LARGE FILING SEPERATOR SHEET

CASE NUMBER:
03-93-EL-ATA
03-2079-EL-AAM
03-2080-EL-ATA
03-2081-EL-AAM
05-724-EL-UNC
05-725-EL-UNC
06-1068-EL-UNC
06-1069-EL-UNC
06-1085-EL-UN

FILE DATE: 11-10-08

SECTION: 17 of 17

NUMBER OF PAGES: 182

DESCRIPTION OF DOCUMENT: Conf. Release

Exhibit 2-25. Shipments Of[redacted]

Exhibit 2-26. Shipments Of [redacted]

Exhibit 2-27. Shipments Of [redacted]

Exhibit 2-28. Shipments Of [redacted]

Exhibit 2-29. Shipments Of [redacted]

Exhibit 2-30. Shipments Of [redacted]

Exhibit 2-31. Shipments Of [redacted]

Exhibit 2-32. Shipments Of [redacted]

03188

Exhibit 2-33. Shipments Of [redacted]

Exhibit 2-34. Shipments Of [redacted]

3

ENVIRONMENTAL AUDIT

Environmental Requirements

DE-Ohio complied with Title IV of the 1990 Amendments to the Clean Air Act[1] SO_2 requirements through a combination of fuel switching and emission allowance purchases. While East Bend and Zimmer are scrubbed, neither scrubber was added to comply with Title IV.

In March 2005, EPA finalized the Clean Air Interstate Rule (CAIR) which contains more stringent national ambient air quality standards for ozone and fine particulates which require reductions in emissions of both sulfur dioxide (SO_2) and nitrogen oxides (NOx) to achieve. CAIR covers 28 eastern states, including Ohio, and the District of Columbia. Similar to Title IV, reductions will be achieved in two phases (by 2010 and 2015) under a cap and trade system unless states elect to adopt their own plans. The regulations limit SO_2 emissions to the affected region to 3.9 million tons in 2010 and 2.7 million tons in 2015.

DE-Ohio's compliance plan for CAIR is summarized in Exhibit 3-1. DE-Ohio's partners in Killen, Stuart, and Conesville #4 have announced their plans to scrub all of those units.

[1] Also known as the acid rain control program.

Exhibit 3-1. DE-Ohio Phase I Compliance Strategy

	2005	2006	2007	2008
FGD New			Miami Fort #7/#8	
FGD Upgrade	East Bend			Zimmer

Also in 2005, the EPA promulgated the Clean Air Mercury Rule (CAMR). The EPA adopted a cap-and-trade approach that will set national allowable emissions and provide for a two phase reduction. Compliance with the Clean Air Mercury Rule should largely be achieved with CAIR compliance although DE-Ohio's preliminary CAMR plan calls for some activated charcoal injection on several of the non-scrubbed units.

Duke Energy is still in litigation with the Department of Justice over New Source Review violations. On August 17, 2006, the Seventh Circuit affirmed the ruling of the U.S. District Court for the Southern District of Indiana that had found in favor of the U.S. Environmental Protection Agency with respect to its interpretation of the New Source Review Program. This decision was contrary to an earlier decision by the Fourth Circuit. Which Circuit is correct will now be decided by the Supreme Court. Argument in this case is scheduled for November 1, 2006. Until this issue is resolved, there is some uncertainty as to what will be required of DE-Ohio.

Previous Environmental Audit

The stipulation from the prior audit settled a number of the environmental issues during the RSP period. The specific agreements are as follows:

1. The parties agree that CG&E shall not allocate any part of its December 31, 2004, SO_2 emission allowance bank to FPP customers. The agreement with regard to this issue is intended to resolve all issues related to the allocation of CG&E's December 31, 2004, SO_2 emission allowance bank for the entire RSP period of January 1, 2005 through December 31, 2008.

2. The parties agree that CG&E will allocate EPA-allotted zero-cost SO_2 emission allowances on the basis of projected emissions, and add to the resulting allocation to FPP load an additional 16,241 zero-cost allowances for each of the years 2006, 2007, and 2008. This allocation is fixed as of the execution of the stipulation and will remain fixed for the duration of the RSP period ending December 31, 2008. The zero-cost SO_2 allowances to be allocated to FPP load is as follows: 2005, 61,121; 2006, 73,473; 2007, 69,844; and 2008, 62,588, not

including the additional annual allocation of 16,421, as previously referenced. Including the additional annual allocations, the total zero-cost SO_2 allowances to be allocated FPP load is 2005, 61,121; 2006, 89,894; 2007, 86,265; and 2008, 79,009. The parties also agree that a two-inventory system, based on this allocation methodology is appropriate. During the RSP, CG&E will actively forward manage SO_2 emission allowances for FPP load and non-FPP load separately, such that the FPP load and on-FPP load shall be assigned the benefits and/or costs of SO_2 emission allowance transactions that result from the active management of the respective inventories to ensure compliance with Environmental Protection Agency requirements for SO_2 emissions. In each FPP audit, the auditor may examine purchases and sales of SO_2 emission allowances to ensure that the transactions were executed at fair market prices for FPP load. To the extent that purchases or sales for FPP and non-FPP load are made on the same business day, CG&E shall give the weighted average price of all of the purchases or sales on that day to both FPP and non-FPP load.

3. The parties agree that neither NOx emission allowance costs, nor NOx emission allowance transaction benefits, will be included in the FPP rates through the balance of the RSP Period, January 1, 2005 through December 31, 2008.

4. The parties agree that CG&E shall not recover costs of environmental reagents through the FPP. All costs of environmental reagents that have been included in the FPP rates shall be refunded to FPP customers through the RA adjustment in the April through June 2006 FPP rates. CG&E may recover the cost of such reagents through the annually adjusted component (AAC) of its market-based standard service offer rates. The parties agree to the following process and recovery: CG&E shall include projected year 2007 environmental reagent costs in the application that CG&E may file to set the 2007 AAC rate. CG&E shall include projected year 2008 environmental reagent costs and a true-up adjustment for year 2007 actual costs in the application that it may file to set the 2008 AAC rate. The true-up adjustment associated with actual 2008 environmental reagent costs shall be refunded or collected during 2009. Such recovery shall be dependent upon the need for an incremental increase in the AAC based upon environmental reagents and other costs that CG&E may recover through the AAC pursuant to the Commission's opinion and order in the RSP case. Nothing in the stipulation prohibits any party from contesting the environmental reagent costs or their recovery in such future AAC cases.

5. The parties agree that there shall be no true up of CG&E's SO_2 and NOx emission allowance inventories, as was suggested in the audit report. Such inventories shall be assigned as set forth in the stipulation. With regard to SO_2 emission allowance auction proceeds, CG&E will allocate the proceeds in the same proportion as zero-cost SO_2 emission allowances are allocated. The SO_2 emission allowance allocation to FPP load is 33 percent for 2005, 88.2 percent of 2006, 84.2 percent for 2007, and 76.2 percent for 2008. There will be no allocation of NOx emission allowance auction proceeds.

As a result of the above agreements, the focus of the environmental audit was on SO_2-related issues.

Emission Banks

The status of the DE-Ohio SO_2 emission allowance (EA) bank at the beginning and end of the audit period is summarized in Exhibit 3-2.

Exhibit 3-2. DE-Ohio EA Bank Through Audit Period

The difference in the allocations between the beginning and end of the audit period was the agreement [redacted] The allocations are not sufficient to cover expected emissions in any year and purchases required.

SO_2 Protocol

DE-Ohio revised its protocol related to native load SO_2 emission allowances in March 2006. Key points of the protocol are as follows:

- DE-Ohio will engage in "active management" of the native SO_2 inventory. [redacted]
- The native inventory will only be managed through the end of the RSP in 2008. As of March 2006, the entire position is actively managed, which is a reversal of the previous protocol which required approval from the TRC to trade allocations outside the current year.
- Positions have individual buffers in place which are based on the volatility of the market. Buffer calculations are performed on a quarterly basis.
- The [redacted]

The primary change from the earlier protocol is the elimination of the October 1 date which previously determined at what point trades for the successive year could be initiated.

EVA agrees with the elimination of the artificial October 1 date but continues to believe that active management of the EA inventory is inappropriate. EA values are volatile which make daily settlement even with buffers inappropriate. EVA recommends that DE-Ohio should adjust its SO_2 position on no more than a quarterly basis, unless specific events dictate otherwise.

SO2 Allowance Trading

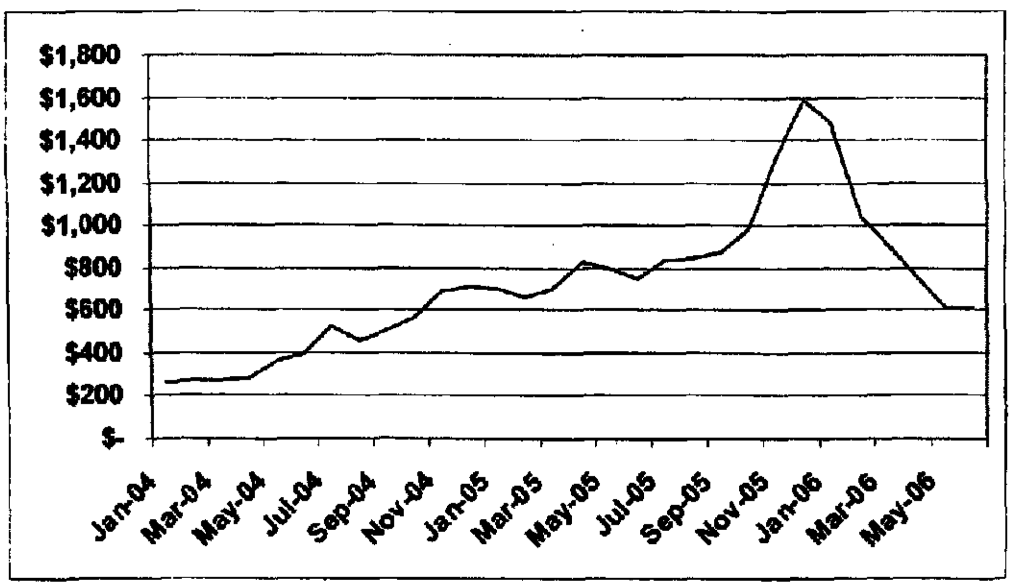
The maintenance of the EA position has been the responsibility of one person throughout the audit period. As of April 1, 2006, the EA manager was promoted to Director of Portfolio Optimization but retained the duties of EA management. As previously discussed, EVA believes that it is inappropriate for the Director of Portfolio Optimization to retain these responsibilities.

Daily reports from the commercial business model are used to determine a short or long position for the different allowance vintages. DE-Ohio has included a buffer in establishing the natural position of the EA bank. Exhibit 3-3 gives a summary of the EA trading of 2006 vintage during the audit period.

Exhibit 3-3. Summary Of 2006 EA Trades During Audit Period

Under the prior protocol, none of the 2006 EA shortfall could be purchased until October 1, 2005. Despite the protocol, however, DE-Ohio did not purchase any allowances until January 20, 2006 following a steep increase in prices. (Exhibit 3-4) The reason for this delay was the dispute over the proper allocation of zero-cost allowances between the native and non-native load customers, which was not resolved until the stipulation in early February 2006, and DE-Ohio did not know the amount of its open position to be covered until this was resolved. Had DE-Ohio purchased the entire shortfall on or about October 1, 2005, it would have cost of about $900 per allowance. Assuming a 39,000 ton shortfall, this would have cost DE-Ohio $35 million. During the audit period, DE-Ohio purchased a net 46,718 allowances at an average cost of $1,266 per allowance, over $350 per allowance more than DE-Ohio's policy would have cost. In other words, DE-Ohio paid $14 to $16 million more for allowances as a result of the delay.

Exhibit 3-4. SO_2 Emission Allowance Prices



EVA disagrees with DE-Ohio's active management approach to fuel and EA's. The path of emission allowance prices over the audit period highlights EVA's problem with DE-Ohio's blind adherence to flattening its position. Fuel and EA buyers are paid to analyze markets and make judgments related thereto. The dramatic movements in the EA market were not logical and unlikely to be sustained. In fact, DE-Ohio's EA manager explained to EVA that very few transactions caused the spike and ultimate free fall in prices pointing to the lack of liquidity in the market. EVA expects the portfolio managers to make decisions about purchases in the context of the market.

4

POWER PLANT PERFORMANCE

Benchmarking

DE-Ohio operates four coal-fired power plants (including East Bend). DE-Ohio's performance with respect to these power plants can be measured by comparison with other coal-fired power plants operated by Ohio utilities. Two measures are used to demonstrate performance: heat rate and capacity factor. Heat rate is the BTU's consumed per kilowatt-hour generated. Capacity factor is the megawatt-hours generated over total potential generation.

The heat rates for the DE-Ohio plants compared to the heat rates for the other Ohio utility coal-fired plants is provided for the entire audit period in Exhibit 4-1. The data used to generate these figures are filed with the Department of Energy on a monthly basis. The DE-Ohio plants are in black. Zimmer had the second lowest, i.e., best, heat rate. The other three units were in the middle of the pack.

The capacity factors for the same units for the audit period are provided in Exhibit 4-2. East Bend and Zimmer were the top performers during this period, while the other two plants turned in marginal performance.

