FILE

RECEIVED-DOCKETING DIV
2008 OCT 27 PM 5:21
PUCO

67

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 Tariffs	)	Case No. 08-923-EL-ATA

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 Parties 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 raised by Duke Energy Ohio (DE-Ohio) in these cases relative to the Application to establish an Electric Security Plan (ESP) within DE-Ohio's certified territory.

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,[1] 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 all 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 conditioned upon adoption of the Stipulation by the Commission in its entirety and without material modification. Should the Commission reject or modify all or any part of this Stipulation, the Parties shall have the right to file an application for

---

[1] 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).

rehearing. If the Commission does not adopt the Stipulation without material modification upon rehearing, any Party may terminate and withdraw from the Stipulation by filing a notice with the Commission, including service to all Parties, in the docket within thirty (30) days of the Commission's Entry on Rehearing. Upon such notice filing, the Stipulation shall immediately become null and void.

Prior to the filing of this notice, the Party wishing to terminate agrees to work in good faith with the other Parties to achieve an outcome that substantially satisfies the intent of the Stipulation and, if a new agreement is reached, to file the new agreement for Commission review and approval. If the discussions to achieve an outcome that substantially satisfies the intent of the Stipulation are unsuccessful, the Commission may convene an evidentiary hearing such that the Parties will be afforded the opportunity to present evidence through witnesses, to cross-examine witnesses, to present rebuttal testimony, and to brief all issues that the Commission shall decide based upon the record and briefs as if this Stipulation had never been executed. If the discussions to achieve an outcome that substantially satisfies the intent of the Stipulation are successful, some, or all, of the Parties shall submit the amended Stipulation to the Commission for approval.

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

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 Application to establish an ESP;

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. DE-Ohio shall implement an ESP as set forth in its Application, including the generation, transmission and distribution price structure described on Stipulation Attachment 1, for a term of

three years, beginning January 1, 2009, and extending through December 31, 2011, except as modified by this Stipulation.

2. DE-Ohio's base generation charge (PTC-BG) (currently known as Little 'g') shall reflect the unbundled generation rate as approved in Case No. 99-1658-EL-ETP less the Regulatory Transition Charges (RTC), as adjusted to reflect the following:

   a. The RTC for residential customers shall be eliminated on December 31, 2008;

   b. The RTC for non-residential customers shall remain in effect, as an unavoidable charge, through December 31, 2010;

   c. The frozen fuel, purchased power and emission allowances currently recovered in Little 'g' (1.2453 ¢/kWh), shall be transferred to the fuel and purchased power rider (Rider PTC-FPP, currently known as Rider FPP). Such cost transfer will not increase the total price charged to customers; and

   d. A base generation charge increase for residential and non-residential customers on January 1, 2009, January 1, 2010, and for non-residential customers, on January 1, 2011, as further described in paragraph 3, below.

3. DE-Ohio shall implement the base generation charge, PTC-BG, as shown on Stipulation Attachment 2 and established in the attached tariff sheets. These charges reflect the adjustments described in paragraph 2, above.

4. DE-Ohio shall amend its Application to eliminate any requested price or cost deferral except as set forth in paragraphs 11 and 16.

5. DE-Ohio shall withdraw its proposed Rider PTC-IA.

6. DE-Ohio shall implement prices for the riders listed on Stipulation Attachment 1 as established in the attached tariffs. Such riders shall reflect the types of prices, charges, periodic adjustments, avoidability, and due process, including an opportunity for hearing, as described in DE-Ohio's Application, except as modified in this Stipulation. All prices will continue to be subject to the same existing types of charges that are currently applied to the Rate Stabilization Plan (RSP) prices, such as metering and tax charges, except as provided in this Stipulation.

7. The Parties agree to the following commitments with respect to Rider PTC-FPP:

   a. Rider PTC-FPP shall reflect the transfer of the frozen fuel, purchased power and emission allowances currently included in DE-Ohio's unbundled base generation charge as described in paragraph 2, above;

   b. Rider PTC-FPP shall include an allocation, as of the date on which this Stipulation is filed, of the actual delivered cost of fuel pursuant to the existing fuel and transportation agreements, the actual cost of net purchased power, including gains and losses resulting from the settlement of forward power contracts, and SO_2 and NO_x emission allowance inventories proportional to the expected generation share needed to serve DE-Ohio's Rider PTC-FPP customers. Recent court rulings make the NOx emission allowance inventory unclear. The parties agree to allocate the NOx emission allowance inventory, and any other emission allowance inventory established during the ESP period, proportional to the expected generation share needed to serve DE-Ohio's rider PTC-FPP customers, as of the date the allowances are granted to DE-Ohio; and,

c. After the Stipulation is filed, an actively managed commodity portfolio consisting of fuel, SO_2 and NO_x emission allowances, DE-Ohio owned and dedicated generation, and purchased power will be maintained with the objective of providing a least cost energy supply for the Rider PTC-FPP customers with the associated costs, gains and losses flowing to the Rider PTC-FPP customers.

d. DE-Ohio agrees to make a filing with the Commission proposing the manner of any true-up of Rider PTC-FPP revenues and costs through December 31, 2008. Such filing will be submitted during the first quarter of 2009, and will be subject to due process, including the audit for the eighteen month period ending December 31, 2008. Such audit shall be conducted by an independent third party auditor or Staff, at the Commission's discretion. DE-Ohio shall fund the audit and receive cost recovery through Rider PTC-FPP as approved by the Commission.

8. In order to maintain the same Rider PTC-FPP process as the current Rider FPP and to maintain the same Rider TCR process as the current Rider TCR, the Parties agree that the Midwest Independent System Operator, Inc. (MISO), costs for net congestion and losses shall be recovered through Rider PTC-FPP, including the net revenue received from financial transmission rights and auction revenue rights. The Parties also agree to recommend that the Commission grant DE-Ohio's request for a waiver from the proposed Commission's rules to permit such cost recovery through avoidable Rider PTC-FPP rather than avoidable Rider TCR. Ancillary services shall be recovered through Rider TCR.

9. Subject to Commission approval in these proceedings and Case No. 08-1025-EL-UNC, Rider PTC-AAC rate, currently known as Rider AAC, will be updated effective December 1, 2008. Annually thereafter during the ESP time period as proposed in DE-Ohio's application, DE-Ohio may request, subject to due process, including an opportunity for a hearing and Commission approval, the recovery of net incremental costs or credits associated with environmental compliance, homeland security, and changes in tax

law. The Parties further agree that DE-Ohio may also seek Commission approval for recovery through Rider PTC-AAC or Rider PTC-FPP of cost-effective generation projects not required for environmental compliance that would improve fuel flexibility, and the supporting Parties reserve the right to oppose any such application.

DE-Ohio agrees to make a filing with the Commission proposing the manner of any true-up of Rider PTC-AAC reagent revenues and costs through December 31, 2008. Such filing will be submitted during the first quarter of 2009, and will be subject to due process, including the audit for the eighteen month period ending December 31, 2008. Such audit shall be conducted by an independent third party auditor or Staff, at the Commission's discretion. DE-Ohio shall fund the audit and receive cost recovery through Rider PTC-AAC as approved by the Commission.

10. Eligible capacity purchases under Rider SRA-SRT shall be subject to the annual due process, including an opportunity for a hearing, approved in Case No. 03-93-EL-ATA, *et al.*:

    a. Shall include recovery of market capacity purchases for any duration up-to three-years, if approved by the Commission;

b. DE-Ohio shall solicit for capacity in an open, non-discriminatory, and competitive manner;[2]

c. Capacity contracts shall be awarded to the lowest and best offer submitted pursuant to the open, non-discriminatory, and competitive process conducted by DE-Ohio;

d. Rider SRA-SRT may include compensation for capacity owned by DE-Ohio or its affiliates that has never been used and useful in serving DE-Ohio load;

e. Compensation for DE-Ohio's capacity shall be determined through offer solicitation by DE-Ohio using one of the following two methodologies:

   i. Compensation shall equal the lowest offer price for the capacity pursuant to the open, non-discriminatory, and competitive offer solicitation process outlined in this paragraph; or,

   ii. If there are no offers for capacity other than from DE-Ohio, DE-Ohio shall be compensated at the price for the last actual competitively-priced, arms-length transaction.

   Nothing herein shall be construed as a requirement that DE-Ohio solicit bids through a formal request for proposal process overseen by an independent third party;

[2] DE-Ohio may maintain confidential information within its bid solicitation process but within the due process review before the Commission shall provide information necessary to the parties and for the Commission to affirm the open, non-discriminatory, and competitive solicitation. Such information may be provided under seal or otherwise protected through appropriate agreements and other means.

f. Rider SRA–SRT shall be avoidable for all non-residential customers who agree not to return to the standard service offer for the remainder of the three-year term of the proposed ESP period. The agreement not to return shall be by contract or one of the methods approved for the Rate Stabilization Program[3] including the currently approved script and Competitive Retail Electric Service (CRES) provider initiated electronic sign up. A non-residential customer who pledges not to return to the ESP-SSO, but does so, shall pay the competitive retail electric service price specified in Stipulation paragraph 17; and

g. DE-Ohio shall develop and implement a tariff compensating non-residential customers with qualified backup generating facilities for use of their facilities as needed to maintain reliable generation service. Capacity compensation shall not exceed the average price per kW for capacity purchases recoverable in Rider SRA-SRT. The key provisions of the tariff are set forth as Stipulation Attachment 4. Participating capacity shall count toward DE-Ohio's market capacity purchases and shall be recovered through Rider SRA-SRT. DE-Ohio and the Greater Cincinnati Health Council have

[3] Authorization in the Rate Stabilization Program included both a two page form and telephonic approval with use of an agreed to script with the customer response recorded as filed by Integrys Energy Services, Inc. on May 4, 2007 in case 03-93-EL-ATA .

agreed to the terms and conditions related to a capacity purchase program and other related items set forth on Stipulation Attachment 9.

h. DE-Ohio agrees to make a filing with the Commission proposing the manner of any true-up of Rider SRA-SRT revenues and costs through December 31, 2008. Such filing will be submitted during the first quarter of 2009, and will be subject to due process, including the audit for the eighteen month period ending December 31, 2008. Such audit shall be conducted by an independent third party auditor or Staff, at the Commission's discretion. DE-Ohio shall fund the audit and receive cost recovery through Rider SRA-SRT as approved by the Commission.

11. The Parties recommend Rider DR-IM for approval in this proceeding. Cost recovery for Rider DR-IM shall be on a cost per meter basis. The Parties agree to a January 1, 2009, implementation of distribution Rider DR-IM, limited to SmartGrid,[4] DE-Ohio's Gas Furnace Program as identified in paragraph 13,[5] and, if subsequently approved by the Commission pursuant to the process set forth in Paragraph 19 of this Stipulation, the Electronic Bulletin Board (EBB). Annual second quarter approval of Rider

---

[4] As referenced in this Stipulation "SmartGrid" includes Advanced Meter Infrastructure (AMI) and Distribution Automation (DA).

[5] Signatory Parties that were not also parties in Case No. 06-91-EL-UNC *et al*, do not express an opinion regarding the retention and funding of the Gas Furnace program.

