxy for the "standby service" charge avoidable by government aggregators. If a governmental aggregation consumer opts out of the governmental aggregation service, it may return to DE-Ohio but must pay the "standby service" charge it avoided as an ESP re-entry charge. DE-Ohio witness James B. Gainer sponsors testimony supporting the ability of governmental aggregators to avoid "standby service." DE-Ohio witness Paul G. Smith sponsors schedules supporting the calculation of the governmental aggregator credit for "standby service." Schedules supporting the governmental aggregator credit for "standby service" are set forth at Part F.

c. **Large Scale Governmental Aggregation pursuant to R.C. 4928.20(K) and proposed O.A.C. 4901:1-35-03, Appendix B at (G):**

DE-Ohio's proposal accomplishes the statutory goal of encouraging governmental aggregation by providing such aggregators with a competitive advantage. It also avoids substantial conflict with the statutory policy set forth in R.C. 4928.02(H) by avoiding anticompetitive subsidies to the extent possible given the statutory requirements of R.C. 4928.20(J). DE-Ohio witness James B. Gainer sponsors testimony supporting DE-Ohio's governmental aggregation proposals.

7. Revised Code Section 4928.02 State Policy:

The State policies set forth in R.C. 4928.02 contain many potentially competing objectives. Some examples include: the promotion of below market prices for generation service while at the same time promoting the development of the competitive retail electric service market; the promotion of governmental aggregation while prohibiting subsidies; and the protection of low-income consumers while implementing more expensive renewable energy assets. DE-Ohio's proposed ESP strikes an appropriate balance among the competing statutory State policies. DE-Ohio's ESP avoids subsidies except where required by statute or rule. Subsidy examples include avoidance of "standby service" by governmental aggregators and free billing services for all

CRES providers. DE-Ohio's ESP encourages the development of the competitive retail electric market by setting a reasonable PTC and providing the EBB, a retail competitive bid process. DE-Ohio's ESP promotes reliable service through generation asset dedication, the development of renewable assets and energy efficiency programs, and the investment in distribution including the deployment of SmartGrid technology. In short, DE-Ohio's ESP reasonably supports the State policy set forth in R.C. 4928.02. Each DE-Ohio witness supports elements of the statutory State policy.

NOW, THEREFORE, DE-Ohio respectfully urges the Commission to issue an Opinion and Order that adopts, without change, its Electric Security Plan.

Respectfully submitted,

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Certificate of Service

The undersigned hereby certifies that a copy of the foregoing pleading was served on the following either electronically, by first class U.S. mail, postage prepaid, overnight delivery or by hand delivery, upon the following, this 31st day of July 2008.

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ELECTRIC SECURITY PLAN INDEX

Part	Title	Witness(es)
A.	**Testimony**	Tony R. Adcock Todd W. Arnold James B. Gainer Daniel L. Jones Christopher D. Kiergan James M. Lefeld Sandra P. Meyer James S. Northrup Judah L. Rose Theodore E. Schultz Paul G. Smith Dr. Richard G. Stevie William D. Wathen Jr. Charles R. Whitlock Barry C. Wood
B.	**Price to Compare (PTC) includes:** - Base Generation (PTC-BG) - Inflation Adjustment (PTC-IA) - Fuel & Purchased Power (PTC-FPP) - Annually Adjusted Component (PTC-AAC)	Smith, Wathen, Whitlock
C.	**System Resource Adequacy (SRA) includes:** - System Reliability Tracker (SRA-SRT) - Capacity Dedication (SRA-CD) - Newly Dedicated Capacity (SRA-NDC)	Lefeld, Meyer, Northrup, Rose, Smith, Wathen, Whitlock
D.	**Transmission Cost Recovery (TCR)**	Wathen
E.	**Distribution Riders (DR)** - SmartGrid Costs/Benefits - Infrastructure Modernization (DR-IM) - Energy Efficiency (Rider SAW)	Adcock, Arnold, Kiergan, Schultz, Stevie, Wathen, Wood
F.	**Other Matters and Commitments** - Long-Term Strategy - Operational Support Plan - Corporate Separation Plan - Term Sheet for Genco - Standby Service for Governmental Aggregation	Adcock, Gainer, Jones, Meyer, Smith