Exhibit 4-1. Ohio Utility Coal-Fired Power Plant Heat Rates For Audit Period

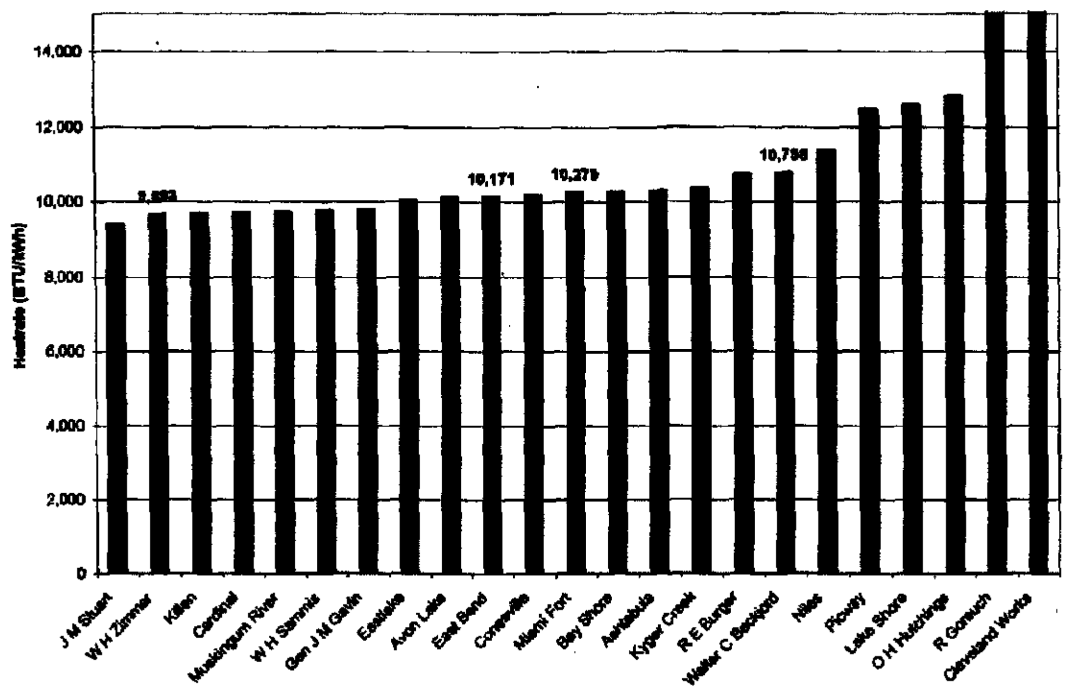
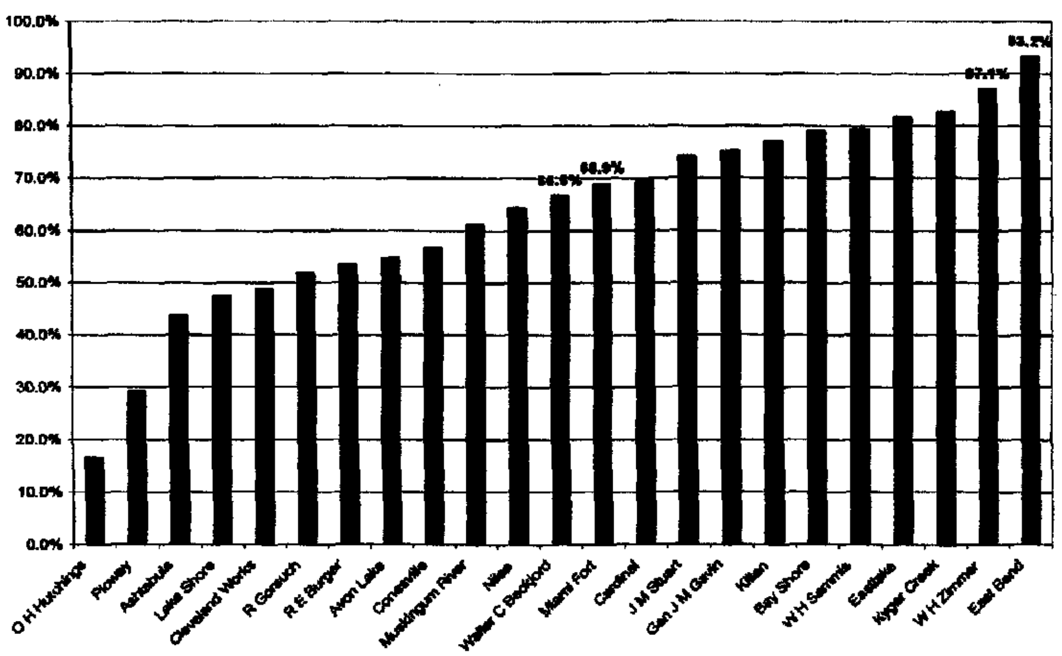


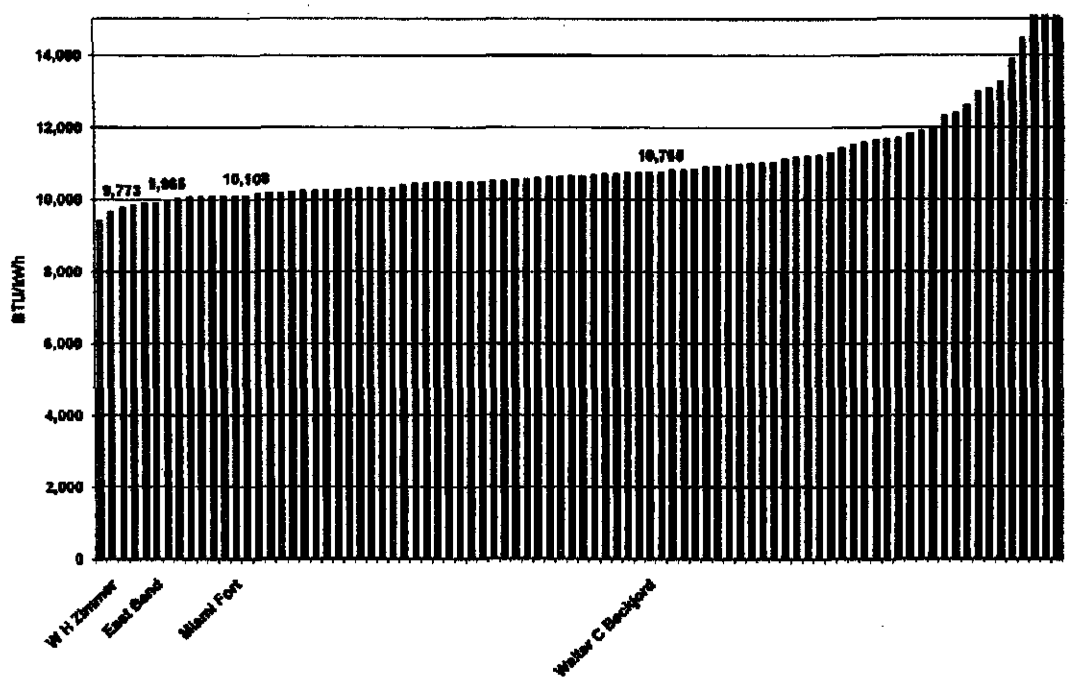
Exhibit 4-2. Ohio Utility Coal-Fired Power Plant Capacity Factors For Audit Period



The DE-Ohio plants were also benchmarked against the coal-fired MISO plants. DE-Ohio as a member of MISO gets dispatched by MISO. Therefore, the competitiveness of the DE-Ohio units within the MISO determines their utilization.

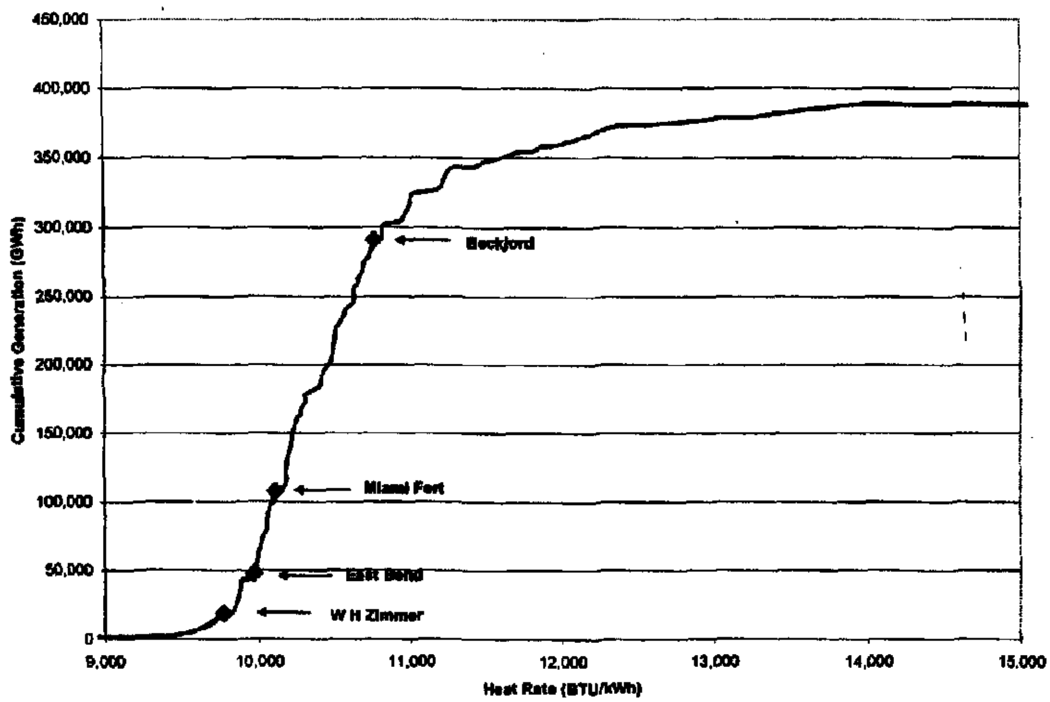
Exhibit 4-3 provides the heat rates for all MISO coal-fired plants during the audit period. Zimmer comes in as the number three ranked plant followed by East bend at seven and Miami Fort at fourteen. The only below average plant was Beckjord.

Exhibit 4-3. MISO Coal-Fired Power Plant Heat Rates During Audit Period



The relative heat rate rankings for the CG&E units with respect to total generation are provided on Exhibit 4-4 for the audit period. These graphs are a better measure of DE-Ohio's competitiveness than the simple unit comparisons which do not capture plant size.

Exhibit 4-4. MISO Coal-Fired Power Plant Cumulative Generation By Heat Rate For Audit Period



In this presentation, Zimmer, East Bend and Miami Fort are on the lower part of the curve. Beckjord has a higher heat rate but still in the competitive part of the curve.

Findings

The DE-Ohio units have good heat rates and high capacity factors compared to both the coal-fired utility plants of the other Ohio utilities and the MISO coal-fired utility plants.

5

FUEL, ECONOMY PURCHASED POWER AND EMISSION ALLOWANCE COMPONENT (FPP COMPONENT) AUDIT

Introduction And Background

Larkin & Associates PLLC ("Larkin") is a subcontractor to EVA in this FPP Component audit. The scope of Larkin's review on this project is the FPP Component Audit of DE-Ohio Energy Ohio's ("DE-Ohio" or "Company", formerly Cincinnati Gas & Electric Company or CG&E) Fuel, Economy Purchased Power and Emission Allowance Component (FPP Component)[1]. This review is being conducted in two phases. Phase one covered the audit period January through June 2005 in Case No. 05-808-EL-UNC. Phase two covers the audit period of July 2005 through June 2006. The Phase two review also encompassed verification of DE-Ohio's Reconciliation Adjustments ("RAs") for the period January 2005 through June 2006 presented in DE-Ohio's FPP filings. The review by Larkin was coordinated with EVA's Management/Performance Audit of DE-

[1] This part of the review has in prior reports been referred to as the "Financial Audit", a term which could be misleading because the work does not involve an audit of financial statements, but rather is an attestation engagement involving verification of DE-Ohio's FPP that is conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants, and using guidance set forth in former Chapter 4901:1-11 and related appendices of the Ohio Administrative Code relating to "Uniform Financial Audit Program Standards and Specifications for the Electric Fuel Component."

Ohio's FPP Component for this same audit period, which included a detailed analysis by EVA of DE-Ohio's coal procurement and emission allowances.

Pursuant to the Commission's Entry on Rehearing in Case No. 03-93-EL-ATA issued on November 23, 2004, DE-Ohio calculated proposed quarterly FPP components of its market-based standard service offer for the 12 month projected periods July 2005 through June 2006. With its third quarter 2005 filing, covering the period July through September 2005, DE-Ohio included actual results for the first quarter of 2005 in the RA portion of its third quarter filing. Each subsequent quarterly filing includes an RA for the previous quarter as well as updated RA's for previous periods that had been reconciled in earlier quarterly filings, i.e., DE- Ohio's fourth quarter 2005 filing, covering the period October through December 2005, includes an RA for the second quarter of 2005 and an updated RA for the first quarter of 2005. Similarly, DE-Ohio's fourth quarter 2006 FPP filing included updated RAs for January 2005 through June 2006. Attachment 1, appearing at the end of this chapter of the report, presents a summary reconciliation of DE-Ohio's RAs by component, for the period January 2005 through March 2006. This attachment shows the changes in the RA for each month January 2005 through March 2006, as of DE-Ohio's fourth quarter 2006 FPP filing.

The Phase one FPP Component audit report was submitted to the Commission on October 7, 2005. Subsequent to that, briefs and reply briefs were filed by CG&E, Ohio Consumers Council (OCC), Industrial Users-Ohio (IEU) and Commission Staff on November 18, 21 and 28, 2005. On January 18, 2006, CG&E and Staff filed a stipulation and recommendation ("stipulation") that resolved all issues in that proceeding. The Commission adopted the stipulation in its entirety in its Opinion and Order issued February 6, 2006.