DR-IM adjustments shall be subject to due process, including an opportunity for hearing, as set forth in the Application.

a. Rider DR-IM shall be initially set at zero. Thereafter, such charge shall be subject to an applicable annual second quarter due process and true-up contemporaneous with the SmartGrid, EBB, and Gas Furnace Program. The cost recovery methodology for the Gas Furnace Program shall remain the same as it is today under Rider DSM, thus having no effect on customers' rates. Rider DR-IM will be adjusted, following the effective date of the Commission's order in DE-Ohio's next base electric distribution rate case, to reflect the amount of SmartGrid, EBB and gas furnace program costs, if any, that are included in base rates.

b. Stipulation Attachment 3 sets forth the projected SmartGrid electric deployment investment, operating costs net of savings and revenue requirement through 2014. For each annual Rider DR-IM filing, 85% of the annual SmartGrid revenue requirement will be allocated to residential customers and recovered on a monthly price per meter. Non-residential customers served on the distribution system (excluding lighting) shall be allocated 15% of the annual SmartGrid revenue requirement, to be recovered on a monthly price per meter based on the currently approved weighted-average customer charge (see Stipulation Attachment 3, page 2 of 2).

c. The SmartGrid revenue requirement shall be recovered on a monthly price per meter for residential customers not to exceed \$0.50 in 2009, \$1.50 in 2010, \$3.25 in 2011, \$5.25 in 2012, \$5.50 in 2013, and thereafter, pursuant to the process set forth in Paragraph 11(f) of this Stipulation.

d. DE-Ohio shall accrue Post-in-Service Carrying Charges at the most recently approved weighted average cost of long term debt and to defer depreciation and operating costs from the date that the applicable expenditures are incurred until such expenditures are included for recovery in Rider DR-IM. Such regulatory assets will be included in unique sub-accounts of Account 182.3, Other Regulatory Assets, and will be subject to review by all parties in the annual Rider DR-IM filing. The Parties also agree to the regulatory asset accounting treatment for replaced meters as described in DE-Ohio's Application, for which recovery shall be through existing depreciation rates as they may be amended from time to time.

e. The annual second quarter due process regarding Rider DR-IM shall include the projected deployment and implementation plan for the current year including its design requirements, performance goals, metrics, and milestones, and a Staff audit and verification of the previous year's SmartGrid costs and system performance levels. Also included will be a high level overview of the following year's plan and any associated details to the extent available. DE-Ohio will share this information contemporaneously with OCC as it is provided to Staff.

f. As part of the annual due process related to 2010 costs net of benefits, DE-Ohio shall include a mid-deployment program summary and review with the second quarter 2011 filing outlining its progress through 2010, including expenditures, deployment program summary and review. As part of the same filing DE-Ohio shall also outline deployment milestones, system performance levels and customer benefits versus the plan. The summary and review shall address deployment lessons learned, an updated allocation of the annual distribution revenue requirement, and the desirability of continuing the program beyond December 31, 2011.

g. DE-Ohio shall convene a working group or collaborative process for the purpose of exploring opportunities to maximize the benefits of the SmartGrid investment. Such opportunities shall include, but are not limited to, designing and implementing tariffs by December 31, 2009, including revenue-neutral critical peak pricing and enhanced power manager pricing programs, residential time of use, and improving access to meter information that will assist customers, especially low-income customers, in managing their electric costs. The working group or collaborative process shall be open to Staff, Marketers, PWC and other interested stakeholders.

h. DE-Ohio will focus initial SmartGrid deployment on circuits mostly in high density areas with a high percentage of inside meters. Such focus will eliminate the monthly need to access over 400,000 meters located inside customer premises, including many low-income customers. Remotely obtaining meter data for these locations will provide significant customer benefit.

i. DE-Ohio shall deploy SmartGrid technology in the Village of Terrace Park, Ohio during 2009.

j. It is the Parties' expectation that System reliability will be enhanced commensurate with the deployment of SmartGrid. Based on the deployment schedule in Attachment 3, DE-Ohio agrees to improve its targeted system average interruption frequency index (SAIFI) as set forth in O.A.C. 4901:1-10-10 from 1.50 in 2009, to 1.44 in 2010, to 1.38 in

2011, to 1.31 in 2012, to 1.24 in 2013, to 1.17 in 2014, and 1.10 in 2015. If DE-Ohio meets its deployment commitments, and the expected SAIFI target improvements do not materialize in any year during deployment, the parties agree that DE-Ohio may apply to the Commission to suspend deployment or seek amended SAIFI targets as may be appropriate. The pendency of that application does not absolve DE-Ohio of its requirement to meet the SAIFI targets outlined herein.

k. Rider AU, currently pending in Case No. 07-589-GA-AIR, represents the recovery of the SmartGrid costs allocable to DE-Ohio's gas distribution customers and is still under Commission consideration. The Parties recognize that DE-Ohio is a combination gas and electric utility and understand that benefits to customers may accrue by deploying both electric and gas SmartGrid at the same time. Therefore, DE-Ohio may apply to the Commission to discuss alternatives to the electric SmartGrid including the electric SmartGrid caps outlined in 11(c) and amendments to SAIFI targets outlined in 11(j) of this Stipulation as a result of the decision in 07-589-GA-AIR .[6]

[6] Signatory Parties that were not also parties in Case No. 07-589-GA-AIR *et al*, do not express an opinion concerning Rider AU.

12. DE-Ohio shall withdraw its request in this proceeding to implement a change in the distribution customer charges. Such proposed changes in the customer charge shall be determined in Case No. 08-709-EL-AIR.

13. Rider DR-SAW shall be implemented by January 1, 2009.

    a. Upon the implementation of Rider DR-SAW effective January 1, 2009, DE-Ohio will eliminate the existing charge in customer rates for Rider DSM. On or before March 31, 2009, DE-Ohio proposes to file a final report and reconciliation for the period July 1, 2008, through December 31, 2008, which represents the period that would not be covered by the upcoming November 15, 2008, Annual Report filing of programs under Rider DSM. To affect a final true-up of Rider DSM, DE-Ohio would seek the Commission's approval in its March 31, 2009, filing to add or subtract the resulting true-up from the July – December 2008 period to Rider DR-SAW at that time. The resulting adjustment to Rider DR-SAW would effectuate the close-out of Rider DSM. The energy efficiency programs approved under Rider DSM, as updated in the Supplemental Direct Testimony of Theodore E. Schultz, shall continue in effect under Rider DR-SAW subject to the same annual reporting and program approval requirements currently in effect under Rider DSM, which include due process and an opportunity for a hearing. The Rider DR-SAW true-up shall occur in the Second quarter of 2012 for programs operating from January 1, 2009, through December 31, 2011. The costs relating to the DSM Smart Saver/Summer Saver program for high-energy furnaces without electronically commutated motors (*i.e.*, Gas Furnace Program) shall be transferred for recovery to Rider DR-IM. Rider DR-SAW shall be amended effective January 1, 2009, as set forth in Supplemental Attachment PGS-1, filed on September 16, 2008.

b. Section 4928.66(A)(2)(c), Revised Code, provides that mercantile customers that commit their demand response or other customer-sited capabilities, whether existing or new, for integration into the electric distribution utility's demand-response, energy efficiency, or peak demand reduction programs may be exempted from a cost-recovery mechanism designed to recover the costs of utility programs created to meet the energy savings and peak demand reduction benchmarks set forth in divisions (A)(1)(a) and (b) of the statute. Pursuant to this statute, exemptions from Rider DR-SAW shall be available to customers that have a minimum monthly demand of 3 MW at a single site or aggregated at multiple sites within DE-Ohio's certified territory and agree to comply with the Commission's rules regarding exemption from cost-recovery mechanisms.

To obtain exemption, the customer shall file a joint application with DE-Ohio before the Commission seeking approval of the exemption.[7] To qualify for exemption, the applicant customer must demonstrate to the Commission that it has undertaken or will undertake self-directed energy efficiency and/or demand reduction programs that have produced or will produce annual percentage energy savings and/or peak demand reductions equal to or greater than the applicable annual percentage statutory energy savings and/or peak demand reduction benchmarks to which DE-Ohio is subject. The energy savings and demand reductions resulting from the customers' self-directed program shall be calculated using the same methodology used to calculate DE-Ohio's energy savings and demand reductions for purposes of determining compliance with the statutory benchmarks, including normalization adjustments to the baseline, where appropriate. As a part of the application, the customer shall provide a calculation of the customer baseline and independent measurement and verification of the level of energy savings and demand reduction achieved

[7] If DE-Ohio, for any reason, decides not to proceed with a joint application with a customer, the customer may file an application before the Commission on its own initiative.

or anticipated, and, to retain the exemption, shall, thereafter, on an annual basis, make a filing with the Commission demonstrating that it remains eligible for the exemption under the criteria set forth herein.

The Parties recognize that there may be customers that have previously implemented effective self-directed energy efficiency and demand reduction programs and that such existing programs may severely limit the ability of such customers to achieve additional savings and reductions. The Parties further recognize that such existing customer programs also affect DE-Ohio's ability to comply with the applicable statutory benchmarks by limiting the potential for savings and reductions that can be achieved under its own programs. Such a customer seeking exemption from Rider DR-SAW based on energy savings and/or demand reductions achieved under a self directed program shall demonstrate in its application that (i) such program was tailored to the particular energy consumption characteristics of the customers equipment and/or facilities and (ii) that the savings and/or reductions that have been achieved under its self-directed program have limited its ability to achieve meaningful additional cost-effective savings and/or reductions through participation in DE-Ohio's programs.

The parties recommend that the Commission determine the methodology to be employed to effectuate the integration of the committed capabilities of exempt customers into DE-Ohio's energy efficiency and peak demand reduction programs in determining DE-Ohio's benchmark compliance. DE-Ohio shall not be subject to penalties, including compliance payments, as a result of the failure of an exempted customer to achieve the anticipated level of energy savings and/or peak demand reduction claimed in the application for exemption.[8] The application for exemption, joint or otherwise, shall include proposed consequences for the customers' failure to achieve the energy savings and/or demand reductions claimed in the application.

Applicants for exemption may seek confidential treatment of materials provided in support of the application, including, but not limited to, customer name(s), price, and trade secret(s).

c. DE-Ohio shall administer Rider DR-SAW by applying to the Commission for approval of each Rider DR-SAW program except that approval of this Stipulation shall constitute

[8] The OCC does not support DE-Ohio's liability exemption for an exempted customer's failure to meet its energy efficiency commitment but recognizes the Stipulation is a compromise of views and will not litigate the issue. Nothing herein restricts OCC's legal rights to litigate this issue in any other proceeding before the Commission.

approval of the initial Rider DR-SAW program content as set forth in the Supplemental Direct Testimony of DE-Ohio witness Theodore E. Schultz. Program development shall be through DE-Ohio individually or collaboratively with other interested parties through the Duke Energy Community Partnership (DECP),[9] proposed manufacturers' collaborative or other collaborative or individual customers. Non-Company stakeholders in the DECP shall have one vote each for the purpose of advising DE-Ohio regarding energy efficiency program development which may include programs that bridge tax incentive gaps to the extent programs are projected to be cost effective and are approved by the Commission under Rider DR-SAW. DE-Ohio will consider collaborative advice regarding program development, evaluation, and effectiveness. DE-Ohio will share residential and non-residential energy efficiency information with the collaboratives except that all parties agree to protect confidential information disclosed in the collaborative process. Customers that do not become exempt shall be eligible for Rider DR-SAW programs applicable to their rate classification and shall pay Rider DR-SAW. Exempt

[9] The DECP shall include as members the Cincinnati-Hamilton and Clermont County Community Action Agencies, Adams Brown Economic Opportunities, Inc., and the Community Action Partnership of the Greater Dayton Area.

customers, as set forth in division (b) of this paragraph, shall not be eligible for any Rider DR-SAW programs.

d. Non-residential Rider DR-SAW recovery shall be allocated between distribution and transmission service customers based on the allocation of distribution revenues as approved in the Company's most recent electric distribution rate case, as shown on Stipulation Attachment 8. A transmission service customer that participates in the Save-A-Watt program will be charged the Rider DR-SAW rate applicable to non-residential customers served on the distribution system, and this will in no way increase the DR-SAW rate charged to non-participating transmission service customers.

e. As an incentive for achieving energy efficiency above the statutory mandate over the ESP period, DE-Ohio shall be entitled to the following return on investment on its program costs up to the following caps:

% Mandate[10]	Return on Investment Cap
> 125%	15%
116 – 125%	13%
111 – 115%	11%
101 – 110%	6%
< or =100%	0%

[10] Mandate means the benchmarks and baseline for energy efficiency set pursuant to R.C. 4929.66.