Larkin's scope of work consisted of a combination of reviewing DE-Ohio's FPP quarterly filings for the period July 2005 through June 2006, including RAs covering the period January 2005 through June 2006, and following applicable guidance contained in the FPP Component audit objectives and procedures outlined in Appendix E of what had been Chapter 4901:1-11 of the Ohio Administrative Code ("the Code"). Because that provision of the Code was repealed, those provisions no longer apply to DE-Ohio. However, because DE-Ohio's FPP was "EFC-like", such provisions were utilized as one of the best available sources of guidance for conducting the scope of work. Such provisions were also referenced as an applicable source of guidance for performing the work in the Request for Proposal No. U05-FPP-1 that was issued by the PUCO on June 29, 2005.

The Commission indicated that the purpose of the review was to determine the "reasonableness" of DE-Ohio's expenditures for costs included in the FPP. The Commission Entry on Rehearing also indicated that the "amounts to be recovered for fuel, economy purchased power, and Emission Allowances (EAs) are those in excess of amounts authorized in CG&E's last electric fuel component proceeding." (Entry on Rehearing, Finding 13(c)).

Requested Information

Attachment 2 lists the documents, numbered LA-2-1 through LA-2-52 that were requested from DE-Ohio on July 6, 2006. Attachment 3 lists additional documents requested from DE-Ohio on August 8, 2006, following up on the station visitation and on-site interviews conducted by EVA and Larkin. Additional information was obtained from DE-Ohio via informal follow-up where necessary.

Interviews And Site Visit

Interviews were conducted jointly by EVA and Larkin on August 2-3, 2006 at DE-Ohio's office in Cincinnati and on August 4, 2006, during the on-site visit at DE-Ohio's Beckjord plant. In Section 1, EVA listed the interviews that were conducted in DE-Ohio's offices during August 2-4, 2006. Follow-up interviews with DE-Ohio accounting personnel were conducted on September 15, 2006 at DE-Ohio's Cincinnati offices by Larkin.

Chapter Organization

The remainder of the section of the report concerning the FPP Component audit is organized into the following sections:

- Certificate of Accountability of Independent Auditors
- Determination of FPP Rates in DE-Ohio's Filings for the Period Under Review
- Minimum Review Requirements
- Review Related to Coal Order Processing
- Review Related to Station Visitation and Coal Processing Procedure

- Review Related to Fuel Supplies Owned or Controlled by the Company
- Review Related to Purchased Power
- Review Related to Service Interruptions and Unscheduled Outages
- FPP Filings, Supporting Workpapers and FPP Component Audit Trail Documentation
- Changes to Fuel, Purchased Power Procurement and Emission Allowance Procurement
- Internal Audits
- Memorandum of Findings
- Summary of Recommendations

Selected documents and summaries referenced in the report are included in a series of Attachments, numbered 1 through 3.

Certificate Of Accountability Of Independent Auditors

To: Duke Energy Ohio

We have examined the quarterly filings of Duke Energy Ohio (DE-Ohio) for the third and fourth quarters of 2005 and the first and second quarters of 2006 which support the calculation of the Fuel, Economy Purchased Power and Emission Allowance Component (FPP Component) of DE-Ohio's rates for the 12 month period July 2005 through June 2006. In conducting our review, we were aware of and considered the guidance set forth in former Chapter 4901:1 – 11 and related appendices of the Ohio Administrative Code relating to "Uniform Financial Audit Program Standards and Specifications for the Electric Fuel Component". Our examination for this purpose was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and, accordingly, included examining on a test basis, the accounting records and such other procedures as we considered necessary in the circumstances. We did not make a detailed examination as would be required to determine that each transaction was recorded in accordance with the financial procedural aspects of former Chapter 4901:1 – 11 and related appendices of the Ohio Administrative Code. Our examination does not provide a legal determination of DE-Ohio's compliance with specific requirements.

These filings are the responsibility of the Company's management. Our responsibility is to express an opinion as to DE-Ohio's fair determination of the FPP rates for July 2005 through June 2006 calculated with those quarterly filings, and with respect to the Reconciliation Adjustments for the period January 2005 through June 2006 that were reflected by DE-Ohio through the Company's fourth quarter 2006 FPP filing.

In our opinion, Duke Energy Ohio has determined, in all material respects, the FPP rates for the 12-month period July 2005 through June 2006, and the Reconciliation Adjustments for the 18-month period January 2005 through June 2006 in accordance with its proposed procedures and its interpretation of what should be includable in the FPP rates, and consistent with the Stipulation and Order in Case No. 05-806-EL-UNC.

Larkin & Associates PLLC
Livonia, Michigan

Determination OF FPP Rates in DE-Ohio's Filings For The Period Under Review

Third Quarter 2005

On June 1, 2005, DE-Ohio filed its quarterly application for adjustment to fuel, economy purchased power and emission allowance component of its market-based standard service offer for the period July 1 through September 30, 2005. As explained by DE-Ohio, the FPP component will be applied to all bills, excluding residential consumers and consumers taking generation service from Certified Retail Electric Service providers, rendered on or after June 30, 2005, and will coincide with DE-Ohio's billing of Cycle 1 of the July 2005 revenue month and remain in effect until September 2005. DE-Ohio's filing for this quarter included a statement of fuel procurement policies and practices and forms supporting DE-Ohio's proposed calculation of the FPP rate of 1.0224 cents per kWh for the quarter:

- A fuel and economy purchased power component (FC) of 0.6071 cents per kWh, based on projected costs of 1.8398 cents per kWh less a baseline rate of 1.2327 cents per kWh.
- An emission allowance component (EA) of 0.2403 cents per kWh based on projected costs of 0.2529 cents per kWh less a baseline rate of 0.0126 cents per kWh.
- An environmental reagent component (ER) of 0.0078 cents per kWh based on projected costs of 0.0408 cents per kWh less a baseline rate of 0.0330 cents per kWh. Subsequently, the ER component was eliminated from the FPP rate in accordance with the Stipulation and Order in Case No. 05-806-EL-UNC on February 6, 2006 (see additional discussion below).
- A reconciliation adjustment (RA) of 0.1474 cents per kWh based on the reconciliation of the actual FC, EA costs, ER costs and system loss adjustment as well as FPP component revenues for the period January through March 2005.
- A system loss adjustment (SLA) of 0.0198 cents per kWh based on the estimated system loss fuel cost incurred during the three-month period.

DE-Ohio's third quarter 2005 FPP filing on Attachment II, page 1, states that "the methodology for calculating the proposed FPP Component of 1.0224 cents per kilowatt-hour is consistent with the Commission's Entry on Rehearing" and includes FC, EA, ER, RA and SLA components.

A summary of the FC, EA, RA, ER and SLA rate components contained in DE-Ohio's third quarter 2005 FPP filing is shown in Exhibit 5-1:

Exhibit 5-1. DE-Ohio's Third Quarter 2005 FPP Filing

Description		Includable Fuel Cost ($)	Includable Energy kWh	FPP Rate Components (Cents per kWh)
Fuel & Economy Purchased Power Cost Expense (FC) - by Month (Projected)		(1)	(2)	(Col 1/Col 2)
July 2005	$	38,196,033.64	2,035,075,830	
August 2005	$	36,715,641.37	1,977,556,238	
September 2005	$	29,813,643.86	1,679,531,587	
Total Fuel & Economy Purchased Power Expense	$	104,725,318.87	5,692,163,655	
				1.8398
Less Baseline ERC Rate From Case No. 99-103-EL-EFC				1.2327
Total FC Portion to be Included in FPP				0.6071

		Includable Emission Allowances ($)	Includable Energy (kWh)	
Emission Allowance (EA) - by Month (Projected)				
July 2005	$	5,133,589.34	2,004,607,918	
August 2005	$	4,918,065.70	1,948,858,357	
September 2005	$	4,127,452.06	1,652,858,357	
Total Emission Allowances Expense	$	14,179,107.10	5,606,324,632	0.2529
Less Baseline EFC Rate from Case No. 99-103-EL-EFC				0.0126
Quaterly Emission Allowance Rate (Rate will never be less than -0-)				0.2403

Reconciliation Adjustment (RA) - Summary		Net Under/(Over) Recovery of FPP Costs	Projected Retail Energy (kWh)	
January 2005	$	905,359.41		
February 2005	$	578,029.93		
March 2005	$	2,739,978.66		
Net Under/(Over) Recovery of FPP Costs	$	4,223,368.00	2,865,596,411	0.1474
Environmental Reagents (ER)				0.0078
System Loss Adjustment (SLA)				0.0198
Total FPP Rate				1.0224

Each component of the FPP calculation for the third quarter of 2005 was tested for mathematical accuracy and traced to the supporting documentation provided by DE-Ohio. No exceptions were noted.

Fourth Quarter 2005

On August 30, 2005, DE-Ohio filed its quarterly application for adjustment to fuel, economy purchased power and emission allowance component of its market-based standard offer for the period of October 1 through December 31, 2005. DE-Ohio's filing for this quarter included a statement of fuel procurement policies and practices and forms supporting DE-Ohio's proposed calculation of the FPP rate of 1.5326 cents per kWh for the quarter:

- A fuel and economy purchased power component (FC) of 0.5829 cents per kWh, based on projected costs of 1.8156 cents per kWh less a baseline rate of 1.2327 cents per kWh.
- An emission allowance component (EA) of 0.1977 cents per kWh based on projected costs of 0.2103 cents per kWh less a baseline rate of 0.0126 cents per kWh.
- An environmental reagent component (ER) of 0.0153 cents per kWh based on projected costs of 0.0483 cents per kWh less a baseline rate of 0.0330 cents per kWh. As noted above, the ER component was subsequently eliminated from the FPP rate in accordance with the Stipulation and Order in Case No. 05-806-EL-UNC on February 6, 2006 (see additional discussion below).
- A reconciliation adjustment (RA) of 0.7185 cents per kWh based on the reconciliation of the actual FC, EA costs, ER costs and system loss adjustment as well as FPP component revenues for the period April through June 2005. The RA calculation also reflected adjustments made to the first quarter 2005 RA (see additional discussion below).
- A system loss adjustment (SLA) of 0.0182 cents per kWh based on the estimated system loss fuel cost incurred during the three-month period.

A summary of the FC, EA, RA, ER and SLA rate components contained in DE-Ohio's fourth quarter of 2005 FPP filing is shown in Exhibit 5-2:

Exhibit 5-2. DE-Ohio's Fourth Quarter 2005 FPP Filing

Description	Includable Fuel Cost ($)	Includable Energy kWh	FPP Rate Components (Cents per kWh)
Fuel & Economy Purchased Power Cost Expense (FC) - by Month (Projected)	(1)	(2)	(Col 1/Col 2)
October 2005	$ 35,413,630.77	1,911,427,901	
November 2005	$ 36,586,844.44	2,045,296,706	
December 2005	$ 39,966,767.92	2,210,304,421	
Total Fuel & Economy Purchased Power Expense	$ 111,967,243.13	6,167,029,028	1.8156
Less Baseline ERC Rate From Case No. 99-103-EL-EFC			1.2327
Total FC Portion to be Included in FPP			0.5829

	Includable Emission Allowances ($)	Includable Energy (kWh)	
Emission Allowance (EA) - by Month (Projected)			
October 2005	$ 3,356,139.81	1,450,276,761	
November 2005	$ 3,308,269.87	1,491,448,552	
December 2005	$ 3,840,684.39	1,705,793,576	
EA Auction Proceeds Credits	$ (730,119.09)		
Total Emission Allowances Expense	$ 9,774,974.98	4,647,518,889	0.2103
Less Baseline EFC Rate from Case No. 99-103-EL-EFC			0.0126
Quarterly Emission Allowance Rate (Rate will never be less than -0-)			0.1977

Reconciliation Adjustment (RA) - Summary	Net Under/(Over) Recovery of FPP Costs	Projected Retail Energy (kWh)	
April 2005	$ 3,745,654.53		
May 2005	$ 1,779,320.74		
June 2005	$ 3,880,361.20		
Net Under/(Over) Recovery of FPP Costs	$ 9,405,336.47		
1st Quarter 2005 Adjustments	$ 6,734,100.68		
Total Costs to Be Recovered	$ 16,139,437.15	2,246,253,623	0.7185
Total RA Rate			
Environmental Reagents (ER)			0.0153
System Loss Adjustment (SLA)			0.0182
Total FPP Rate			1.5326

Each component of the FPP calculation for the fourth quarter of 2005 was tested for mathematical accuracy and traced to supporting information provided by DE-Ohio. No exceptions were noted.

First Quarter 2006

Beginning with the first quarter 2006 FPP filing, the rate freeze ended for residential customers. As a result, the FPP was applied to all non-switched consumers beginning January 1, 2006. In addition, the impact of differences in system losses related to voltage differences among consumers is recognized in the SLA calculation. DE-Ohio stated that this was per the Stipulation approved by the Commission in Case No. 03-930-EL-ATA.

On December 2, 2005, DE-Ohio filed its quarterly application for adjustment to fuel, economy and purchased power and emission allowance component of its market based standard service offer for the period January 1 through March 31, 2006. DE-Ohio's filing for this quarter included a statement of fuel procurement policies and practices and forms supporting DE-Ohio's proposed calculation of the FPP rate of 1.1865 cents per kWh for Residential, 1.5280 cents per kWh for Non-residential and 1.5055 cents per kWh Voltage Reduction type customers:

- A fuel and economy purchased power component (FC) of 0.9089 cents per kWh, based on projected costs of 2.1416 cents per kWh less a baseline rate of 1.2327 cents per kWh.
- An emission allowance component (EA) of 0.2257 cents per kWh based on projected costs of 0.2383 cents per kWh less a baseline rate of 0.0126 cents per kWh.
- An environmental reagent component (ER) of 0.0058 cents per kWh based on projected costs of 0.0388 cents per kWh less a baseline rate of 0.0330 cents per kWh. As noted, the ER component was subsequently eliminated from the FPP rate in accordance with the Stipulation and Order in Case No. 05-806-EL-UNC on February 6, 2006 (see additional discussion below).
- A reconciliation adjustment (RA) of 0.3415 cents per kWh based on the reconciliation of the actual FC, EA costs, ER costs and system loss adjustment as well as FPP component revenues for the period July through September 2005. The RA calculation also reflected adjustments made to the first and second quarter 2005 RAs (see additional discussion below). Because the RA applies to months in 2005 and the residential FPP rate commenced on January

1, 2006, the RA0s applicable to 2005 are applied only to non-residential FPP rates.

- A system loss adjustment (SLA) of 0.0461 cents per kWh for residential and non-residential customers and 0.0236 cents per kWh for Voltage Reduction type customers based on the estimated system loss fuel cost incurred during the three-month period.

A summary of the FC, EA, RA, ER and SLA rate components contained in DE-Ohio's first quarter of 2006 FPP filing is shown in Exhibit 5-3:

Exhibit 5-3. DE-Ohio's First Quarter 2006 FPP Filing

Description	Includable Fuel Cost ($)	Includable Energy kWh	FPP Rate Components (Cents per kWh)
Fuel & Economy Purchased Power Cost Expense (FC) - by Month (Projected)	(1)	(2)	(Col 1/Col 2)
January 2006	$ 49,123,285.36	2,312,825,497	
February 2006	$ 43,164,199.20	2,030,479,552	
March 2006	$ 42,858,049.05	1,967,205,846	
Total Fuel & Economy Purchased Power Expense	$ 135,145,533.61	6,310,510,895	2.1416
Less Baseline ERC Rate From Case No. 99-103-EL-EFC			1.2327
Total FC Portion to be Included in FPP			0.9089

	Includable Emission Allowances ($)	Includable Energy (kWh)	
Emission Allowance (EA) - by Month (Projected)			
January 2006	$ 4,571,440.24	1,908,771,112	
February 2006	$ 4,035,568.35	1,673,379,161	
March 2006	$ 4,025,633.25	1,718,171,772	
Total Emission Allowances Expense	$ 12,632,641.84	5,300,322,045	0.2383
Less Baseline EFC Rate from Case No. 99-103-EL-EFC			0.0126
Quarterly Emission Allowance Rate (Rate will never be less than -0-)			0.2257
Environmental Reagents (ER)			0.0058
Total Residential FPP Rate Before SLA (FC + EA + ER)			1.1404

Reconciliation Adjustment (RA) - Summary	Net Under/(Over) Recovery of FPP Costs	Projected Retail Energy (kWh)	
July 2005	$ 2,764,670.43		
August 2005	$ 4,881,164.71		
September 2005	$ 3,406,808.09		
Net Under/(Over) Recovery of FPP Costs	$ 11,052,643.23		
1st Quarter 2005 Adjustments	$ (1,035,427.49)		
2nd Quarter 2005 Adjustments	$ 472,832.16		
Total Costs to Be Recovered	$ 10,490,047.90	3,071,525,000	0.3415
Total Non-residential FPP Rate Before SLA Voltage Reduction Calculation (1.1404 + RA)			1.4819

	Residential	FPP Rate Non-residential	Voltage Reduction
Total Residential FPP Rate	1.1404		
Total Non-residential FPP Rate Before SLA Voltage Reduction Calculation		1.4819	1.4819
System Loss Adjustment (SLA)	0.0461	0.0461	0.0236
Total FPP Rate	1.1865	1.5280	1.5055

Each component of the FPP calculation for the first quarter of 2006 was tested for mathematical accuracy and traced to supporting information provided by DE-Ohio. No exceptions were noted.

Second Quarter 2006

On March 1, 2006, DE-Ohio filed its quarterly application for adjustment to fuel, economy purchased power and emission allowance component of its market-based standard offer for the period April through June 2006. DE-Ohio's filing for this quarter included a statement of fuel procurement policies and practices and forms supporting DE-Ohio's proposed calculation of the FPP rate of 1.3523 cents per kWh for Residential, 1.0504 cents per kWh for Non-residential and 1.0176 cents per kWh Voltage Reduction type customers:

- A fuel and economy purchased power component (FC) of 1.1861 cents per kWh, based on projected costs of 2.4188 cents per kWh less a baseline rate of 1.2327 cents per kWh.
- An emission allowance component (EA) of 0.0990 cents per kWh based on projected costs of 0.1116 cents per kWh less a baseline rate of 0.0126 cents per kWh.
- Pursuant to the Stipulation and Order in Case No. 05-806-EL-UNC, the ER component of the FPP was eliminated from the calculation of the FPP rate. Revenues collected under the ER component were refunded to customers during the second quarter 2006 through the RA component of the FPP. The second quarter 2006 filing reflected the refund of the ER related revenues collected during the period January through December 2005. DE-Ohio also stated that the refund of ER related revenues collected during the first and second quarters of 2006 will be reflected in DE-Ohio's third and fourth quarter 2006 FPP filings, respectively.
- A reconciliation adjustment (RA) of (0.3019) cents per kWh based on the reconciliation of the actual FC, EA costs and system loss adjustment as well as FPP component revenues for the period October through December 2005. The RA calculation also reflected adjustments made to the first, second and third quarter 2005 RA's (see additional discussion below). The RA also reflected the refund of revenues collected for the period January through December 2005 related to the ER component that was eliminated from the FPP rate pursuant to the Stipulation and Order in Case No. 05-806-EL-UNC.
- A system loss adjustment (SLA) of 0.0672 cents per kWh for residential and non-residential customers and 0.0344 cents per kWh for Voltage Reduction type

customers based on the estimated system loss fuel cost incurred during the three-month period.

A summary of the FC, EA, RA and SLA rate components contained in DE-Ohio's second quarter of 2006 FPP filing is shown in Exhibit 5-4:

Exhibit 5-4. DE-Ohio's Second Quarter 2006 FPP Filing

Description	Includable Fuel Cost ($)	Includable Energy kWh	FPP Rate Components (Cents per kWh)
Fuel & Economy Purchased Power Cost Expense (FC) - by Month (Projected)	(1)	(2)	(Col 1/Col 2)
April 2006	$ 36,465,719.46	1,651,382,772	
May 2006	$ 46,210,760.99	1,671,104,076	
June 2006	$ 45,151,296.21	1,962,169,343	
Total Fuel & Economy Purchased Power Expense	$ 127,827,776.66	5,284,656,191	2.4188
Less Baseline ERC Rate From Case No. 99-103-EL-EFC			1.2327
Total FC Portion to be Included in FPP			1.1861

	Includable Emission Allowances ($)	Includable Energy (kWh)	
Emission Allowance (EA) - by Month (Projected)			
April 2006	$ 1,914,188.33	1,570,638,281	
May 2006	$ 1,691,043.34	1,664,019,381	
June 2006	$ 2,138,275.94	1,909,936,679	
Total Emission Allowances Expense	$ 5,743,507.61	5,144,594,341	0.1116
Less Baseline EFC Rate from Case No. 99-103-EL-EFC			0.0126
Quarterly Emission Allowance Rate (Rate will never be less than -0-)			0.0990
Total Residential FPP Rate Before SLA (FC + EA)			1.2851

Reconciliation Adjustment (RA) - Summary	Net Under/(Over) Recovery of FPP Costs	Projected Retail Energy (kWh)	
October 2005	$ (992,779.19)		
November 2005	$ (1,984,031.48)		
December 2005	$ 395,429.05		
Net Under/(Over) Recovery of FPP Costs	$ (2,581,381.62)		
1st Quarter 2005 Adjustments	$ (73,768.36)		
2nd Quarter 2005 Adjustments	$ (3,466,814.32)		
3rd Quarter 2005 Adjustments	$ (3,252,930.68)		
Total Costs to Be Recovered	$ (9,374,894.98)	3,104,912,000	$ (0.3019)
Total Non-residential FPP Rate Before SLA Voltage Reduction Calculation (1.2851 + RA)			0.9832

	FPP Rate		
	Residential	Non-residential	Voltage Reduction
Total Residential FPP Rate	1.2851		
Total Non-residential FPP Rate Before SLA Voltage Reduction Calculation		0.9832	0.9832
System Loss Adjustment (SLA)	0.0672	0.0672	0.0344
Total FPP Rate	1.3523	1.0504	1.0176

Each component of the FPP calculation for the second quarter of 2006 was tested for mathematical accuracy and traced to supporting information provided by DE-Ohio. No exceptions were noted.

Third And Fourth Quarter 2006—Reconciliation Adjustments Applicable To January 2005 Through June 2006

DE-Ohio filed its third quarter 2006 FPP filing on May 30, 2006 and its fourth quarter 2006 FPP filing on August 28, 2006. These DE-Ohio FPP filings covered FPP rates for the periods July through September and October through December 2006, respectively. Although the scope of Larkin's review did not encompass the period subsequent to June 30, 2006, it was necessary to review the Company's third and fourth quarter FPP filings in order to verify the RAs contained in those filings that affected the period January 1, 2005 through June 30, 2006. The third and fourth quarter 2006 FPP filing included RAs for the first and second quarters of 2006 and additional adjustments for each quarter of 2005.

The RA component from DE-Ohio's third quarter 2006 FPP filing is based on the reconciliation of actual fuel, economy purchased power, emission allowance costs and system loss adjustment to the FPP component revenues for the period January through March 2006. The third quarter 2006 RA also reflects updated adjustments to the RAs from the second, third and fourth quarters of 2005 as well as the refund of revenues collected through the ER component in 2005.

Similarly, the RA component from DE-Ohio's fourth quarter FPP filing is based on the reconciliation of actual fuel, economy purchased power, emission allowance costs, system loss adjustment to the FPP component revenues for the period April through June 2006. The fourth quarter 2006 RA also reflects updated adjustments to the RA's from each quarter of 2005 and the first quarter of 2006.

The total RA, including the previous quarter adjustments, reflects the refund adjustment for the monies collected through the ER component for 2005 and the first quarter 2006 as ordered by PUCO in Case No. 05-806-EL-UNC.

To verify the Company's processing of RAs, Larkin obtained a summary of and supporting documentation for the RAs contained in DE-Ohio's FPP filings through the fourth quarter 2006 FPP filing for RAs affecting the months January 2005 through June 2006. A summary of the RAs affecting the period January 2005 through June 2006 is presented in Attachment 1. Larkin's review included testing the RAs to supporting data that was provided by the Company. In response to LA-02-42, DE-Ohio provided an audit trail for each RA in an FPP filing covering the period January 2005 through March 2006. Additional supporting documentation for RAs affecting the April through June 2006 period that were contained in DE-Ohio's fourth quarter 2006 FPP filing was provided by the Company to Larkin during the September 15, 2006 on-site visit.

Supporting data provided by DE-Ohio for the RAs included "Pace Runs", "Coal Sales Credits", "General Ledgers", "Journal Entries", and "Pace Run Support." Larkin examined each RA reported in an FPP filing and compared the amounts with the supporting detail in the documentation provided by DE-Ohio. The components of the RAs involving calculations were recalculated on a test basis. The RAs for several months in the audit period were recalculated by DE-Ohio as subsequent information became available. One primary reason for the changing numbers was a result of the Midwest Independent System Operator (MISO) changing previous estimated numbers and sending such revisions in statements to DE-Ohio. Another primary reason for changes was the clarification provided in the Stipulation between CG&E and Staff in Case No. 05-806-EL-UNC, which was adopted by the Commission in its entirety in the Opinion and Order issued February 6, 2006. That stipulation resolved the treatment of several types of costs for FPP rate purposes, and necessitated changes to FPP costs contained in previous FPP filings.

Minimum Review Requirements

As noted above, Larkin referred to the objectives and procedures outlined in Appendix E of former Chapter 4901:1-11 of the Ohio Administrative Code as guidance for the review requirements of this project. The purpose of the Uniform Financial Audit Program Standards and Specifications for the Electric Fuel Component is to provide uniform standards and specifications as guidelines for an independent auditing firm which conducted an EFC "financial audit"[2] pursuant to former section 4905.66(B)(2) of the Revised Code and former rule 4901:1-11-09 of the Administrative Code. The EFC "financial audit" program is only a guide for the auditor and should not be used to the exclusion of the auditor's initiative, imagination and thoroughness.

Section E of those Standards provides for the following Minimum Review Requirements:

The auditor's review shall include, but not be limited to, a review of:

(1) Purchasing procedures for fuel procurement not under long-term contracts;

(2) Procedures for accounting for fuel receipts, testing, and payments;

(3) Procedures for weighing, testing and reporting coal burned;

(4) Procedures for amortizing nuclear fuel costs corresponding to nuclear generated energy;

(5) Procedures for recording purchases and interchanges;

(6) Procedures for accounting treatment of emission allowances; and

(7) Procedures for calculating the EFC rate, including an evaluation of the company's compliance with the financial procedural aspects of former Chapter 4901:1-11 of the Administrative Code, and its application to customer bills.

Larkin reviewed DE-Ohio's procedures for accounting for fuel receipts, testing of samples to ensure quality and payments to vendors. These procedures covered the following seven areas: procurement, receiving, storage, quality, recording, payment and reporting. DE-Ohio follows these procedures:

(1) The Fuel Procurement Department purchases and arranges coal contracts with vendors.

(2) Received shipments are weighed, sampled and entered directly into DE-Ohio's fuel database program called COMTRAC.

(3) Coal pile inventory is stored at the generating stations; it is transferred from piles to bunkers upon its imminent use.

[2] As noted above, the examination of DE-Ohio's FPP components was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants.

(4) The coal samples are used to determine the coal's quality, density, moisture, etc. A penalty or premium is assessed on the base price of the coal that differs from the contract specifications, but still falls within an acceptable range.