Nothing herein may be used as precedent for any other proceeding except as may be needed to enforce the terms of this Stipulation.

f. The Parties agree that DE-Ohio will work with Staff and interested parties to develop a non-residential interruptible tariff as an energy efficiency program option. The key provisions of the tariff are set forth as Stipulation Attachment 4. DE-Ohio shall submit the non-residential interruptible tariff for Commission approval and upon approval shall implement the tariff. Participating load will receive compensation from DE-Ohio for interruption based upon specified conditions at specified prices. Participating load shall count toward DE-Ohio's statutory energy efficiency peak demand reduction mandate. Nothing herein prohibits DE-Ohio from offering an interruptible tariff that is not part of its energy efficiency and peak reduction program.

g. The Parties agree that DE-Ohio shall, with the assistance of the Ohio Manufacturers' Association, establish an energy efficiency, manufacturing collaborative (Manufacturing Collaborative) to develop and implement programs for manufacturers in DE-Ohio's certified territory that benefit both participants and the state of Ohio consistent with SB 221. The Ohio Manufacturers' Association and other participating statewide non-profit manufacturing advocacy organizations with manufacturing membership may participate in the Manufacturing Collaborative and provide volunteers to participate in program design, development and implementation working with DE-Ohio. DE-Ohio shall provide the Manufacturing Collaborative with an unrecoverable financial contribution of up to $100,000 per year during the ESP period, for research and development of energy efficiency programs for manufacturers. DE-Ohio further agrees to provide its expertise, in association with participating manufacturers and Staff, in developing energy efficiency programs targeted toward manufacturers in DE-Ohio's service territory. The Manufacturing Collaborative shall recommend cost-effective, energy efficiency programs to the Commission for adoption and recovery through Rider DR-SAW. DE-Ohio also agrees to participate in a statewide energy efficiency, manufacturing collaborative or similar organization if such a Manufacturing Collaborative or organization is formed.

h. All demand response program participation requirements shall be consistent with MISO's Load Serving Entities planning reserve requirements.

i. DE-Ohio shall perform measurement and verification as set forth in the Supplemental Testimony of Dr. Richard G. Stevie. DE-Ohio shall issue a request for proposal to hire an independent evaluator. Measurement and verification costs shall be capped at 5% of program costs.

j. If the Commission adopts a decoupling or straight fixed variable rate design for DE-Ohio, DE-Ohio agrees to discuss and implement appropriate adjustment to its recovery of lost margins pursuant to Rider DR-SAW. DE-Ohio agrees to conduct one educational decoupling workshop in Columbus, Ohio before November 30, 2009.

14. The Parties recommend that DE-Ohio shall recover delta revenues associated with reasonable arrangements through Rider DR-ECF, to the extent such arrangements and delta revenues are individually approved by the Commission. The allocation of delta revenues cost recovery rates between DE-Ohio and the customer classes shall be determined by the Commission. DE-Ohio shall not enter into arrangements for discounted rates without making a public application to the Commission and receiving the Commission's approval. If the Commission approves but modifies an application for a reasonable arrangement DE-Ohio and the customer reserve the right to withdraw such application.

15. The Parties recommend that the Commission approve an Economic Development Contract between DE-Ohio and the City of Cincinnati as a reasonable arrangement pursuant to R.C. 4905.31 and in compliance with the Commission's proposed rules under O.A.C. 4901:1-38-03. The City shall commit to create a minimum of twenty-five new jobs and DE-Ohio shall provide economic development funding as follows: (1) $0 in 2009; (2) $2 million in 2010; and (3) $1 million in 2011. The City of Cincinnati shall specify project milestones that include construction in progress and the procurement of additional public and private financing. DE-Ohio and the City shall file annual project reports before the Commission to verify job creation. DE-Ohio shall recover one-half the Economic Development Contract, or $1 million in 2010 and $500,000 in 2011, through Rider DR-ECF during the ESP period. The remaining one-half of the grant shall be funded by DE-Ohio. A copy of the anticipated arrangement between the City of Cincinnati and DE-Ohio is set forth as Stipulation Attachment 5. DE-Ohio and the City of Cincinnati shall file an application for approval of the economic development contract, conditioned on approval of this Stipulation, in a separate proceeding. The Parties further agree that DE-Ohio shall purchase from the City of Cincinnati 20,263 streetlights located in the DE-Ohio service territory at the cost of approximately $4 million. Stipulation Attachment 5 sets

forth the settlement terms and conditions for the streetlight purchase involving DE-Ohio and the City of Cincinnati.

16. Certain operating and maintenance costs of up to $50 million will be incurred at the Beckjord generating station beginning in 2009 in order to allow the continued operation of the station. These costs are to be deferred and amortized over a three (3) year period. The deferral and amortization expense is included for recovery in Rider SRA-CD. The Rider SRA-CD rate is equal to the Rider IMF rate that was approved by the Commission, and shall remain constant during the ESP period.

17. During the ESP period DE-Ohio shall permit non-residential customers that purchase competitive retail electric service from a CRES provider to avoid Rider SRA-SRT; provided that such customers agree to remain off its ESP-SSO service through December 31, 2011 and that if such customers desire to return to ESP-SSO service that they agree to return at 115% of DE-Ohio's ESP-SSO price, including only the generation riders set forth on Stipulation Attachment 1. Such non-residential customers shall also receive a generation price shopping credit equal to 6% of the current Little 'g' price as specified in Stipulation Attachment 6. Non-residential customers that purchase competitive retail electric service from a CRES provider but choose to pay Rider SRA-SRT

and waive the shopping credit may return to the ESP-SSO price at any time without notice.

18. The following customers who desire to return to ESP-SSO service need not pay 115% of DE-Ohio's ESP-SSO price:

    a. RSP-MBSSO period contract exclusion: non-residential customers who as of September 30, 2008, are purchasing competitive retail electric generation service from a CRES provider under a contract that expires on or after January 1, 2009, may elect the ESP-SSO price if the customer, no less than sixty (60) days prior to the expiration of their current CRES contract, excluding contract extensions, notifies DE-Ohio of its desire to enroll in the ESP-SSO.

    b. ESP period contract origination exclusion: non-residential customers that enter a contract for the provision of competitive retail electric service with a CRES provider after December 31, 2008, may elect to enroll in SSO service beginning January 1, 2012, if the customer, no less than sixty (60) days prior to January 1, 2012, notifies DE-Ohio of its desire to enroll in the ESP-SSO at the expiration of its current CRES provider contract, excluding extensions.

19. As reasonably practicable after Commission approval of the Stipulation in these proceedings, DE-Ohio shall initiate a collaborative process for the purpose of establishing an EBB as

generally proposed in its Application. DE-Ohio agrees that the CRES providers, Staff, and other interested parties may participate in the design of the EBB. The EBB shall be an open access platform and competitively neutral, and may utilize a third party independent operator. The design and cost of developing and maintaining the EBB shall be discussed in the collaborative process and to the extent the Commission approves such cost recovery, the EBB will be developed and the actual costs incurred to develop the EBB shall be recoverable through Rider DR-IM or otherwise as agreed upon.

20. Non-Residential customers (including Governmental Aggregation) and Non Residential Minimum Stay provisions:

    a. Non-residential customers who have switched to a CRES provider on or after December 31, 2008, including governmental aggregation customers, may return to DE-Ohio, but must pay 115% of the ESP-SSO price unless they qualify for the exemptions set forth in paragraph 18.

    b. DE-Ohio does not assess a separate charge for standby service or default service on non-residential customers.

    c. A non-residential customer that returns to ESP-SSO service and is subject to pay 115% of the ESP-SSO price shall have no minimum stay requirement and may contract with a CRES provider in accordance with the normal enrollment process except that mercantile customers as set forth in R.C. 4928.01(A)(19), must remain on DE-Ohio's SSO service for twelve consecutive billing cycles if they return between May 15, and September 16, of any year. If such customer wishes to purchase service from a CRES provider prior to the expiration of twelve billing cycles DE-Ohio, at its discretion, may negotiate an exit fee.

d. Non-residential customers in a Governmental Aggregation may avoid Rider SRA-SRT and receive the credit as established in Stipulation Attachment 6 if the Governmental Aggregator notifies DE-Ohio at least sixty (60) days prior to the start of Governmental Aggregation of its intent to maintain the Governmental Aggregation through the remainder of the ESP-SSO period and it agrees that returning non-residential customers shall return at a price equal to 115% of the ESP-SSO price.[11] Nothing herein prohibits an individual non-residential customer from contacting DE-Ohio to pay Rider SRA-SRT and Rider SRA-CD to return at the standard ESP-SSO price.

21. Residential customers (including Governmental Aggregation) and residential Minimum Stay provisions:

[11] The Parties agree that OCC shall have the right to carve out for litigation the issue of by-passability of charges and shopping credits for residential government aggregation customers.

a. Residential customers who have switched to a CRES provider on or after December 31, 2008, including residential governmental aggregation customers, shall have no minimum stay and may return to the ESP-SSO.

b. DE-Ohio does not assess a separate charge for standby service or default service on residential customers.

22. During the ESP period, DE-Ohio shall increase its funding for Home Energy and Weatherization Contracts to $1 million per year. Such contracts shall be extended for the duration of the ESP period as required.

23. DE-Ohio shall contribute $50,000 per year through 2011 to the Hamilton County Community Action Agency, or another non-profit organization in DE-Ohio's certified territory, to be used for distributing fans and/or air conditioners to qualifying customers.

24. DE-Ohio shall withdraw its request for approval of Rider SRA-NDC from these proceedings. The Parties recommend that the Commission authorize DE-Ohio to make market purchases with the objective of filling its short capacity position in a least cost manner with cost recovery through Rider SRA-SRT pursuant to paragraph 10.

25. DE-Ohio's Operational Support Plan shall remain as filed in these proceedings, except that existing waivers of Rider SRA-SRT (currently Rider SRT) shall remain in effect.

26. DE-Ohio's Corporate Separation Plan shall remain in effect as filed in these proceedings, except that DE-Ohio may transfer to an affiliate or sell to an unaffiliated party the following gas-fired generating assets: Lee Station; Hanging Rock Station; Washington Station; Fayette Station; and Vermillion Station, as these plants have never been used and useful in serving DE-Ohio load. Any such transfer is subject to approval by the Federal Energy Regulatory Commission (FERC) if necessary, but Commission acceptance of this Stipulation constitutes the approval of the Commission required under R.C. 4928.17. DE-Ohio agrees to withdraw from this proceeding and at FERC its request to transfer its previously used and useful assets. DE-Ohio may, however, during the ESP period, file an application before this Commission and at the FERC to transfer its previously used and useful assets effective no sooner than January 1, 2012.