(5) The Procurement Department enters original contract information into the system in the specified parameters and station personnel enter coal receipts as well as consumption and quality data into the system.

(6) Approximately 90% of coal purchases are processed by "self-invoicing" vendors for coal shipments received at generating facilities. The remaining 10% of the vendors supply fuel oil, natural gas, propane, limestone and transportation and issue invoices directly to DE-Ohio.

(7) Various reports are issued at the close of each month, including Ending Inventory levels, Consumed and Received statistics, and Fuel Analysis among others.

Larkin also reviewed the Company's procedures for weighing, testing and reporting coal burned. Specifically, weight readings are recorded and entered into the COMTRAC system. Coal reports that include fuel characteristics and coal burned are generated through the COMTRAC system. Samples are obtained from each barge and sent to the Company's Gibson Station testing facility. Such samples are tested in accordance with American Society for Testing Standards (ASTM) standards. The results are entered into COMTRAC.

As noted above, DE-Ohio utilizes the COMTRAC software system to facilitate its fuel procurement procedures. COMTRAC is a software package that was developed by FusionSoft LLC in partnership with the Company. COMTRAC manages the procuring, shipping, distributing, analyzing, and accounting for fuel related commodities. COMTRAC has six primary modules. They are Budgeting, Contract, Shipment, Quality, Inventory and Accounting. An Administration function facilitates the maintenance of supporting data. More detailed information regarding the function of each of the modules listed above is provided in the Company's Fuel Policy and Procedures manual at pages 20-26.

DE-Ohio does not have nuclear generation, so the provisions of E (4) do not apply.

The Company's procedures for recording purchases and interchanges of energy include:

- Required information being entered into the Transaction Management System or authorized valuation models prior to 4:30 P.M. EST on the day of execution.
- A daily report from Risk Managers submitted to their supervisors that lists all transactions and transaction details.
- Transactions entered incorrectly into the system that are discovered prior to confirmation are updated or voided.
- Modified or voided transactions discovered after confirmation are recorded in the Trade Exception Reporting System.
- Trades completed after 4:30 P.M. EST are captured in the Transaction Management System on the day of execution and included in the following day's closing and review process.

In accordance with the Stipulation and Order in Case No. 05-806-EL-UNC, the Company has implemented two changes in the calculation of its EA component. First, the Company agreed to allocate zero-cost EA's between native and non-native sales, based upon projected emissions allocable to each group. Secondly, the Company agreed to allocate an [redacted] of zero-cost EA's to native load inventory every year until 2008. This has the effect of reducing the average cost of EA's allocable to the FPP through 2008. These provisions apply solely to SO2 allowances. Per the Stipulation and Order, costs and revenues for NOx emission allowances are excluded from the FPP.

The Company accounts for fuel at jointly owned generation plants as follows:

- Jointly owned facilities are accounted for in accordance with various Cincinnati/Dayton and Cincinnati/Columbus/Dayton (CD/CCD) Operating Agreements. Fuel inventories for commonly owned units are allocated on an ownership share basis.
- O&M expenses, excluding energy expense, but including related overheads and taxes are billed to the companies based on their respective ownership shares.
- Monthly energy expenses are billed to the companies based on the current month's energy usage up to and including their respective undivided ownership shares.

The Company's procedures for calculating the FPP rate and applying to customer bills is on a per-kWh basis, which are similar in some respects to the procedures that had applied for calculating the former EFC rate that applied prior to electric restructuring.

The EFC was a previously used mechanism that allowed the Company to recover its costs associated with fuel and purchased power. The FPP captures the difference between the current and baseline costs for fuel to power its generating plants, purchased power, emission allowances (specifically SO2, but not NOx) and a system loss component.

Review Related To Coal Order Processing

In Phase One of the FPP Component Audit of DE-Ohio's (then CG&E) FPP component covering the period January through June 2005, the response to Document Request LA-1-6 requested a brief description of the Company's procedures for processing fuel purchase orders. The Company's response at that time was to reference the Company's Fuels Policy and Procedures manual. In Phase two (per LA-02-006), the Company states that DE-Ohio's procedures for processing fuel purchase orders consists of the following:

- Trades are executed and confirmed through a Global Risk Management (GRM) approved trading platform.
- After execution, details of the trade are recorded immediately in the trading blotter.
- A trade ticket identifying all the terms of the trade is written up, at which time, the Coal Risk Manager or representative enters the transaction into the system by the GRM approved time frame.
- Once in the system, copies of the trade ticket are distributed to the confirm group and back office.
- At the close of business, the Coal Risk Manager confirms that all deals are entered into the system and are correct.
- After confirmation is established, the Coal Risk Manager signs the contract to execute the trade.

Purchase Orders And Approved Purchase Requisitions

In order to enable us to track the Company's fuel purchases, Larkin requested copies of fuel purchase orders (POs) recorded in March 2006 and approved purchase requisitions for fuel purchases recorded in March 2006 (LA-02-07 and LA-02-08 respectively). In response to LA-02-07, the Company provided a list of 38 vendors taken from the March 2006 Monthly Recap Reports and documentation for each of the 38 vendors. Of the documents provided, the majority were copies of contracts and/or POs and for four of the vendors. A sheet called a "CBU[3] Commercial Fuels Trade Ticket" was also provided.

Invoice And Voucher Procedures

In order to enable us to track the Company's processing of fuel invoices, Larkin obtained copies of cash vouchers and payment documentation for fuel purchases recorded in March 2006. These were provided in response to LA-02-09.

Larkin's review included testing the invoices to supporting data that was provided in the response to LA-02-09. Supporting data included Monthly Recap Reports and a "Request for Payment Detail", which accompanied each invoice and provided a breakout of the invoiced amounts by individual transactions (including the penalties and premiums discussed in the Minimum Review Requirements section above). That documentation further broke out individual transactions by station, source date, commodity, entry type, description (shipment number), quantity and value. Larkin first examined each invoice and compared the vendor name, invoice number and invoice date to the accompanying Request for Payment Detail. We then tied the amount(s) listed for each generating station on the invoices to the Request for Payment Detail. Larkin traced such amounts to the Monthly Recap Reports using the same parameters referenced above, i.e., station, source date, etc. No exceptions were noted.

BTU Adjustments

The Monthly Recap Reports provided in LA-02-09 were also used to test the Company's BTU adjustments for fuel purchases recorded in March 2006. Larkin selected a sample of Monthly Recap Reports with which to test the BTU adjustments. From this sample selection, Larkin compared the BTU adjustment calculation to the specific contract as well as recalculated the amounts used in the BTU adjustment calculation, e.g., the weighted average of BTU's tested. Larkin then recomputed the BTU adjustments within

[3] Commercial Business Unit

its sample selection. All BTU adjustments within the sample that were tested were properly calculated on the reports examined.

Fuel Ledger

Larkin reviewed the data the Company provided in response to LA-02-10, which requested DE-Ohio's fuel ledger for the period July 2005 through June 2006. That response included Coal Inventory Balancing reports which contained a listing and description of DE-Ohio's coal inventory accounts, i.e., DE-Ohio's 151xxx accounts. In addition to the account number and description, the Coal Inventory Balancing reports contained three other columns. The first column indicated the balances in the Company's COMTRAC system, the second column indicated the Company's General Ledger balances and the third column indicated any variances between the COMTRAC and General Ledger balances. It should be noted that no variances were indicated on any of the reports for the period July 2005 through June 2006 with the exception of May 2006. Four variances were shown for May 2006, related to DE-Ohio's fuel oil accounts totaling $90,271.69. The largest variance ($74,451.52) related to Miami Fort 7 and 8, two variances ($3,164.04 and $12,656.12) related to DE-Ohio's Beckjord plant and one final immaterial variance ($.02) pertained to the Zimmer plant. The Company attached a copy of correcting journal entries to the May 2006 Coal Inventory Balancing report that indicated debits to the Company's fuel inventory accounts for Beckjord and Miami Fort with credits to fuel oil receivables accounts. The Company included a notation that the net correcting journal entry would be booked in June 2006. In response to our inquiry, the Company stated this issue was the result of what it described as a "bug" in the COMTRAC system related to the allocation of coal purchases to the Company's co-owners Dayton Power and Light and Columbus Southern Power. DE-Ohio explained that in instances where allocated purchases result in an inventory reduction (a negative number), a glitch in the COMTRAC system books the associated journal entries as though the purchases were positive. The Company noted that due to the transition of fuels accounting from the Plainfield, Indiana office to DE-Ohio's office in Cincinnati, the error went undetected at the time of the May 2006 closing and the correction was recorded manually in June 2006. The Company stated that the error had no impact on coal consumption and therefore, did not impact the FPP.

Freight And Barge Vouchers

As part of the review, in LA-02-13, Larkin requested that DE-Ohio provide freight cash vouchers for two days of coal receipts in March 2006 and two cash vouchers from each barge company for coal unloaded during March 2006 along with corresponding coal received, unloading reports and purchase orders. All coal to DE-Ohio's plants is delivered via barge, and no rail cars are used. The Company provided two barge transportation invoices, each accompanied by the Request for Payment Detail as well as a copy of the March 2006 Daily Fuel Report for the Beckjord generation station only. DE-Ohio stated that due to the large volume of data that would be required to provide information for all of DE-Ohio's plants, it was determined that the data from the Beckjord station was representative of how it accounts for fuel at all locations within the DE-Ohio system. The Company also stated that DE-Ohio self-invoices for barging on a 10-day payment cycle. For the four invoices provided, two from each barge company represented, Larkin tied the amounts to the transactions listed on the Request for Payment Detail. Larkin then traced the quantities indicated on the Request for Payment Detail to the Daily Fuel Report for the Beckjord generating station. No exceptions were noted. Larkin also tied the individual transactions under the heading "Shipments by Commodity" to the quantities shown under the heading "Total by Commodity" for each vendor. No exceptions were noted.

Fuel Analysis Reports

As part of our review, in LA-02-14, Larkin had requested that DE-Ohio provide the Company's procedures for preparing monthly fuel analysis reports. DE-Ohio responded that the Monthly Recap Reports are slated for completion by the tenth working day of the month. The Fuel Department clerk reviews the reports to ensure that all data entry is complete. The Contract Analyst then reviews the Monthly Recap Reports to ensure that all SO2 and transportation costs are entered without errors. Finally, the Manager of Contract Administration reviews the reports for completeness and approves issuing them to the Accounting Department for payment. Larkin determined that the Monthly Recap Reports represent the Company's fuel analysis reports. In LA-02-15, DE-Ohio provided the Monthly Recap Reports in response to the request for the fuel analysis reports pertaining to the month of March 2006.

Retroactive Escalations

Larkin requested that DE-Ohio identify all pending or approved retroactive escalations that affect fuel cost for the period July 2005 through June 2006. In response to LA-02-16, the Company provided a report for each quarter from July 2005 through June 2006 with the title "Rate Adjustment Mechanism for Quarterly Adjustments". These reports contained the following information:

- Each report referenced a base period of April through June 2003 for PPI-fuel, CPI-W and #2 Diesel where an average rate factor was calculated for the PPI/CPI portion and a separate average rate factor was calculated for the diesel portion.
- Each report then took a three-month period to calculate the effective rates for the current quarter represented, e.g., the third quarter 2005 report used February through April 2005 in its calculation of an average rate factor.
- The percentage change between the base period rate factor and the current period rate factor was then separately calculated for the PPI/CPI portion and the diesel portion.
- The percentage changes were then multiplied by 65% for the PPI/CPI portion and 25% for the diesel portion.
- The results were then summed, converted to a decimal and then an additional 1.000 was added to arrive at the factor by which base rates were multiplied to derive effective rates for the relevant quarter.
- This factor was then multiplied by the base rate factors shown for DE-Ohio's generating plants for the relevant quarter represented, e.g., the third quarter of 2005 for the barge company Crounse Corporation.

Review Related To Station Visitation And Coal Processing Procedure

Larkin conducted a site visit to DE-Ohio's Beckjord Station plant site on August 4, 2006. Document requests LA-02-017 through LA-02-033 in Attachment 2 and LA/EVA-03-001 through LA/EVA-03-003 in Attachment 3 relate to fulfilling the objectives of the station visit and the review of the Company's coal processing procedure from the receipt of coal to the disposition of fly ash.

A description of the Company's coal receiving procedures and controls for shortages, overages, and other discrepancies was contained in DE-Ohio's Fuel Delivery/Reporting Procedure provided in response to LA-02-017.

DE-Ohio weighs the coal as received in the following manner. Coal is unloaded from barges by a clamshell type loader to the Conveyer 1 of the system (primary or "pay" scale). A RAMSEY Model 10-151 belt scale is used for coal weighing. The coal is then transferred from Conveyer 1 to either Conveyer 2 (Main Plant) or to Conveyer 5. In addition, Conveyors A and A1 are equipped with RAMSEY Model 10-151 belt scales for reclaim operations, monitoring Conveyor 1's accuracy and to serve as a backup system in the event of primary scale issues.

Coal to DE-Ohio's plants is received by river barges. No rail cars are used.

A description of the Company's month-end cut-off procedure for coal was provided in response to LA-02-021.

A description of the Company's coal sampling procedures was provided in response to LA-02-022. A walk-through of the sampling process at the Beckjord plant was conducted during the tour.

Scale calibration logs for January through March 2006 were requested in LA-02-023. DE-Ohio provided scale calibration logs for Conveyer 1, Conveyer A and Conveyer A1 for various dates in response to that request. When coal scales are inoperable, DE-Ohio applies the following procedure (per LA-02-024): The Company considers scale issues high priority and they are addressed immediately. Conveyer 1 is considered the "pay" scale. However, in the event of Conveyer 1 failure, as noted above, the coal can be weighed on either Conveyer A or Conveyer A1.

Copies of laboratory sampling reports for coal purchases recorded in March 2006 were provided in response to LA-02-025. The calculations on such reports were selectively tested for mathematical accuracy and selective verification was conducted of some key source inputs. No exceptions were noted.

DE-Ohio's procedure for handling coal from the stockpile to the boiler at Beckjord was provided in response to LA-02-026. Coal is reclaimed from stockpile using mobile equipment and transported via conveyor to unit bunkers. The coal is then weighed on either Conveyer A or A1. Feeders remove the coal from the bunkers and place it on feeder belts where it is transported and pulverized and then transferred to boiler.

DE-Ohio's procedure for taking physical inventories of coal is described in the response to LA-02-027. As indicated there, DE-Ohio follows PUCO Rule 4901:1-11-04, Appendix G, for its inventory adjustment procedures. Per those standards, an inventory adjustment is made when the physical inventory differs from the book inventory by more than three percent, and the difference is in the same direction as the previous year. The adjustment is for 50 percent of the difference, up to six percent of the book tonnage.

A physical inventory at each DE-Ohio plant is conducted once per year for coal via fly-over. The outline of the coal pile is marked with chalk. The known measurements of a tarp are also compared with the aerial to help assure accuracy. The fly-over for all DE-Ohio plants is done on the same day or on consecutive days. The most recent physical inventory was July 31, 2006. The physical inventory results were not available at the time of the plant visit. A journal entry for an inventory adjustment, if needed, would be booked at year-end.

The Company provided several working papers on the 2005 physical inventory taken at the Beckjord plant per the response to LA-02-028 that consisted of a site sketch showing test locations, a coal pile density and moisture content testing report, coal reserves and average density reports, aerial survey and Beckjord's topography.

DE-Ohio's response to LA-02-029 indicated that there were no physical inventory adjustments made for the Beckjord plant. However, the Company stated that adjustments were made to the Miami Fort and Zimmer plants.

DE-Ohio's response to LA-02-030 describes the levels of review applicable to plant operating statistics.

DE-Ohio's response to LA-02-031 provided copies of Beckjord generating station reports for the period July 2005 through June 2006.

LA-02-032 inquired about any Company internal investigations following through on generating station reports for the audit period July 2005 through June 2006. DE-Ohio's response indicated that to Beckjord Station's knowledge, no internal investigations were performed.

Larkin requested copies of the station reports for July 2005 through June 2006 that were sent to the Company's general office for incorporation into company statistics and trace the reports to the statistics. DE-Ohio provided such reports in the response to LA-02-033.

Review Related To Fuel Supplies Owned Or Controlled By The Company

In response to LA-02-034, DE-Ohio stated that the Company and its affiliates do not own or control any coal mines or entities that supply fuel to DE-Ohio.

Review Related To Purchased Power

Documentation relating to the review of purchased power included LA-02-035 through LA-02-036. LA-02-035 asked the Company to provide the following information: "For purchases of power recorded in March 2006 that are included in the FPP, please provide the related invoices, and paid cash voucher or cash receipts." This was requested in order to verify the amount of March 2006 purchased power that DE-Ohio included in the FPP in its reconciliation adjustments. In response to LA-02-035, the Company provided copies of invoices from the Midwest Independent Transmission System Operator (MISO) as well as copies of bilateral invoices and associated "Requests for Wire Transfer Payment" vouchers.

MISO started market operation on April 1, 2005. As explained in the response to LA-02-036, dispatch of DE-Ohio's generation was under the control of the MISO during the entire period of July 2005 through June 2006.

LA-02-037 asked: "During the period July 2005 through June 2006, were any of CG&E's generating units designated as "must run" for reliability or voltage control purposes? If so, please identify the units, hours, and cost/Mwh for each "must run" situation CG&E's generating units during the period July 2005 through June 2006." DE-Ohio's response provided an extensive listing (83 pages) of must run generation during this period including supply location, date, time, sum of MW, fuel cost per MWh, fuel costs and emission allowances, specifically SO2. It should be noted that this listing included amounts through May 31, 2006. Through informal discussions with Company personnel, it was determined that there were no "must run" units in June 2006.

Unless it has already been presented in another forum, the Commission may want to have DE-Ohio explain further how the "must run" generating unit designations are affecting the Company's fuel and purchased power costs that are includable in the FPP rider.

Review Related To Service Interruptions And Unscheduled Outages

Documentation relating to the review of Service Interruptions and Unscheduled Outages includes DE-Ohio's responses to LA-02-038 and LA-02-039.

LA-02-038 asked about customer power supply interruptions during the audit period, July 2005 through June 2006. DE-Ohio's response to LA-02-038 indicated that there were seven power supply interruptions with four occurring in July 2005 and three occurring in August 2005. The Company stated that the cause of these interruptions was due to the Power Share program, a voluntary, incentive-based program for Commercial and Industrial customers designed to reduce load during peak times. The Company stated that the impacts of the interruptions were mitigated by the use of the Power Share program and that customers may sign up for a "call option" program and commit to 4, 8, or 12 strikes per year or choose the "quote option" program where customers, after receiving 24 hours notice, can decide whether they want to participate on the day of the event. The Company further stated that no replacement power was needed, but if replacement power had been necessary, it would have been priced through MISO. The aggregated cost impacts of the seven power interruptions totaled $23,278.

DE-Ohio's response to LA-02-039 (and EVA-III-6) listed information relating to unscheduled outages at DE-Ohio's generation units during the July 2005 through June 2006 audit period. As noted in the response to LA-02-039, DE-Ohio stated that the market is used to price the cost of replacement power. With respect to the cost impacts resulting from periods in which unscheduled outages occurred, DE-Ohio stated that as far as replacement power is concerned, if the unit was serving the FPP load, the energy lost due to an outage would be replaced with either (1) a higher cost unit owned by DE-Ohio, or (2) the energy would be replaced with power purchased directly from MISO in the Day Ahead or Real Time markets. Regarding Day 2 costs, DE-Ohio stated that an unscheduled outage may result in charges from MISO including (1) uninstructed deviation charges, (2) additional Revenue Sufficiency Guarantee (RSG) costs, and (3) potential Financial Transmission Right (FTR) costs.

FPP Filings, Supporting Workpapers And Documentation

Documentation relating to the review of supporting workpapers for calculations in the FPP filings, including the RA's for each quarter of 2005 and the first and second quarters of 2006, includes DE-Ohio's responses to LA-02-040 and LA-02-042.

LA-02-040 asked for a complete set of supporting workpapers for all calculations in the FPP filings for the second quarter of 2005 and all FPP filings during the period July 2005 through June 2006. In response, DE-Ohio provided a set of workpapers for all four quarters of 2005 and the first two quarters of 2006. Each component of the FPP calculations from the quarterly filings were selectively tested for mathematical accuracy and traced to the supporting detail provided DE-Ohio. No exceptions were noted.

LA-02-042 asked the Company to provide a complete audit trail for all amounts in the RA portions of such filings. In response, the Company provided a detailed set of workpapers, including the relevant pages from the Company's General Ledger, Fuel Ledger, purchase orders and invoices and journal entries along with journal entry supporting data. We traced the amounts reported in the Company's RAs for each quarter covering January 2005 through June 2006 to the supporting documentation. No exceptions were noted.

As shown in Attachment 1, DE-Ohio has made subsequent revisions to its RAs for the period January 2005 through March 2006. The RA amounts in the previous periods were revised, i.e., the amounts reported for the period January 2005 through March

2006 were still being revised in the Company's submission of the fourth quarter 2006 FPP filing.

In his testimony filed September 1, 2006, at pages 12 and 13, Company witness William Wathen, Jr. stated that every FPP filing would contain revisions to previous RAs. Reasons Mr. Wathen gave for the ongoing revisions to the RAs included the removal of the Environmental Reagent ("ER") costs that the Commission ordered to be eliminated in its Order in Case No. 05-806-EL-UNC and because of the method in which the Company is billed from the MISO. Such bills are often restated multiple times by MISO subsequent to the quarterly FPP filings. These revisions contributed to the need to revise the RA in subsequent FPP filings as MISO updates previously invoiced amounts.

Active Management

LA-02-041 asked whether DE-Ohio engaged in "active management" during the period July 2005 through June 2006, and if so, to provide accounting documentation for each such transaction during that period.

In response, the Company stated that DE-Ohio's objective is to manage all future native load obligations on a daily basis in order to provide a reliable low cost supply of electricity. For periods when generation is sufficient to cover the forecasted obligation under the Rate Stabilization Plan (RSP) the Company will procure the fuel and emission allowances required for the generation when it is the least cost option. In contrast, for periods where economic generation is insufficient to meet load obligation, the Company purchases power forward in order to meet the remaining obligation. DE-Ohio plans for weather normalized demand each month on a short-term basis, and its load forecast can change considerably due to changes in actual weather patterns. Such forecasts are updated on a quarterly basis based upon current market prices and price to compare.

The lowest cost mix of generation and purchased power will change as demand forecasts and prices for power, fuel and emission allowances change. DE-Ohio plans to monitor and adjust the supply mix through physical delivery. Such adjustments result in the buying or selling of the fuel, emission allowances and forward power. Any gains or losses on fuel, emission allowances and power will be tracked for the ratepayers' benefit. The Company stated that managing its load and generation this way is a means to smooth the FPP component of the RSP price and reduce volatility to customers' bills, and that it manages its non-native commitments in a similar manner.

In response to LA-02-041, The Company provided its accounting documentation for its June 2006 estimates of active management transactions. Such documentation included summaries of such transactions between counterparties, accompanying journal entries, MISO estimates and Commercial Asset Management ("CAM") estimates.

As described in this chapter of the report, and in the response to LA-02-041, DE-Ohio's objective for the term of the RSP is to actively manage its native load obligations on a daily basis. By actively managing the load and generation position, DE-Ohio attempts to smooth the FPP component of the RSP price and reduce the volatility of the customer's bill. However, the active management can add additional transactions and related transaction costs, and tends to create a much more complex and difficult to understand audit trail. Testing by Larkin of amounts being included in the FPP (such as from the documentation provided in response to LA-02-035, LA-02-040 and LA-02-042) suggests that the costs related to DE-Ohio's active management can ultimately be tracked to supporting documentation. However, because DE-Ohio's active management reflects a reaction to daily market changes, it can be very challenging to understand the reasoning for each active management transaction (e.g., where DE-Ohio is adjusting a position based on market or cost changes), and how it relates to DE-Ohio's RSP load obligation position. For this reason, it is imperative that DE-Ohio maintain documentation not only of the costs being included in the FPP, but also of the reasons and support for the Company's active management decisions.

DE-Ohio should analyze and document the net impact of its active management of FPP components and should report to the Commission and the parties to this docket concerning whether the added activity, including transaction costs of the additional activity, has resulted in increased or reduced FPP costs over time. The Company implemented the FPP on January 1, 2005. The two-year period, 2005 and 2006, should be used for this analysis.

Accounting Detail

DE-Ohio provided documentation related to accounting detail associated with costs and revenues, purchases and sales of emission allowances and monthly emission allowance inventory in response to LA-02-045 through LA-02-047.

The response to LA-02-045 provided General Ledger (G/L) summary pages for each account that contains costs and/or revenues included in the FPP. It should be noted that although LA-02-045 requested such information for the period January 2005 through June 2006, some of the detail provided does not include January 2005, e.g., coal origination deals. In response to our inquiry, the Company stated that "the Order issued as a result of last year's FPP audit requires us to share margins on all coal sales contracts executed on or after January 1, 2005. We are not required to share margins on any coal sales executed before January 1, 2005. In January 2005, we did not record any margins on post 1/1/05 deals." DE-Ohio provided the G/L pages containing the Company's native and non-native 411xxx accounts starting with March 2005 through June 2006.

LA-02-046 requested detailed G/L pages for purchases and sales of emission allowances as well as gains or losses realized on such transactions for the period January 2005 through June 2006. The G/L pages provided by the Company were identical to those provided in LA-02-045, where the native and non-native 411xxx accounts starting in March 2005 through June 2006 are shown.

LA-02-047 requested monthly Emission Allowance inventory (quantity and cost) and that the Company show how this was allocated between native and non-native customers. In response, DE-Ohio stated that separate inventories are maintained for the native and non-native allowances and that the Company's inventory records reflect assignment of initial EPA allocation of SO_2 allowances for 2005 through 2008 vintages per the Commission's Opinion and Order in Case No. 05-806-EL-UNC. In addition, individual purchases and sales are designated native or non-native when entered into Commodities XL by the CAM group.

CONFIDENTIAL

Changes To Fuel, Purchased Power Procurement And Emission Allowance Procurement

Documentation related to the review of changes to fuel, purchased power procurement and emission allowance procurement during the period July 2005 through June 2006 includes DE-Ohio's responses to LA-02-048 and LA-02-049.

LA-02-048 asked the Company to list and describe all organizational changes to DE-Ohio's Fuel, Purchased Power Procurement and Emission Allowance Procurement, including changes resulting from the change in ownership during the period July 2005 through June 2006. DE-Ohio's response to LA-02-048 indicated that effective January 1, 2006, DE-Ohio's wholesale merchant business was separated from the wholesale merchant business of its affiliates, PSI Energy, Inc. d/b/a Duke Energy Indiana and The Union Light, Heat and Power Company, Inc. d/b/a Duke Energy Kentucky. The Company stated that to remain in compliance with the FERC Codes of Conduct after the Joint Generation Dispatch Agreement between Duke Energy Ohio and Duke Energy Indiana was terminated, this separation was necessary. The separation of DE-Ohio's wholesale merchant business led to the formation of the Commercial Asset Management group, which remained intact following the Duke Energy/Cinergy merger.