27. The Parties recommend that the Commission find that DE-Ohio's ESP-SSO, as modified by this Stipulation, including its pricing and all other terms and conditions, plus any deferrals and future recovery of deferrals, is more favorable in the aggregate as compared to the expected results that would otherwise apply under R.C. 4928.142.[12]

[12] The signatory CRES providers take no position regarding Paragraph 26 and do not support the deferrals of any additional generation-related costs but recognize that this Stipulation is a compromise of interests and issues among the Parties.

28. The Parties agree that beginning in 2010, by May 15 of each year covered by this Stipulation, the Commission will implement the significantly excessive earnings test as follows:

DE-Ohio's return on ending common equity will be computed using DE-Ohio's prior year publicly reported FERC Form 1 financial statements, including off-system sales, subject only to the following specific adjustments:

- Net Income
  - Eliminate all depreciation and amortization expense related to the purchase accounting recorded pursuant to the Duke Energy/Cinergy merger,
  - Eliminate all impacts of refunds to customers pursuant to this paragraph,
  - Eliminate all impacts of mark-to-market accounting,
  - Eliminate all impacts of material, non-recurring gains/losses, including, but not limited to, the sale or disposition of assets.
- Common Equity
  - Eliminate the acquisition premium recorded to equity pursuant to the Duke Energy/Cinergy merger.

Should the actual annual return on ending common equity for each review year, as adjusted pursuant to this paragraph, not exceed 15%, DE-Ohio's return on common equity shall be deemed to not be significantly in excess of the return on common equity that was earned during the same period by publicly traded companies that face comparable business and financial risks. If such return exceeds 15%, such excess shall be refunded on a grossed-up for taxes basis, to Rider PTC-FPP customers over a period not to exceed twelve-months, plus a true-up to avoid any over- or under-recovery. Any refund required shall not cause an adjustment to earnings for the years refunded to or from.

This Paragraph does not create a precedent for the computation of DE-Ohio's return on common equity or the applicability of the significantly excess earnings test set forth in R.C. 4928.143 regarding any SSO that DE-Ohio may implement subsequent to December 31, 2011.

29. Effective on the date of the Commission's Order approving this Stipulation, The Kroger Company shall have an one-hundred-eighty (180) day option to sell, and upon fifteen (15) days notice of The Kroger Company's election, to exercise such option, DE-Ohio shall purchase approximately 45 transformers located in the DE-Ohio service territory (as more specifically set forth and listed on Stipulation Attachment 7) at the cost of $287,000, which reflects the net book value of such transformers based upon DE-Ohio's original cost.

30. The Parties agree that DE-Ohio's ESP Application, as amended by this Stipulation, complies with the state policies set forth in R.C. 4928.02.

31. DE-Ohio shall continue its GoGreen program (Rider GP) through December 31, 2011. Rider GP is currently scheduled to expire at December 31, 2008. DE-Ohio shall work with any interested parties to revise the current REC tariff price to a price that is commensurate with the current market price and to include a R.C. 4928.64 residential REC purchase program by June 30, 2009. Upon inquiry by a consumer considering the installation of renewable energy generation at the consumer's site, DE-Ohio shall make information available to the consumer on net metering, interconnection and the REC purchase program.

32. Pursuant to R.C. 4928.143, and subject to DE-Ohio's legal rights, including but not limited to the right to comments, apply for rehearing, and appeal, DE-Ohio shall conform to the Commission's ESP rules as set forth in Case Nos. 08-777-EL-ORD and 08-888-EL-ORD.

33. DE-Ohio agrees to an annual audit review of compliance with its Corporate Separation Plan, including, but not limited to a review of its Cost Allocation Manual. Such audit shall be conducted by an independent third party auditor or Staff at the Commission's discretion. DE-Ohio shall fund the audit and receive cost recovery

through an appropriate rate mechanism approved by the Commission.

34. Effective January 1, 2009, and continuing through the ESP-SSO period, DE-Ohio shall contribute $700,000 annually to benefit electric consumers at or below 175% of poverty level and who do not participate in PIPP. The contribution shall be made directly to the Hamilton County and Clermont County Community Action Agencies, SEL in Butler County, CAP Dayton in Warren County, and Adams-Brown Community Action. DE-Ohio, CUFA and the aforementioned agencies shall agree to the amount of distribution to each agency, program parameters, and reporting requirements.

35. The Parties agree that all provisions of this Stipulation shall be effective January 1, 2009, except where specifically stated otherwise. Any adverse economic impact to DE-Ohio due to implementation delay, including carrying costs at the weighted average cost of long-term debt, shall be recoverable via the applicable rider(s) during the next rider filing.

The undersigned Parties hereby stipulate and agree and each represents that it is authorized to enter into this Stipulation and Recommendation this 27 day of October 2008.

Respectfully submitted,

Paul A. Colbert, Trial Attorney
Associate General Counsel
Rocco D'Ascenzo, Counsel
Elizabeth Watts, Assistant General Counsel
Amy Spiller, Associate General Counsel
Duke Energy Ohio

2500 Atrium II, 139 East Fourth Street
P. O. Box 960
Cincinnati, Ohio 45201-0960
(513) 419-1827 (telephone)

On Behalf of Duke Energy Ohio, Inc.

Attorney Paul A. Colbert
155 East Broad St, 21st Floor
Columbus, OH 43215

On Behalf of Staff of the Public Utilities Commission of Ohio

Attorneys Thomas McNamee, William L. Wright
Assistant Attorneys General
PUCO
180 East Broad Street, 9th Floor
Columbus, OH 43215

On Behalf of People Working Cooperatively, Inc.

MLC by phone authority

Attorney Mary W. Christensen
Christensen, Christensen, Donchatz, Kettlewell, Owens
100 E. Campus View Blvd., Suite 360
Columbus OH 43235

On Behalf of the Greater Cincinnati Health Council

MLC by internet authority

Attorney Douglas E. Hart
441 Vine St, Suite 4192
Cincinnati OH 45202

On Behalf of Direct Energy Services, LLC.

Attorney M. Howard Petricoff
Vorys, Sater, Seymour, and Pease LLP
52 East Gay St
Columbus OH 43215

On Behalf of Integrys Energy Services, Inc.

M. Howard Petricoff [illegible] *by phone authority*

Attorney M. Howard Petricoff
Vorys, Sater, Seymour, and Pease LLP
52 East Gay St
Columbus OH 43215

On Behalf of National Energy Marketers Association

____

Attorney Stephen M. Howard
Vorys, Sater, Seymour, and Pease LLP
52 East Gay St
Columbus OH 43215

On Behalf of The Natural Resources Defense Council

Henry W. Eckhart

Attorney Henry W. Eckhart
50 West Broad St, Suite 2117
Columbus OH 43215

On Behalf of The Sierra Club, Ohio Chapter

Henry W. Eckhart

Attorney Henry W. Eckhart
50 West Broad St, Suite 2117
Columbus OH 43215

On Behalf of Communities United for Action

Noel M. Morgan [illegible], *by internet authority*

Attorney Noel M. Morgan
Legal Aid Society of Southwest Ohio
215 E Ninth St
Cincinnati OH 45202

On Behalf of Dominion Retail, Inc.

____

Attorney Barth E. Royer
Bell & Royer Co LPA
33 South Grant Ave
Columbus OH 43215

On Behalf of Constellation NewEnergy, Inc.

M. Howard Petricoff M.H.P. by phone authority

Attorney M. Howard Petricoff
Vorys, Sater, Seymour, and Pease LLP
52 East Gay St
Columbus OH 43215

On Behalf of Constellation Energy Commodities Group, Inc.

M. Howard Petricoff M.H.P. by phone authority

Attorney M. Howard Petricoff
Vorys, Sater, Seymour, and Pease LLP
52 East Gay St
Columbus OH 43215

On Behalf of Ohio Partners for Affordable Energy

David C. Rinebolt M.H.P. by phone authority

Attorneys David C. Rinebolt
Colleen L. Mooney
231 West Lima St.
PO Box 1793
Findlay OH 45839

On Behalf of The City of Cincinnati

____

Attorney Thomas J. O'Brien
Bricker & Eckler LLP
100 South Third St.
Columbus OH 43215

On Behalf of Industrial Energy Users, Ohio

____

Attorney Joseph M. Clark
NcNees Wallace & Nurick LLP
21 East State St, 17th Floor
Columbus OH 43215

On Behalf of The Ohio Environmental Council

Attorney Barth E. Royer
Bell & Royer Co LPA
33 South Grant Ave
Columbus OH 43215

On Behalf of The Kroger Company

John W. Bentine ..c, by phone authority

Attorneys John W. Bentine, Mark S. Yurick, Matthew M. White
Chester Wilcox & Saxbe LLP
65 East State St, Suite 1000
Columbus OH 43215

On Behalf of the Ohio Consumers Counsel

Attorneys Ann M. Hotz
Jeffrey L. Small
Jacqueline Lake Roberts
Michael E. Idzkowski
Ohio Customers' Counsel
10 West Broad Street, Suite 180

On Behalf of The Ohio Energy Group

Attorneys David F. Boehm, Michael L. Kurtz
Boehm Kurtz & Lowry
36 East Seventh St, Suite 1510
Cincinnati OH 45202

On Behalf of The Village of Terrace Park

Attorney Robert P. Malloy
Wood & Lamping LLP
600 Vine St, Suite 2500
Cincinnati OH 45202

On Behalf of Ohio Farm Bureau Federation

Attorney Larry Gearhardt
Ohio Farm Bureau Federation
280 N. High St
PO Box 182383
Columbus OH 43218

On Behalf of The American Wind Energy Association

____
Attorney Sally Bloomfield
Bricker & Eckler LLP
100 South Third St
Columbus OH 43215

On Behalf of Wind on the Wires

____
Attorney Sally Bloomfield
Bricker & Eckler LLP
100 South Third St
Columbus OH 43215

On Behalf of Ohio Advanced Energy

____
Attorney Sally Bloomfield
Bricker & Eckler LLP
100 South Third St
Columbus OH 43215

On Behalf of The University of Cincinnati

____
Attorney M. Howard Petricoff
Vorys, Sater, Seymour, and Pease LLP
52 East Gay St
Columbus OH 43215

On Behalf of The Ohio Association of School Business Officials

Attorney M. Howard Petricoff
Vorys, Sater, Seymour, and Pease LLP
52 East Gay St
Columbus OH 43215

On Behalf of The Ohio School Boards Association

Attorney M. Howard Petricoff
Vorys, Sater, Seymour, and Pease LLP
52 East Gay St
Columbus OH 43215

On Behalf of The Buckeye Association of School Administrators

Attorney M. Howard Petricoff
Vorys, Sater, Seymour, and Pease LLP
52 East Gay St
Columbus OH 43215

On Behalf of Morgan Stanley Capital Group, Inc

Attorney Douglas M. Mancino
McDermott Will & Emery LLP
2049 Century Park East, Suite 3800
Los Angeles, CA 90067

On Behalf of Environment Ohio

Attorney Amy Gomberg
203 East Broad St, Suite 3
Columbus OH 43215

On Behalf of the Ohio Manufacturers Association

Attorney Langdon D. Bell
Bell & Royer Co LPA
33 South Grant Ave
Columbus OH 43215

On Behalf of The Commercial Group

f.d.c. by phone authority

Attorney Douglas M. Mancino
McDermott Will & Emery LLP
2049 Century Park East, Suite 3800
Los Angeles, CA 90067

On Behalf of Wal-Mart Stores East LP

f.d.c. by phone authority

Attorney Douglas M. Mancino
McDermott Will & Emery LLP
2049 Century Park East, Suite 3800
Los Angeles, CA 90067

On Behalf of Sam's Club East

f.d.c. by phone authority

Attorney Douglas M. Mancino
McDermott Will & Emery LLP
2049 Century Park East, Suite 3800
Los Angeles, CA 90067

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Stipulation and Recommendation was served on the following parties this 27th day of October, 2008 by regular U.S. Mail, overnight delivery or electronic delivery.