LA-02-049 requested information similar to LA-02-048, although from a procedural versus organizational standpoint. In response to LA-02-049, the Company stated that following the Duke Energy/Cinergy merger, approval limits are documented in the Approval of Business Transaction and Delegation of Authority policies, the result of which was new approval levels being established for the procurement of fuel. With respect to fuel, the primary change pertains to the transfer of Miami Fort Unit 6, East Bend and Woodsdale stations to the Union Light Heat and Power Company ("ULH&P") as of January 1, 2006. Another change relates to the transition of fuel accounting from the Plainfield, Indiana office to DE-Ohio's office in Cincinnati.

As it relates to emission allowances, the primary change also pertains to the transfer of Miami Fort Unit 6, East Bend and Woodsdale stations to the ULH&P as of January 1, 2006. DE-Ohio removed the SO2 allocations associated with these stations from its inventory accounts in the December 2005 accounting period because the emission allowances were transferred along with the plants.

Another change relates to the active management of native SO2 allowances beginning in January 2006. The Company purchased a significant number of SO2 allowances in the first two quarters of 2006 in order to "flatten" the native position through 2008.

As a result of CG&E adopting DE-Ohio's accounting policies and procedures, accounting for the sale of emission allowances has changed significantly. Prior to the merger, CG&E reduced the weighted average cost of inventory by the proceeds received on the sale of allowances. Pursuant to current policy, proceeds from the sale of EAs, less the weighted average cost of inventory, is recognized as a net gain or loss, which is then passed through the FPP.

As it relates to purchased power, the Company referred to two different yet similar documents entitled "Cinergy – Wholesale Power Accounting – Realized Estimates for CG&E and PSI – Portfolio Optimization" and "Cinergy – Wholesale Power Accounting – Realized Finals for CG&E and PSI – Portfolio Optimization". The primary difference between these two documents is the manner in which the Wholesale Power Accounting (WPA) group records monthly revenues and costs for portfolio optimization activities.

With respect to the manual focusing on the use of realized estimates, information is provided to the WPA from the following sources:

- Mid Office provides and validates details of each portfolio optimization activity.
- The Data Modeling Analysis (DMA) group provides and validates native/non-native status.
- The Information Technology (IT) group runs the query in Commodities XL ("CXL"), which generates the official accounting dataset. Commodities XL is a software program purchased from Triple Point Technologies for risk and position management. The XL stands for Excel spreadsheet.

With respect to the manual focusing on the use of realized final amounts, information is provided to the WPA from the following sources:

- Bilateral Settlements group provides and validates details of settlements with counterparty.
- MISO Settlement group provides and validates details of settlements from MISO.
- Market Settlement group provides and validates details of market settlements.
- DMA group provides and validates native/non-native status.
- IT group runs the query in CXL which generates the official accounting dataset.

Internal Audits

LA-02-052 requested that the Company provide a listing and copies of any and all internal audit reports related to fuel procurement, synfuel, coal trading, fuel inventory management, purchased power, emission allowances, accounting for FPP-includable costs, portfolio optimization, energy sales, MISO invoices and/or other FPP related subject matter for the period January 2005 through June 2006.

In response to LA-02-052, DE-Ohio provided three internal audit reports all dated February 2006. The following indicates the areas that were the subject of the internal audits along with a summary of recommendations for each area:

1. Commercial Fuels Management Review

This internal audit report recommended that the Company:

1. Require weight and quality variance analyses be performed for all CG&E coal transactions.
2. Develop a formal policy governing the maintenance and testing of coal measurement equipment.
3. Develop formal coal quality sampling standards and a sampling equipment preventative maintenance program to be utilized by all the stations.
4. Develop formal peaking units natural gas purchasing and invoice verification policies and procedures.
5. Develop standard weighing procedures for fuel received via truck at the PSI generating stations.
6. Ensure CMT invoice pricing is in accordance with the agreements; recover overpayments as deemed appropriate.

7. Enhance formal commercial fuels management policies and procedures.

Larkin reviewed the "Management Action Plan and Date" contained in the "Detailed Issues and Recommendations" section of the Commercial Fuels Management Review. The Company indicated that it would implement all of the above recommendations with the following exception: for Recommendation #6, the Company stated that "Procedures outlined in Recommendation 4 above will ensure pricing and invoicing is accurate and prevents inappropriate costs from being passed on to ratepayers." The Company further stated that "Due to the immaterial overpayments identified and the new invoice verification procedures that have been put in place, management does not believe that it is necessary (nor would it be cost beneficial) to retroactively review all CMT[4] invoices for additional pricing errors or recoveries."

2. Emission Allowance Review

This internal audit report recommended that the Company:

1. Develop formal and comprehensive SO2 and NOx emission allowance accounting policies and procedures.
2. Develop and implement enhancements to CXL emission allowance module.
3. Determine whether it is appropriate for Trading to "borrow" allowances from Portfolio Optimization and sell them on the open market. Develop formal policies and procedures for allowance borrowing as needed.
4. Link/identify all transactions related to a position management transaction within CXL; develop CXL reporting to identify Trading versus Portfolio Optimization transactions.
5. Ensure operational reconciliations are performed, reviewed and approved in a timely manner.

Larkin reviewed the "Management Action Plan and Date" contained in the "Detailed Issues and Recommendations" section of the Emission Allowance Review. At the time of the report (February 2006), the Company indicated that the above recommendations had either been implemented or would be implemented with the following exception: for Recommendation #3, the Company stated that "In conjunction with the Duke Energy merger, all trading operations will become part of Cinergy Marketing and Trading. The

[4] CMT stands for Cinergy Marketing and Trading.

existing CG&E trading book will be closed in the first quarter 2006, at which time the borrowing of allowances will no longer be allowed."

3. MISO Audit

This internal audit report recommended that the Company:

1. User assignments and roles within nMarket, CXL and MISO Portal should be reviewed for correctness and accuracy and non-user specific accounts should be reviewed for compliance with written policy. nMarket is an application used to interface with MISO. It is through this system that DE-Ohio submits its demand bids and generation offers and receives settlements.

2. An automated process should be in place that checks the validity and reasonableness of bids and particularly offers prior to submission to MISO. In the interim, implement a process to formally document the review of bids and offers to submission.

3. It is recommended that the vendor or Cinergy enhance nMarket screenshots/reporting to include titles and invoice dates to support accounting.

4. It is recommended that the vendor enhance nMarket to support MISO dispute filing and tracking, as well as to calculate certain settlement charges that are currently performed outside the system, such as Revenue Sufficiency Guarantee (RSG) Make Whole Payments (MWP).

5. It is recommended that data validation be implemented between the systems as they nature to reduce the amount of time that is required to reconcile and close.

6. The Disaster Recovery Plan should be updated to reflect recent changes in the MISO systems. The Disaster Recovery Plan as it relates to nMarket and MISO supporting systems should be tested.

7. Risk guidelines should be updated to reflect the authorized MISO product types and limits.

Larkin reviewed the "Management Action Plan" contained in the "Detailed Issues and Recommendations" section of the MISO audit report. At the time of the report (February 2006), the Company indicated that the above recommendations had either been implemented or would be implemented. In addition, the Company stated in part "The Regulated Portfolio Ops Group continues to define their commercial strategy. The risk policies and limits will be reviewed and likely revised based on it. The audit recommendation around FTR and Virtual transactions will be taken into consideration as this effort is completed. In the meantime, FE Risk management personnel continue to monitor and stay abreast of all the activities undertaken by commercial team."

Memorandum Of Findings

In Chapter 5 of the October 7, 2005 Report of the Financial and Management/Performance Audit of the Fuel and Purchased Power Rider of the Cincinnati Gas & Electric Company, at page 5-25, Larkin listed four areas which deserved consideration by the Commission. The Stipulation and Order in Case No. 05-806-EL-UNC provided clarification on how each of those areas should be addressed for purposes of the FPP. Based upon our review, DE-Ohio is applying that guidance for each area. Specifically, DE-Ohio has removed the ER component from the FPP and has refunded previously collected revenues from the ER through RAs. DE-Ohio has established a separate EA inventory for FPP customers. DE-Ohio has excluded NOx allowance costs and revenues from the FPP. DE-Ohio has accounted for Tyrone Synfuel credits in a manner consistent with the Stipulation.

DE-Ohio is computing its FPP rates for the period July 2005 through June 2006 and the RAs for the months January 2005 through June 2006 in a manner that is consistent with its proposed procedures and its interpretation of what should be includable in the FPP rates and consistent with the Stipulation and Order in Case No. 05-806-EL-UNC.

Recommendations

1. The response to LA-02-037 indicated that, during the period July 2005 through June 2006, DE-Ohio plants were designated as "must run" units by MISO for reliability or voltage control reasons during a number of hours. Unless it has already been presented in another forum, the Commission may want to have DE-Ohio explain further how the "must run" generating unit designations are affecting the Company's fuel and purchased power costs that are includable in the FPP rider.

2. As described in this chapter of the report, and in the response to LA-02-041, DE-Ohio's objective for the term of the RSP is to actively manage its native load obligations on a daily basis. By actively managing the load and generation position, DE-Ohio attempts to smooth the FPP component of the RSP price and reduce the volatility of the customer's bill. However, the active management can add additional transactions and related transaction costs, and tends to create a much more complex and difficult to understand audit trail. Testing by Larkin of amounts being included in the FPP (such as

from the documentation provided in response to LA-02-035, LA-02-040 and LA-02-042) suggests that the costs related to DE-Ohio's active management can ultimately be tracked to supporting documentation. However, because DE-Ohio's active management reflects a reaction to daily market changes, it can be very challenging to understand the reasoning for each active management transaction (e.g., where DE-Ohio is adjusting a position based on market or cost changes), and how it relates to DE-Ohio's RSP load obligation position. For this reason, it is imperative that DE-Ohio maintain documentation not only of the costs being included in the FPP, but also of the reasons and support for the Company's active management decisions.

3. DE-Ohio should analyze and document the net impact of its active management of FPP components and should report to the Commission and the parties to this docket concerning whether the added activity, including transaction costs of the additional activity, has resulted in increased or reduced FPP costs over time. The Company implemented the FPP on January 1, 2005. The two-year period, 2005 and 2006, should be used for this analysis.

4. Currently, the FPP is to be in place through December 31, 2008. Because of the potential for additional Reconciliation Adjustments occurring months or years after the FPP rates were charged, due to MISO invoice revisions or other factors, the Company and Commission should address whether a cut-off period is needed for RAs after 2008 and what that cut-off period should be. DE-Ohio has filed an application to extend the FPP beyond 2008 however, consideration of RAs after the FPP could cease application is nevertheless something that deserves consideration.

5. DE-Ohio has made a number of changes to the specific costs that are included in the FPP by including its identified corrections and the effect of changed interpretations of FPP includible costs in its filed RA adjustments. DE-Ohio's quarterly FPP filings typically include a narrative discussion of the RA and that narrative identifies total amounts of changes and the RA components; however, the narratives filed for the RA adjustments could be improved by including a listing of the reasons for the changes by identifying and briefly describing significant changes and corrections that are being included in the RAs. For example, DE-Ohio's 4th quarter 2006 FPP filing included cost for an item, Fuels Realized Derivative Gain and Fuels Realized Derivative Loss for August 2005 through

March 2006 in its RAs based on a discovery by the Company prior to that 4th quarter FPP filing that such amounts had been inadvertently omitted in the previous filings. A clear identification of such changes in the RA narrative would be helpful to the reader in understanding the RAs filed by DE-Ohio.

03242

Attachment 5-1. Reconciliation Adjustments.

The Cincinnati Gas & Electric Company
Electric Department
Calculation of Quarterly Fuel and Economy Purchased Power Component for Billing
1st Quarter 2006 Changes to the Reconciliation Adjustment
Actual Fuel and Economy Purchased Power Costs Incurred, Actual FPP Revenues Billed Summary