Paul A. Colbert

Ann M. Hotz, Esq. Jeffrey L. Small Jacqueline Lake Roberts Michael E. Idzkowski Ohio Consumers' Counsel 10 West Broad Street, Suite 1800 Columbus, OH 43215-3420 hotz@occ.state.oh.us	John W. Bentine, Esq. Mark Yurick, Esq. Matthew S. White, Esq. Counsel for the Kroger Company Chester, Wilcox & Saxbe, LLP 65 East State Street, Suite 1000 Columbus, Ohio 43215-4213 jbentine@cwslaw.com myurick@cwslaw.com mwhite@cwslaw.com
David C. Rinebolt, Esq. Colleen L. Mooney, Esq. Counsel for Ohio Partners for Affordable Energy 231 West Lima Street Findlay, OH 45840-3033 Drinebolt@aol.com	Amy Gomberg Environment Ohio 203 East Broad St., Suite 3 Columbus, Ohio 43215
Noel M. Morgan, Esq. Counsel for Communities United for Action 215 E. Ninth Street, 500 Cincinnati, Ohio 45202 nmorgan@lascinti.org	William L. Wright, Esq. Thomas W. McNamee Assistant Attorney General Public Utilities Commission of Ohio 180 East Broad Street, 9th Floor Columbus, Ohio 43215 William.Wright@puc.state.oh.us

Samuel C. Randazzo, Esq. Joseph M. Clark, Esq. Counsel for Industrial Energy Users-Ohio McNees Wallace & Nurick LLC 21 E. State Street, 17th Floor Columbus, Ohio 43215 srandazzo@mwncmh.com jclark@mwncmh.com	Thomas J. O'Brien, Esq. Counsel for City of Cincinnati Bricker & Eckler LLP 100 South Third Street Columbus, Ohio 43215-4236 tobrien@bricker.com
Nolan Moser The Ohio Environmental Council 1207 Grandview Avenue, Suite 201 Columbus, OH 43212-3449 nmoser@theOEC.org	Gary A. Jeffries Dominion Resources Services, Inc. 501 Martindale Street, Suite 400 Pittsburgh, PA 15212-5817 Gary.A. Jeffries@dom.com
Bobby Singh Integrys Energy Services, Inc. 300 West Wilson Bridge Road, Suite 350 Worthington, OH 43085 bsingh@integrysenergy.com	Douglas E. Hart Greater Cincinnati Health Council 441 Vine Street, Suite 4192 Cincinnati, OH 45202 dhart@douglasehart.com
David F. Boehm, Esq., Michael Kurtz, Esq. Counsel for Ohio Energy Group Boehm, Kurtz & Lowry 36 East Seventh Street, Suite 1510 Cincinnati, Ohio 45202 dboehm@bkllawfirm.com	Barth E. Royer, Esq. Counsel for the Ohio Environmental Council and Dominion Retail, Inc. 33 S. Grant Street Columbus, Ohio 43215 barthroyer@aol.com
M. Howard Petricoff, Esq. Steven M. Howard, Esq. Counsel for Integrys Energy Services, Inc., Direct Energy Services LLC, Constellation NewEnergy, Inc. and Constellation Energy Commodities Group, Inc., Ohio Association School Business Officials, Ohio School Board Association, Buckeye Association of School Administrators, University of Cincinnati Vorys, Sater, Seymour and Pease LLP 52 East Gay Street P.O. Box 1008 Columbus, Ohio 43216-1008 mhpetricoff@vorys.com	

Sally W. Bloomfield Terrence O'Donnell American Wind Energy Association, Wind on the Wires, Ohio Advanced Energy 100 South Third Street Columbus, Ohio 43215-4236 sbloomfield@bricker.com todonnell@bricker.com	Larry Gearhardt Ohio Farm Bureau Federation 280 N. High Street P.O. Box 182383 Columbus, OH 43218-2383 LGerheardt@ofbf.org
Robert P. Malloy Village of Terrace Park Wood & Lamping 600 Vine Street Suite 2500 Cincinnati, OH 45202 rpmalloy@woodlamping.com	Langdon D. Bell Ohio Manufacturer's Association Bell & Royer Company, LPA 33 South Grant Avenue Columbus, OH 43215-3927 LBell 33@aol.com
Mary W. Christensen, Esq. Counsel for People Working Cooperatively, Inc. Christensen Christensen Donchatz Kettlewell & Owens, LLC 100 East Campus View Blvd., Suite 360 Columbus, Ohio 43235 mchristensen@columbuslaw.org	Henry W. Eckhart, Esq. The Natural Resources Defense Council and The Sierra Club of Ohio 50 W. Broad Street, #2117 Columbus, Ohio 43215 henryeckhart@aol.com
Craig G. Goodman, Esq. National Energy Marketers Association 3333 K Street, N.W., Suite 110 Washington, DC 20007 cgoodman@energymarketers.com	Douglas M. Mancino The Commercial Group, Wal-Mart Stores East, LP Sam's Club East McDermott Will & Emergy LLP 2049 Century Park East Suite 3800 Los Angeles, CA 90067-3218 dmancino@mwe.com

Electric Security Plan Price Structure (Note 1)

Generation

- Avoidable Generation Charges
  - Price-to-Compare (PTC)
    - Base Generation (PTC-BG)
    - Fuel, Purchased Power & Emission Allowances (PTC-FPP)
    - Annually Adjusted Component (PTC-AAC)
- Unavoidable Generation Charges
  - System Resource Adequacy (SRA)
    - Capacity Dedication (SRA-CD)
    - Market Capacity Purchases (SRA-SRT) (Note 2)
  - Regulatory Transition Charge (RTC)

Transmission

- Avoidable Transmission Charge (TCR)

Distribution

- Infrastructure Modernization (DR-IM)
- Energy Efficiency (DR-SAW)
- Economic Competitiveness Fund (DR-ECF)

Note 1: This price structure excludes various existing charges and riders that are not specifically identified in Duke Energy Ohio's ESP Application.

Note 2: Market Capacity Purchases (Rider SRA-SRT) may be avoidable by non-residential consumers under certain conditions further described in paragraph 17.

DUKE ENERGY OHIO

Electric Security Plan Revenue
($ in 000's)

Revenue Summary

	MWh (a)	PTC-BG (Little 'g') (b)	RTC (c)	Generation Riders[1] (d)	Transmission Distribution & Other (e)	Total Revenue (f)
2007 Actual Revenue						
Total Revenue	21,894,973	$ 794,616	$ 125,498	$ 436,562	$ 522,900	$ 1,879,576
Less: Shoppers	749,929	518	4,997	2,195	14,581	22,291
Total Non-Shopper Revenue	21,145,044	$ 794,098	$ 120,501	$ 434,367	$ 508,319	$ 1,857,285
2009 ESP Adjustments						
Transfer Base Fuel to PTC-FPP		(263,319)		263,319		-
Terminate Residential RTC			(47,299)	-		(47,299)
Base Generation Increase		83,327		-		83,327
Adjusted 2009 Non-Shopper Revenue		$ 614,106	$ 73,202	$ 697,686	$ 508,319	$ 1,893,313
2010 ESP Adjustments						
Base Generation Increase		38,047		-		38,047
Adjusted 2010 Non-Shopper Revenue		$ 652,153	$ 73,202	$ 697,686	$ 508,319	$ 1,931,360
2011 ESP Adjustments						
Terminate Non-Residential RTC			(73,202)	-		(73,202)
Base Generation Increase		97,196		-		97,196
Adjusted 2011 Non-Shopper Revenue		$ 749,349	$ -	$ 697,686	$ 508,319	$ 1,955,354

Note 1: Generation riders include PTC-FPP, PTC-AAC, SRA-CD and SRA-SRT. Such riders will be updated pursuant to the Application and/or Stipulation.

Revenue by Tariff (Non-Shoppers)

	2007			2009			2010			2011		
	Sales	PTC-BG	Total Revenue	PTC-BG	Total Revenue	% Increase	PTC-BG	Total Revenue	% Increase	PTC-BG	Total Revenue	% Increase
Rate RS - Residential	7,701,750	$ 312,468	$ 777,644	$ 277,629	$ 791,477	1.8%	$ 292,593	$ 806,441	1.9%	$ 292,593	$ 806,441	0.0%
Rate DS - Distribution Secondary	6,613,929	270,710	604,712	201,022	617,387	2.1%	214,203	630,568	2.1%	274,073	644,278	2.2%
Rate DM - Distribution Second Small	566,530	25,229	68,471	19,396	69,693	1.8%	20,668	70,965	1.8%	27,312	72,286	1.9%
Rate DP - Distribution Primary	2,525,438	80,073	182,108	52,243	185,727	2.0%	56,007	189,491	2.0%	70,330	193,405	2.1%
Rate TS - Transmission	3,494,041	98,311	200,404	59,144	204,748	2.2%	63,662	209,266	2.2%	78,652	213,964	2.2%
Rate EH - Electric Space Heating	81,852	2,172	5,872	1,261	5,981	1.9%	1,374	6,094	1.9%	2,039	6,212	1.9%
Rate GSFL - Unmetered Small Fixed	29,194	1,900	3,605	1,620	3,689	2.3%	1,707	3,776	2.4%	1,994	3,867	2.4%
Rate Lighting	123,535	2,958	13,726	1,560	13,855	0.9%	1,695	13,990	1.0%	2,106	14,130	1.0%
Rate ORH - Optional Heating	7,816	227	636	188	647	1.7%	199	658	1.7%	199	658	0.0%
Rate SFL-ADPL - Small Fixed Load	614	40	76	35	78	2.6%	36	79	1.3%	42	81	2.5%
Rate TD - Optional Time of Day	345	10	31	8	31	0.0%	9	32	3.2%	9	32	0.0%
	21,145,044	$ 794,098	$ 1,857,285	$ 614,106	$ 1,893,313	1.9%	$ 652,153	$ 1,931,360	2.0%	$ 749,349	$ 1,955,354	1.2%

Duke Energy Ohio

Electric Security Plan
PTC - BG and Rider RTC
(¢ per kWh except where noted)

	Existing Price			2009		2010		2011	
	Big 'G'	Rider RTC	Little 'g'	PTC-BG	Rider RTC	PTC-BG	Rider RTC	PTC-BG	Rider RTC
	A	B	C = A - B	D	E	F	G	H	I
Rate RS, Residential Service									
Summer, First 1000 kWh	5.0664	0.6484	4.4180	4.0238	-	4.2345	-	4.2345	-
Summer, Additional kWh	6.3534	0.7556	5.5978	5.3622	-	5.6265	-	5.6265	-
Winter, First 1000 kWh	5.0664	0.6484	4.4180	4.0238	-	4.2345	-	4.2345	-
Winter, Additional kWh	2.0546	0.3877	1.6669	0.8915	-	0.9770	-	0.9770	-
Rate ORH, Optional Residential Service									
Summer, First 1000 kWh	4.7202	0.7760	3.9442	3.6637	-	3.8601	-	3.8601	-
Summer, Additional kWh	5.6310	0.9044	4.7266	4.6109	-	4.8452	-	4.8452	-
Winter, First 1000 kWh	4.7200	0.7760	3.9440	3.6635	-	3.8599	-	3.8599	-
Winter, Additional kWh	2.5057	0.4640	2.0417	1.3606	-	1.4649	-	1.4649	-
Winter, kWh greater than 150 times demand	1.6156	0.3386	1.2770	0.4349	-	0.5021	-	0.5021	-
Rate TD, Optional Time-of-Day Rate									
Summer, On-Peak kWh	10.6570	1.6491	9.0079	9.8380	-	10.2813	-	10.2813	-
Summer, Off-Peak kWh	1.6734	0.3578	1.3156	0.4950	-	0.5646	-	0.5646	-
Winter, On-Peak kWh	8.4072	1.3261	7.0811	7.4982	-	7.8479	-	7.8479	-
Winter, Off-Peak kWh	1.6739	0.3578	1.3161	0.4956	-	0.5652	-	0.5652	-
Rate CUR, (Rev. Class 01, 02, 04, 16 & 18 only)									
Summer, First 1000 kWh	5.0664	0.6484	4.4180	3.3754	0.6484	3.5861	0.6484	4.4537	-
Summer, Additional kWh	6.3534	0.7556	5.5978	4.6066	0.7556	4.8709	0.7556	5.9014	-
Winter, First 1000 kWh	5.0664	0.6484	4.4180	3.3754	0.6484	3.5861	0.6484	4.4537	-
Winter, Additional kWh	2.0546	0.3877	1.6669	0.5038	0.3877	0.5893	0.3877	1.0658	-
Rate DS, Secondary Distribution Voltage									
First 1000 kW ($ per kW)	$ 7.6574	-	$ 7.6574	$ 7.9637	-	$ 8.2822	-	$ 8.6135	-
Additional kW ($ per kW)	$ 6.0574	-	$ 6.0574	$ 6.2997	-	$ 6.5517	-	$ 6.8138	-
Billing Demand Times 300	2.8568	0.8992	1.9576	0.8266	0.8992	0.9454	0.8992	1.9682	-
Additional kWh	1.6366	0.0100	1.6266	0.4468	0.0100	0.5148	0.0100	0.5957	-
Rate GS-FL, Optional Unmetered									
kWh Greater Than or Equal to 540 Hours	7.1760	0.6719	6.5041	5.5458	0.6719	5.8444	0.6719	6.8267	-
kWh Less Than 540 Hours	8.1484	0.6719	7.4765	6.5571	0.6719	6.8961	0.6719	7.9205	-
Rate SFL-ADPL, Optional Unmetered									
All kWh	7.1760	0.6719	6.5041	5.5458	0.6719	5.8444	0.6719	6.8267	-
Rate EH, Optional Electric Space Heating									
All kWh	3.3405	0.6719	2.6686	1.5569	0.6719	1.6959	0.6719	2.5123	-

Duke Energy Ohio

Electric Security Plan
PTC - BG and Rider RTC
(¢ per kWh except where noted)

	Existing Price			2009		2010		2011	
	Big 'G'	Rider RTC	Little 'g'	PTC-BG	Rider RTC	PTC-BG	Rider RTC	PTC-BG	Rider RTC
	A	B	C = A - B	D	E	F	G	H	I
Rate DM, Secondary Dist. Service, Small									
Summer, First 2800 kWh	7.0728	1.2166	5.8562	4.8938	1.2166	5.1880	1.2166	6.7106	-
Summer, Next 3200 kWh	1.8173	0.3221	1.4952	0.3226	0.3221	0.3982	0.3221	0.7989	-
Summer, Additional kWh	0.9004	0.2484	0.6520	(0.5573)	0.2484	(0.5188)	0.2484	(0.2326)	-
Winter, First 2800 kWh	5.6302	0.9822	4.6480	3.6279	0.9822	3.8621	0.9822	5.0879	-
Winter, Next 3200 kWh	1.8172	0.3203	1.4969	0.3243	0.3203	0.3999	0.3203	0.7988	-
Winter, Additional kWh	0.8633	0.2442	0.6191	(0.5917)	0.2442	(0.5558)	0.2442	(0.2742)	-
Rate DP, Service at Primary Dist.Voltage									
First 1000 kW ($ per kW)	$ 6.9150	-	$ 6.9150	$ 7.1916	-	$ 7.4793	-	$ 7.7784	-
Additional kW ($ per kW)	$ 5.4550	-	$ 5.4550	$ 5.6732	-	$ 5.9001	-	$ 6.1361	-
Billing Demand Times 300	2.8898	0.6850	2.2048	1.0751	0.6850	1.1953	0.6850	2.0053	-
Additional kWh	1.7782	0.0100	1.7682	0.5940	0.0100	0.6880	0.0100	0.7549	-
Rate TS, Service at Transmission Voltage									
First 50,000 kVA ($ per kVA)	$ 8.3830	-	$ 8.3830	$ 8.7183	-	$ 9.0671	-	$ 9.4297	-
Additional kVA ($ per kVA)	$ 6.0430	-	$ 6.0430	$ 6.2847	-	$ 6.5361	-	$ 6.7976	-
Billing Demand Times 300	1.9994	0.5590	1.4404	0.2751	0.5590	0.3583	0.5590	1.0038	-
Additional kWh	1.6481	0.0100	1.6381	0.4587	0.0100	0.5273	0.0100	0.6086	-
Rate TL, Traffic Lighting Service									
All kWh	1.9148	0.2290	1.6858	0.5171	0.2290	0.5967	0.2290	0.9086	-
Rate SL, Street Lighting Service									
Rate OL, Outdoor Lighting Service									
Rate NSU, Street Lighting									
Rate NSP, Private Outdoor Lighting									
Rate SE, Street Lighting Service									
All kWh	3.1094	0.2290	2.8804	1.7595	0.2290	1.8888	0.2290	2.2524	-
Rate SC, Street Lighting									
Energy Only - All kWh	1.3749	0.2290	1.1459	(0.0444)	0.2290	0.0128	0.2290	0.3013	-
Units - All kWh	3.1094	0.2290	2.8804	1.7595	0.2290	1.8888	0.2290	2.2524	-
Rate UOLS, Unmetered Outdoor Lighting									
All kWh	1.4148	0.2290	1.1858	(0.0029)	0.2290	0.0559	0.2290	0.3462	-

Duke Energy Ohio
SmartGrid Component of Rider DR-IM

Residential Rate Cap ($ / monthly bill)

	2009	2010	2011	2012	2013	2014
Residential Cumulative Rate Cap	$0.50	$1.50	$3.25	$5.25	$5.50	$5.50

Annualized Revenue Requirement

	2008	2009	2010	2011	2012	2013
Gross Plant	$19,968,050	$59,904,149	$159,060,806	$261,131,407	$305,924,613	$337,169,767
Accumulated Depreciation	787,909	2,363,728	10,758,405	26,601,808	47,859,075	71,834,374
Net Plant	$19,180,141	$57,540,422	$148,302,400	$234,529,598	$258,065,538	$265,335,393
Accum Def Income Tax	1,375,793	4,127,379	16,413,701	36,168,285	59,315,449	81,904,255
Rate Base	$17,804,348	$53,413,043	$131,888,699	$198,361,313	$198,750,090	$183,431,138
Return on Rate Base (allowed)	11.69%	11.69%	11.69%	11.69%	11.69%	11.69%
Return on Rate Base	$2,081,328	$6,243,985	$15,417,789	$23,188,437	$23,233,886	$21,443,100
Operating Expenses						
Depreciation	$787,909	$1,575,818	$8,394,678	$15,843,403	$21,257,266	$23,975,299
Annualized Property Taxes	399,361	798,722	3,181,216	5,222,628	6,118,492	6,743,395
Amortization of PISCC	-	39,936	99,157	102,071	44,793	31,245
Metering (net of Severance)	79,099	158,199	(212,355)	(2,288,336)	(5,502,112)	(7,413,897)
IT & Communication Costs	539,160	1,078,319	4,150,635	7,557,169	9,815,892	11,027,998
Customer Service (net)	183,601	367,202	1,164,468	1,222,643	391,654	188,510
Distribution System	70,817	141,634	500,101	816,020	1,065,108	1,294,006
Other O&M Reductions (net)	-	-	(81,453)	(594,605)	(1,021,086)	(1,175,847)
Total Operating Expenses	$2,059,947	$4,159,831	$17,196,446	$27,880,993	$32,170,007	$34,670,709
Annualized Revenue Requirement	$4,141,276	$10,403,816	$32,614,235	$51,069,430	$55,403,892	$56,113,809

Revenue Requirement Allocation

Residential Allocation	85%					
Residential Revenue Requirement	$3,520,084	$8,843,243	$27,722,099	$43,409,016	$47,093,308	$47,696,737
Non-residential Allocation	15%					
Non-residential Revenue Requirement	$621,191	$1,560,572	$4,892,135	$7,660,415	$8,310,584	$8,417,071

Duke Energy Ohio
SmartGrid Component of Rider DR-IM
Allocation of SmartGrid Revenue Requirement by Non-residential Tariff

	# of Bills	Allocation	2009	2010	2011	2012	2013
Annual Revenue Requirement			$621,191	$1,560,572	$4,892,135	$7,660,415	$8,310,584
			Projected Non-Residential Rate ($ / Monthly Bill)				
DS - Single Phase	53,386	4.8%	$0.56	$1.41	$4.43	$6.93	$7.52
DS - Single Phase Load Mgmt	12,610	1.1%	$0.56	$1.41	$4.43	$6.93	$7.52
DS - Three Phase	177,302	32.1%	$1.12	$2.82	$8.85	$13.86	$15.04
DS - Three Phase Load Mgmt	947	1.7%	$11.24	$28.24	$88.54	$138.65	$150.41
EH - Single Phase	2,398	0.2%	$0.56	$1.41	$4.43	$6.93	$7.52
EH - Three Phase	2,626	0.5%	$1.12	$2.82	$8.85	$13.86	$15.04
DM - Single Phase	351,836	31.8%	$0.56	$1.41	$4.43	$6.93	$7.52
DM - Three Phase	118,436	21.4%	$1.12	$2.82	$8.85	$13.86	$15.04
DP - Standard	2,785	5.0%	$11.24	$28.24	$88.54	$138.65	$150.41
DP - Load Mgmt	672	1.2%	$11.24	$28.24	$88.54	$138.65	$150.41

Allocation by Non-residential Tariff

	Per Case No. 05-59-EL-AIR			
	Customer Charge	Number of Customer Bills	Annual Customer Charge Amount	Annual Customer Charge % of Total
Distribution Secondary (DS)				
Single Phase	$7.50	53,386	$400,395	4.8%
Single Phase Load Mgmt	$7.50	12,610	$94,575	1.1%
Three Phase	$15.00	177,302	$2,659,530	32.1%
Three Phase Load Mgmt	$150.00	947	$142,050	1.7%
		244,245	$3,296,550	39.8%
Electric Space Heating (EH)				
Single Phase	$7.50	2,398	$17,985	0.2%
Three Phase	$15.00	2,626	$39,390	0.5%
		5,024	$57,375	0.7%
Distribution Secondary - Small (DM)				
Single Phase	$7.50	351,836	$2,638,770	31.8%
Three Phase	$15.00	118,436	$1,776,540	21.4%
		470,272	$4,415,310	53.3%
Distribution Primary (DP)				
Standard	$150.00	2,785	$417,750	5.0%
Load Mgmt	$150.00	672	$100,800	1.2%
		3,457	$518,550	6.3%
Total Non-residential		722,998	$8,287,785	100.0%

Note: Allocation excludes transmission customers (Rate TS)

Non-Residential Interruptible Program &
Backup Generating Facility Program
Key Provisions

- Contract Term: 1 - 3 years
- Capacity Payments:
  - Reliability Program: Based on avoided cost of generation resources, and validated against market-based capacity resources
  - Economic Program: None
- Energy Payments:
  - Reliability Program: Based on avoided MISO hourly LMP
  - Economic Program: Based on XX% avoided MISO hourly LMP (less $30/MWh)
- Advanced Notification: 10 minutes – 12 hours
- Buy-Through: Available during non-MISO declared events at 125% of hourly LMP
- Load Reduction: Customer selects fixed reduction or firm demand level
- Program Options: Summer program or Year-round program
- Generator Requirements:
  - Metering: Additional metering may be required
  - Periodic Testing: Required to demonstrate availability and capacity value
  - Load Shifting: Other load shifting resources allowed
- RTP Eligibility: Duplicate compensation for same demand reduction is not allowed
- Hours/Number of Interruptions per Year: Customer selects from available options
- Duke Energy: May call up to 2 interruptions/year without buy-through capability
- MISO Module E Requirements:
  - MISO may call 5 interruptions per year without buy-through capability
  - MISO can call whenever EEA 2, Step 1 Emergency Alert Level is declared (max 5)
  - Minimum event duration of 4 hours
  - MISO non-compliance costs based on 125% of hourly LMP and RSG prices
  - Failure to comply with MISO declared events could result in expulsion from program

Stipulation Attachment 5

Settlement Between DE-Ohio and the City of Cincinnati

A. Economic Development Contract

Duke Energy Ohio, Inc., (DE-Ohio) and the City of Cincinnati (City), desire to enter a contract to provide economic development funds to the City for the purpose of creating jobs and fostering economic development within the City of Cincinnati.

The City is a mercantile customer of DE-Ohio with an annual load in excess of 42 million MWH. This contract furthers the state policy set forth in R.C. 4928.02 by strengthening the economy within the City through the creation of a significant number of jobs over a three year time period during a time of general economic duress.

The project proposed by the City, the development of a street car system in downtown Cincinnati, extending to the Over-the Rhine neighborhood, is not a retail project and is projected to create both construction-phase jobs, as well as permanent jobs within the City. If, for any reason, the City does not go forward with the street car project it will, with the Commission's approval, substitute another economic development project set forth in its reports to the Commission. The City is committed to projects that create a minimum of twenty-five (25) jobs during the three-year ESP period. The average hourly rate of the jobs shall exceed 150% of the federal minimum wage.

The City is a major employer in the Cincinnati area. It has significant financial resources to draw upon. The street car project may include federal, state, local, and/or private support in addition to the monies approved by the Public Utilities Commission of Ohio, if any. There are significant ancillary benefits to the project including significant additional tax revenues. The largest benefit is expected to come from the economic and business development along the street car corridor. The streetcar system alone is expected to consume approximately 7.5 million kWh per year, once fully operational. The City agrees to maintain the incremental employment for a period of three years beyond the date of initial operation.

DE-Ohio agrees to provide the City $2 million during 2010, and $1 million during 2011. DE-Ohio shall apply for recovery of half the funds equal to $1 million during 2010, and $500,000 during 2011 through its Rider DR-ECF conditioned upon approval for recovery by the Public Utilities Commission of Ohio (Commission) through a case filed during 2009 and upon the City meeting project milestones including but not limited to the creation of jobs within the City of Cincinnati. The City agrees to create a minimum of twenty-five (25) jobs through direct employment or indirect employment. Direct employment shall be incremental employees dedicated to the project above those employed by the City on January 1, 2009. Indirect employment shall be new jobs associated with a project sponsored by the City.

The City shall maintain the increased level of employment for at least three years after the date of initial operation. If the City does not maintain the increased level of employment DE-Ohio shall refund $1.5 million to customers over a twenty-four (24) month period.

The City and DE-Ohio shall report to the Commission the number of jobs created and the forecast of incremental jobs annually beginning January 1, 2010, and ending Date TBD.

This Economic Development Contract shall terminate upon completion of reporting during the three years after initial operation.

B. Streetlights

DE-Ohio agrees to purchase from the City approximately 20,263 existing streetlights, which are identified in Attachment A, that are attached to DE-Ohio's utility poles located outside the City's central business district. The purchase is subject to the following terms and conditions:

1. The purchase price shall be approximately $4 million for all streetlights owned by the City outside of the City's central business district.

2. DE-Ohio shall remit the full purchase price to the City within 120 days of the execution of a Stipulation. The City shall execute a bill of sale transferring title to the streetlights to DE-Ohio when DE-Ohio remits the full purchase price. The $4 million shall be designated for the City's street car project, or another economic development project as determined by the City should the street car project not go forward. A portion of the $4 million may also be designated by the City to offset the cost of those streetlights required to be replaced under the terms of the agreement.

3. Upon payment of the purchase price by DE-Ohio, the City shall be charged consistent with the energy portion of Rate OULS (or its successor tariff) and with the maintenance portion of Rate OL-E (or its successor tariff). The existing streetlight maintenance contract will be rescinded. Should any of the 20,263 streetlights require replacement following transfer of the streetlights to DE-Ohio, such replacement shall be under the terms of the capital equipment portion of DE-Ohio's Rate OL-E (or its successor tariff) except as stated below. The term "streetlight" is inclusive of a bracket arm, luminaries and associated wiring.

4. For the first ten years following purchase, regardless of the actual number of streetlights replaced, DE-Ohio agrees to charge the City on an annual basis for the actual cost of streetlights replaced but not to exceed the replacement costs of 2000 streetlights. Should any more than 2000 streetlights be replaced within a calendar year, the capital and carrying

costs to replace those additional streetlights shall be carried over to the following calendar year and paid during that year, subject to the same 2,000 streetlight limit. At the end of the ten year period, the City shall be responsible for any balance remaining associated with streetlights replaced during the ten year period.

The Parties agree to work together to determine the cost-effectiveness of installing new energy efficient lighting technologies as replacement fixtures.

5. The Parties agree that DE-Ohio shall remove any third-party (non-City of Cincinnati) attachments that may exist on the streetlights.

C. Life Safety Signs

On or before December 31, 2009, the City will remove all "Life Safety Signs" from DE-Ohio's utility poles. Life Safety Signs are those signs described in Attachment B.

The City further agrees that it will not install any new or additional Life Safety Signs on DE-Ohio's utility poles.

In the event DE-Ohio discovers the attachment of Life Safety Signs to its utility poles after December 31, 2009, the Parties agree that the City will remove those signs within 30 days' notice from DE-Ohio.

D. Remaining, Existing Attachments

The Parties agree to work together to promptly address any situations where a City attachment may be a violation of the NESC. The Parties further agree that any known violations that create an immediate hazard may be repaired or removed without notice to the other Party.

The Parties will work together to establish a no-cost Application and Permit for Attachment Process and Sign Guidelines. The City shall not be required to perform an audit of its existing attachments. In addition, the City shall not be required to go through the Application and Permit Process for existing attachments until DE-Ohio notifies the City of the existence of non-permitted or unauthorized attachments. Upon such notification the City shall submit each such attachment to the agreed upon Application and Permit for Attachment Process within 30 days.

This provision is not intended to contradict or replace the terms and conditions to which they are subject pursuant to the Application and Permit for Attachment Process.

E. Future Attachments

The Parties agree that they will utilize the Application and Permit for Attachment Process and the Sign Guidelines to be jointly established by the Parties with respect to any future requests of the City to make attachments to DE-Ohio's utility poles.

F. Permit Fees

The Parties agree that DE-Ohio shall support a revision to the pole attachment (PA) tariff filed in connection with its electric distribution rate case, pending under Case No. 08-709-EL-AIR. The revision shall exempt municipalities from attachment fees provided those municipalities timely remove life safety signs, equipment, and lights from DE-Ohio's utility poles, enter into pole attachment agreements or otherwise submit to an application and permit process for any future pole attachments, submit any existing, non-permitted (*i.e.*, unauthorized) attachments to an application and permit process, and timely correct any attachments that violate NESC or other applicable regulation.

The above revision to the pole attachment tariff shall ensure that the City of Cincinnati will not be responsible for paying pole attachment fees for existing or new attachments now or in the future. If the revisions to the pole attachment tariff are not accepted by the PUCO, the City and DE-Ohio will enter into a pole attachment agreement which clarifies that the City will not be responsible for paying pole attachment fees for existing or new attachments now or in the future.

The Parties agree that effective January 1, 2009, that if the relocation of existing DE-Ohio overhead and/or underground electric facilities in the public rights-of-way are necessary to accommodate a City public improvement project, then the City shall not assess DE-Ohio street opening permit fees typically charged in order to compensate the City for its costs to review and process DE-Ohio's relocation proposal.

G. Future Audit

The Parties agree that DE-Ohio may, at its discretion and at its sole expense, conduct an audit of its system for purposes of identifying attachments.

The Parties further agree that if the audit reveals the existence of non-permitted or unauthorized City attachments or City attachments that violate the NESC or other applicable regulation, the Parties agree that the City will remove or make application for the attachments within 30 days' notice from DE-Ohio. The Parties further agree that any known violations that create an immediate hazard may be repaired or removed without notice to the other Party.

H. Miscellaneous Provisions

The City agrees that it will not assert any opposition to the proposed pole attachment tariff within DE-Ohio's electric distribution rate case, pending under Case No. 08-709-EL-AIR.

On Behalf of DE-Ohio

On Behalf of the City of Cincinnati

Duke Energy Ohio

Electric Security Plan Shopping Credit
(¢ per kWh except where noted)

	Big 'G' A	Rider RTC B	Little 'g' C = A - B	Shopping Credit D = 6% X C
Rate CUR, (Rev. Class 01, 02, 04, 16 & 18 only)				
Summer, First 1000 kWh	5.0664	0.6484	4.4180	0.2651
Summer, Additional kWh	6.3534	0.7556	5.5978	0.3359
Winter, First 1000 kWh	5.0664	0.6484	4.4180	0.2651
Winter, Additional kWh	2.0546	0.3877	1.6669	0.1000
Rate DS, Secondary Distribution Voltage				
First 1000 kW ($ per kW)	$ 7.6574	-	$ 7.6574	$ 0.4594
Additional kW ($ per kW)	$ 6.0574	-	$ 6.0574	$ 0.3634
Billing Demand Times 300	2.8568	0.8992	1.9576	0.1175
Additional kWh	1.6366	0.0100	1.6266	0.0976
Rate GS-FL, Optional Unmetered				
kWh Greater Than or Equal to 540 Hours	7.1760	0.6719	6.5041	0.3902
kWh Less Than 540 Hours	8.1484	0.6719	7.4765	0.4486
Rate SFL-ADPL, Optional Unmetered				
All kWh	7.1760	0.6719	6.5041	0.3902
Rate EH, Optional Electric Space Heating				
All kWh	3.3405	0.6719	2.6686	0.1601
Rate DM, Secondary Dist. Service, Small				
Summer, First 2800 kWh	7.0728	1.2166	5.8562	0.3514
Summer, Next 3200 kWh	1.8173	0.3221	1.4952	0.0897
Summer, Additional kWh	0.9004	0.2484	0.6520	0.0391
Winter, First 2800 kWh	5.6302	0.9822	4.6480	0.2789
Winter, Next 3200 kWh	1.8172	0.3203	1.4969	0.0898
Winter, Additional kWh	0.8633	0.2442	0.6191	0.0371
Rate DP, Service at Primary Dist.Voltage				
First 1000 kW ($ per kW)	$ 6.9150	-	$ 6.9150	$ 0.4149
Additional kW ($ per kW)	$ 5.4550	-	$ 5.4550	$ 0.3273
Billing Demand Times 300	2.8898	0.6850	2.2048	0.1323
Additional kWh	1.7782	0.0100	1.7682	0.1061
Rate TS, Service at Transmission Voltage				
First 50,000 kVA ($ per kVA)	$ 8.3830	-	$ 8.3830	$ 0.5030
Additional kVA ($ per kVA)	$ 6.0430	-	$ 6.0430	$ 0.3626
Billing Demand Times 300	1.9994	0.5590	1.4404	0.0864
Additional kWh	1.6481	0.0100	1.6381	0.0983
Rate TL, Traffic Lighting Service				
All kWh	1.9148	0.2290	1.6858	0.1011
Rate SL, Street Lighting Service				
Rate OL, Outdoor Lighting Service				
Rate NSU, Street Lighting				
Rate NSP, Private Outdoor Lighting				
Rate SE, Street Lighting Service				
All kWh	3.1094	0.2290	2.8804	0.1728
Rate SC, Street Lighting				
Energy Only - All kWh	1.3749	0.2290	1.1459	0.0688
Units - All kWh	3.1094	0.2290	2.8804	0.1728
Rate UOLS, Unmetered Outdoor Lighting				
All kWh	1.4148	0.2290	1.1858	0.0711

Stipulation Attachment 7

Kroger Co.
List of Transformers

Address	Surburb	Vintage year	Transformer #	Size	Serial #
11390 Montgomery Rd	Montgomery	1988	X24-24	750	88JG207279
550 Old St Rt 74	Mt Carmel	1996	6C-2874	500	HI2844223296
550 Old St Rt 74	Mt Carmel	1985	6C-2873	500	8560000578
2443 Harrison	Westwood	1973	K9-3	500	K855325T73AA
428 Oxford State Rd	Amanda	1990	BTO-2532	1000	21353724D1
6725 Dick Flynn Bl	Goshen	2000	CLO-3651	750	HI1250030300
3760 Paxton	Hyde Park	1989	HMO-5303	1500	89j451144
1260 Ohio Pk	Amelia	1994	20C 2092	1000	93B50078
3491 North Bend Rd W	White Oak	1988	J14-C-6	750	88JG203005
2900 US Rt 22-3 W	20 Mi Stand	1986	W83-243	1000	86JA601214
1868 Seymour	Bond Hill	1990	Q15-18	500	90A39476
7132 Hamilton	N Coll Hill	2001	HMO-3286	750	HI3267004301
6401 Colerain	Grosbeck	1986	K16-15	1000	86JB606082
6950 Miami Rd	Madeira	2002	HMO-5318	750	HI3763654202
8241 Vine	Hartwell	1981	P17-5	500	NO17837TLSA
1 Corry W	Corryville	1981	O9-11-33-11	500	81ZB61A001
800 Main	Milford	1993	CLO 11	1500	SQ930117A1
800 Loveland Maderia Rd	Loveland	1980	Z30-1	750	79JM111212
5575 Galbraith Rd E	Kenwood	1988	V17-47	500	88J246229
7401 Wooster Pk	Plainville	2000	W-11-363	1000	8HI4470994799
4777 Kenard	Winton Pl	1994	O12-652	750	Q248514TWJ
4777 Kenard	Winton Pl	1996	O12-651	500	3480424395
12164 US Rt 42	Sharonville	1994	U26-236	750	93B50067
5420 Liberty Fairfield Rd	Maustown	1998	58BT-1493	750	HI3930354697
8800 Beechmont	Cherry Grv	1988	5C 2888	750	88J241314
2280 Ferguson Rd	Westwood	1995	J8-682	750	
10595 Springfield Rd	Woodlawn	2000	P22-215	1000	HI4286254499
5830 Harrison	Dent	2000	HMO-255	1000	HI4402044200
2100 Beechmont	Mt Wash	2002	V6-600	2000	HI3301783503
210 Sterling Run Blvd	Mt Orab	2000	BRO-87	1000	H12912572300
4001 St Rt 128	Hooven	1999	HMO-1950	1000	HI3776894398
5100 Terra Firma Dr	Mason R	2003	WRO-3462	750	HI2874553003
11350 Grooms	Blue Ash	1994	V24-500	300	939004973
4530 Eastgate Bl	Glen Este	1989	6C 460	500	88JH22403
9690 Colerain	Bevis	1997	J20-346	750	19572101597
7580 Beechmont	Forestville	2003	HMO-7553	2000	HI3654894003
8328 Princeton Glendale R	Port Union	1990	BTO-3784	750	90J761221
1093 St Rt 28	Mulberry	1991	25C-1931	750	P814107TWF
560 Wessel Dr	Fairfield	2002	BTO-3779	1000	HI1676431102
1212 Kemper Rd W	Forest Pk	1987	N25-15	750	876007549
5080 Delhi	Delhi Hls	2002	J5-34	750	HI3962754502
7855 Tylersville Rd	Maud	1973	78BT-77	750	2-56191
6165 GLENWAY AVE.	WESTWOOD	2005	HMO-7726	750	HI509059004

Stipulation Attachment 8

THE CINCINNATI GAS & ELECTRIC COMPANY
SETTLEMENT DISTRIBUTION RATES
CASE NO. 05-59-EL-AIR

LINE NO.	RATE CODE (A)	CLASS / DESCRIPTION (B)	CUSTOMER BILLS (C)	SALES (D)	DISTRIBUTION REVENUE (F)	% OF REVENUE (G)
				(KWH)	($)	(%)
	RESIDENTIAL					
1	RS	RESIDENTIAL SERV	7,753,637	7,137,886,740	177,285,069	
2	ORH	OPTIONAL HEATING SERVICE	2,447	7,872,162	155,362	
3	TD	OPTIONAL TIME OF DAY SERVICE	653	416,418	13,224	
4	**TOTAL RESIDENTIAL**		**7,756,737**	**7,146,175,320**	**177,453,655**	**100.00%**
	NON-RESIDENTIAL					
5	DS	SEC DISTRIBUTION SERV	244,245	7,362,160,419	82,130,326	66.77%
6	DS RTP	SEC DISTRIBUTION SERV RTP	346	9,972,922	183,871	0.15%
7	GSFL	UNMTRED SMALL FIXED LOAD	4,651	29,437,207	474,650	0.39%
8	EH	ELEC SPACE HTG	5,024	106,271,601	1,264,195	1.03%
9	DM	SEC DIST SERV-SMALL	470,272	535,560,094	17,595,273	14.30%
10	DP	PRIM DIST VOLTAGE	3,457	2,221,867,890	19,525,563	15.87%
11	DP RTP	PRIM DIST VOLTAGE RTP	300	78,956,543	594,805	0.48%
12	**TOTAL DISTRIBUTION**		**728,295**	**10,344,226,676**	**121,768,683**	**99.00%**
13	TS	TRANSMISSION SERV	629	3,270,715,976	1,196,189	0.97%
14	TS RTP	TRANSMISSION SERV RTP	69	71,528,044	36,017	0.03%
15	**TOTAL TRANSMISSION**		**698**	**3,342,244,020**	**1,232,206**	**1.00%**
	TOTAL NON-RESIDENTIAL		**728,993**	**13,686,470,696**	**123,000,889**	**100.00%**

CASE NO. 08 -920-EL-SSO, ET AL
STIPULATION ATTACHMENT 9

1. Reserve Capacity. DE-Ohio will provide existing distribution reserve capacity at no charge for existing load during the ESP period[1] for GCHC member hospitals.
2. Additional Feeder. DE-Ohio will provide an additional distribution feeder to any GCHC member hospital, without an existing second feed, requesting such service. The cost of the additional feeder will be recovered from the requesting GCHC member through an applicable rate Rider or Excess Facilities Charge using a rate of return component no greater than that approved by the Commission in Duke's distribution rate case, Case No. 08-709-EL-AIR.
3. Payment for Available Emergency Generation Capacity. DE-Ohio agrees to compensate GCHC member hospitals who participate in a non-residential capacity pilot program as follows:
    a. During the first year of the ESP period, participating GCHC members who participate in an approved program consistent with MISO Module E requirements will receive capacity payments at the higher of the market based price or $40/kW per year. The Parties recommend that DE-Ohio recover Capacity payments through Rider SRA-SRT. If cost recovery is denied DE-Ohio may prospectively adjust capacity payments to a level where the Commission is expected to permit cost recovery. In such event, participating GCHC members shall have the right to withdraw from the program.
    b. Capacity credits during subsequent years of the ESP period will be based upon DE-Ohio's avoided cost of generation capacity and verified against market-based capacity resources. The Parties recommend that credits be recovered through Rider SRA-SRT. Participating GCHC members shall have the right to withdraw from the program if approved credits are unsatisfactory to them.
    c. DE-Ohio agrees to compensate GCHC program participants for energy during a capacity call based on the DE-Ohio's avoided cost of energy during an interruption period. During the first year of the ESP period,

[1] The ESP period is defined as the period beginning January 1, 2009 and ending December 31, 2011.

GCHC members participating in the program will receive energy payments at a rate of $0.11 /kWh. The Parties recommend that DE-Ohio recover Energy payments through Rider PTC-FPP. If cost recovery is denied DE-Ohio may prospectively adjust Energy payments to a level where the Commission is expected to permit cost recovery. In such event, participating GCHC members shall have the right to withdraw from the program.

d. The maximum number of capacity call hours during any calendar year of the ESP period will be limited to 400 hours.

e. The program shall be applicable to existing and new generation capacity of GCHC's participating member hospitals during the ESP period. Duke Energy Ohio guarantees that members of the GCHC having surplus generating assets will be provided each year of the ESP the opportunity to contract that capacity to DE-Ohio as well as additional Capacity up to 3 MW they might add at various times during the ESP.

4. Energy Improvement/Efficiency, Demand-Response and Patient Safety - DE-Ohio agrees to provide funds of $150k annually (to be paid quarterly beginning January 1, 2009) during the ESP period to GCHC for GCHC to use in support of energy initiatives for its member hospitals, long-term care facilities and other affiliate members including but not limited to, such purposes as energy-related programs for patient safety, reliability, energy efficiency, cost-control, alternative resources, research and development and any related program or administrative expenses.

5. Onsite Generation Service Tariff – DE Ohio agrees to work with GCHC member hospitals, long-term care facilities and affiliate members to develop an onsite generation service tariff for Commission review and approval. The tariff will include back-up service from DE-Ohio owned on-site generation assets. In case of failure of DE-Ohio on-site generators, the load served by such generator will return to the DE-Ohio system provided such service is available.

6. Service Improvement for GCHC Hospital Members – DE-Ohio will work with GCHC member hospitals to develop:

   a. Coordinated Work Plans that enhance communication, advance notice and coordination of operations and maintenance of distribution feeders with