Line	Reconciliation Adjustment (RA) (As Filed)	FPP Filing For 3rd qrt 2005 January 2005 (A)	4th qrt 2005 changes January 2005 (B)	1st qrt 2006 changes January 2006 (C)	2nd qrt 2006 changes January 2006 (D)	3rd qrt 2006 changes January 2006 (E)	4th qrt 2006 changes January 2006 (F)	FPP Filing For 4th qrt 2006 January 2005 (G)
	Fuel Component (FC)							
1	Fuel Component (FC)	$ 36,473,350.71	$ 3,818,352.73	$ -	$ -	$ -	$ -	$ 40,291,703.44
2	Ratio Metered Sales/Generation Sales	0.938933	0.000000	0.000000	0.000000	0.000000	0.000000	0.938933
3	Fuel Cost @Meter Sales Level (Line 1 x Line 2)	$ 34,248,032.60	$ 3,585,177.39	$ -	$ -	$ -	$ -	$ 37,831,209.99
4	Coal Sales Credits (per books)	$ 1,589,212.74	$ (1,589,212.74)	$ -	$ -	$ -	$ -	$ -
5	Net Fuel Cost (Line 3 - Line 4)	$ 32,676,819.86	$ 5,154,390.13	$ -	$ -	$ -	$ -	$ 37,831,209.99
6	Total Generation and Purchase Power (per books)	2,320,459,996	0	0	0	0	0	2,320,459,996
7	Losses (kWh) (1-Line 2)*(Line 6)	141,703,531	0	0	0	0	0	141,703,531
8	Total Generation After Losses (kWh) (Line 6 - Line 7)	2,178,756,465	0	0	0	0	0	2,178,756,465
9	kWh Billed (@meter per books)	970,427,454	0	0	0	0	0	970,427,454
10	Ratio of FPP Sales to Total Generation (Line 9/Line 8)	44.54%	0.00%	0.00%	0.00%	0.00%	0.00%	44.54%
11	Amount Recovered in Base Rates (@ 1.2327 ¢/kWh x Line 9)	$ 11,962,459.23	$ -	$ -	$ -	$ -	$ -	$ 11,962,459.23
12	Amount Recovered via FPP (per books)	$ 1,325,772.37	$ -	$ -	$ -	$ -	$ -	$ 1,325,772.37
13	Total Fuel Costs Recovered (Line 11 + Line 12)	$ 13,288,231.60	$ -	$ -	$ -	$ -	$ -	$ 13,288,231.60
14	Total Actual Fuel Costs Attributable to FPP Sales (Line 5 x Line 10)	$ 14,554,255.57	$ 2,296,765.36	$ -	$ -	$ -	$ -	$ 16,850,020.93
15	Under(Over) Recovery of Fuel Costs (Line 14 - Line 13)	$ 1,266,023.97	$ 2,296,765.36	$ -	$ -	$ -	$ -	$ 3,561,789.33
	Emissions Allowance Component (EA)							
21	kWh Subject to FPP (Line 9)	970,427,454	0	0	0	0	0	970,427,454
22	EA Expense Allocated to FPP (Line 20 x Line 21)	$ -	$ -	$ -	$ -	$ -	(48,447.81)	$ (48,447.81)
23	EA Expense Recovered in Base Rates (Line 21 x 0.0126 ¢/kWh)	$ -	$ -	$ 122,273.86	$ -	$ -	$ -	$ 122,273.86
24	EA Revenue in FPP (per books)	$ 475,793.56	$ -	$ -	$ -	$ -	$ -	$ 475,793.56
25	Under(Over) Recovery of EA Costs (Line 22 - Line 23 - Line 24)	$ (475,793.56)	$ -	$ (122,273.86)	$ -	$ -	$ (48,447.81)	$ (646,515.03)
	Environmental Reagent Component (ER)							
26	Amount Recovered in Base Rates (0.0330 ¢/kWh x Line 9)	$ 320,241.06	$ -	$ -	$ (320,241.06)	$ -	$ -	$ -
27	Amount Recovered via FPP	$ -	$ -	$ -	$ -	$ -	$ -	$ -
28	Total Actual Lime Costs for Quarter (per books)	$ 926,761.56	$ 0.02	$ -	$ (926,761.58)	$ -	$ -	$ (0.00)
29	Total Actual Ammonia Costs for Quarter (per books)	$ -	$ -	$ -	$ -	$ -	$ -	$ -
30	Total Actual ER Costs for Quarter (per books) (Line 28+Line 29)	$ 926,761.56	$ 0.02	$ -	$ (926,761.58)	$ -	$ -	$ -
31	Total Actual ER Costs Allocated to FPP Sales (Line 10 x Line 30)	$ 412,779.60	$ 0.01	$ -	$ (412,779.61)	$ -	$ -	$ -
32	Under(Over) Recovery of ER Costs (Line 31 - Line 26 - Line 27)	$ 92,538.54	$ 0.01	$ -	$ (92,538.55)	$ -	$ -	$ -
	System Loss Component (SLA)							
33	Losses in Base Rates (from Case No. 92-1464-EL-AIR) (cents per kWh)	0.0999	0.0000	0.0000	0.0000	0.0000	0.0000	0.0999
34	Total Losses Recovered in Base Rates (Line 33 x Line 21)	$ 969,457.03	$ -	$ -	$ -	$ -	$ -	$ 969,457.03
35	Actual Losses on FPP Sales (Line 1 - Line 3) x (line 10)	$ 992,047.49	$ 193,856.29	$ -	$ -	$ -	$ -	$ 1,085,903.78
36	Under(Over) Recovery of Losses (Line 35 - Line 34)	$ 22,590.46	$ 193,856.29	$ -	$ -	$ -	$ -	$ [illegible]
37	Net Under(Over) Recovery of FPP Costs (Line 15 +Line 25 + Line 32 + Line 36)	$ 905,359.41	$ 2,389,621.66	$ (122,273.86)	$ (92,538.56)	$ -	$ (48,447.81)	$ 3,041,721.05

CONFIDENTIAL

03243

The Cincinnati Gas & Electric Company
Electric Department
Calculation of Quarterly Fuel and Economy Purchased Power Component for Billing
1st Quarter 2006 Changes to the Reconciliation Adjustment
Actual Fuel and Economy Purchased Power Costs Incurred, Actual FPP Revenue Billed Summary

Line	Reconciliation Adjustment (RA) (As Filed)	FPP Filing For 3rd qrt 2005 February 2005 (A)	4th qrt 2005 changes February 2006 (B)	1st qrt 2006 changes February 2006 (C)	2nd qrt 2006 changes February 2006 (D)	3rd qrt 2006 February 2006	3rd qrt 2006 changes February 2006 (E)	4th qrt 2006 changes February 2006 (F)	FPP Filing For 4th qrt 2006 February 2006 (G)
	Fuel Component (FC)								
1	Fuel Component (FC)	$ 33,843,101.68	$ 2,423,859.68	$ -	$ -	$ 36,266,961.36	$ -	$ -	$ 36,266,961.36
2	Ratio Metered Sales/Generation Sales	0.938933	0.000000	0.000000	0.000000	0.938933	0.000000	0.000000	0.938933
3	Fuel Cost @Meter Sales Level (Line 1 x Line 2)	$ 31,776,404.99	$ 2,275,841.84	$ -	$ -	$ 34,052,246.83	$ -	$ -	$ 34,052,246.83
4	Coal Sales Credits (per books)	$ 1,979,397.51	$ (1,979,397.51)	$ 719,378.36	$ -	$ 719,378.36	$ -	$ -	$ 719,378.36
5	Net Fuel Cost (Line 3 - Line 4)	$ 29,797,007.08	$ 4,255,239.75	$ (719,378.36)	$ -	$ 33,332,868.47	$ -	$ -	$ 33,332,868.47
6	Total Generation and Purchase Power (per books)	1,971,872,000	0	0	0	1,971,872,000	0	0	1,971,872,000
7	Losses (kWh) (1-Line 2)*(Line 6)	120,416,307	0	0	0	120,416,307	0	0	120,416,307
8	Total Generation After Losses (kWh) (Line 6 - Line 7)	1,851,455,693	0	0	0	1,851,455,693	0	0	1,851,455,693
9	kWh Billed (@meter per books)	1,218,169,544	(346,243,285)	0	0	871,926,259	0	0	871,926,259
10	Ratio of FPP Sales to Total Generation (Line 9/Line 8)	65.80%	-18.71%	0.00%	0.00%	47.09%	0.00%	0.00%	47.09%
11	Amount Recovered in Base Rates (@ 1.2327 ¢/kWh x Line 9)	$ 15,016,373.97	$ (4,268,140.98)	$ -	$ -	$ 10,748,234.99	$ -	$ -	$ 10,748,234.99
12	Amount Recovered via FPP (per books)	$ 3,101,052.84	$ (881,356.56)	$ -	$ -	$ 2,219,695.99	$ -	$ -	$ 2,219,695.99
13	Total Fuel Costs Recovered (Line 11 + Line 12)	$ 18,117,426.81	$ (5,149,497.53)	$ -	$ -	$ 12,967,930.98	$ -	$ -	$ 12,967,930.98
14	Total Actual Fuel Costs Attributable to FPP Sales (Line 5 x Line 10)	$ 19,606,430.66	$ (3,571,227.63)	$ (338,785.27)	$ -	$ 15,696,447.76	$ -	$ -	$ 15,696,447.76
15	Under/(Over) Recovery of Fuel Costs (Line 14 - Line 13)	$ 1,489,002.15	$ 1,578,269.90	$ (338,785.27)	$ -	$ 2,728,516.78	$ -	$ -	$ 2,728,516.78
	Emissions Allowance Component (EA)								
21	kWh Subject to FPP (Line 9)	1,218,169,544	(346,243,285)	0	0	871,926,259	0	0	871,926,259
22	EA Expense Allocated to FPP (Line 20 x Line 21)	$ -	$ -	$ -	$ -	$ -	$ -	$ 506,612.81	$ 506,612.81
23	EA Expense Recovered in Base Rates (Line 21 x 0.0126 ¢/kWh)	$ -	$ -	$ 109,862.71	$ -	$ 109,862.71	$ -	$ -	$ 109,862.71
24	EA Revenue in FPP (per books)	$ 1,112,906.61	$ (316,301.48)	$ -	$ -	$ 796,606.13	$ -	$ -	$ 796,606.13
25	Under/(Over) Recovery of EA Costs (Line 22 - Line 23 - Line 24)	$ (1,112,906.61)	$ 316,301.48	$ (109,862.71)	$ -	$ (906,467.84)	$ -	$ 506,612.81	$ (399,856.03)
	Environmental Reagent Component (ER)								
26	Amount Recovered in Base Rates (0.0330 ¢/kWh x Line 9)	$ 401,995.96	$ (114,260.28)	$ -	$ (287,735.67)	$ -	$ -	$ -	$ -
27	Amount Recovered via FPP	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
28	Total Actual Lime Costs for Quarter (per books)	$ 700,600.75	$ -	$ -	$ (700,600.75)	$ -	$ -	$ -	$ -
29	Total Actual Ammonia Costs for Quarter (per books)	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
30	Total Actual ER Costs for Quarter (per books) (Line 28+Line 29)	$ 700,600.75	$ -	$ -	$ (700,600.75)	$ -	$ -	$ -	$ -
31	Total Actual ER Costs Allocated to FPP Sales (Line 10 x Line 30)	$ 460,986.29	$ (131,082.40)	$ -	$ (329,912.89)	$ -	$ -	$ -	$ -
32	Under/(Over) Recovery of ER Costs (Line 31 - Line 26 - Line 27)	$ 58,990.34	$ (16,822.12)	$ -	$ (42,177.22)	$ -	$ -	$ -	$ -
	System Loss Component (SLA)								
33	Losses in Base Rates (from Case No. 92-1464-EL-AIR) (cents per kWh)	0.0999	0.0000	0.0000	0.0000	0.0999	0.0000	0.0000	0.0999
34	Total Losses Recovered in Base Rates (Line 33 x Line 21)	$ 1,216,951.37	$ (348,897.04)	$ -	$ -	$ 871,054.33	$ -	$ -	$ 871,054.33
35	Actual Losses on FPP Sales (Line 1 - Line 3) x (line 10)	$ 1,359,886.42	$ (316,977.35)	$ -	$ -	$ 1,042,909.07	$ -	$ -	$ 1,042,909.07
36	Under/(Over) Recovery of Losses (Line 35 - Line 34)	$ 142,935.05	$ 28,919.69	$ -	$ -	$ 171,854.74	$ -	$ -	$ 171,854.74
37	Net Under/(Over) Recovery of FPP Costs (Line 15 +Line 25 + Line 32 + Line 36)	$ 576,929.93	$ 1,906,668.35	$ (448,617.98)	$ (42,177.22)	$ 1,993,903.68	$ -	$ 506,612.81	$ 2,500,516.49

The Cincinnati Gas & Electric Company
Electric Department
Calculation of Quarterly Fuel and Economy Purchased Power Component for Billing
1st Quarter 2006 Changes to the Reconciliation Adjustment
Actual Fuel and Economy Purchased Power Costs Incurred, Actual FPP Revenues Billed Summary

Line	Reconciliation Adjustment (RA) (As Filed)	FPP Filing For 3rd qrt 2005 March 2005 (A)	4th qrt 2005 changes March 2006 (B)	1st qrt 2006 changes March 2006 (C)	2nd qrt 2006 changes March 2006 (D)	3rd qrt 2006 changes March 2005 (E)	4th qrt 2006 changes March 2005 (F)	FPP Filing For 4th qrt 2006 March 2005 (G)
	Fuel Component (FC)							
1	Fuel Component (FC)	$ 34,937,608.75	$ 4,846,942.86	$ -	$ -	$ -	$ -	$ 39,783,581.58
2	Ratio Metered Sales/Generation Sales	0.936933	0.000000	0.000000	0.000000	0.000000	0.000000	0.936933
3	Fuel Cost @Meter Sales Level (Line 1 x Line 2)	$ 32,804,073.80	$ 4,556,015.61	$ -	$ -	$ -	$ -	$ 37,354,089.41
4	Coal Sales Credits (per books)	$ 611,224.75	$ (611,224.76)	$ 941,611.76	$ -	$ -	$ -	$ 941,611.75
5	Net Fuel Cost (Line 3 - Line 4)	$ 32,192,849.04	$ 5,161,240.37	$ (941,611.76)	$ -	$ -	$ -	$ 36,412,477.65
6	Total Generation and Purchase Power (per books)	2,060,364,999	0	0	0	0	0	2,060,368,999
7	Losses (kWh) (1-Line 2)*(Line 6)	125,820,554	0	0	0	0	0	125,820,554
8	Total Generation After Losses (kWh) (Line 6 - Line 7)	1,934,548,445	0	0	0	0	0	1,934,548,445
9	kWh Billed (@meter per books)	860,606,961	7,807	0	0	0	0	860,614,768
10	Ratio of FPP Sales to Total Generation (Line 9/Line 8)	44.49%	0.00%	0.00%	0.00%	0.00%	0.00%	44.49%
11	Amount Recovered in Base Rates (@ 1.2327 ¢/kWh x Line 9)	$ 10,608,702.01	$ 96.24	$ -	$ -	$ -	$ -	$ 10,608,798.25
12	Amount Recovered via FPP (per books)	$ 2,194,330.46	$ (3.59)	$ -	$ -	$ -	$ -	$ 2,194,326.87
13	Total Fuel Costs Recovered (Line 11 + Line 12)	$ 12,803,032.47	$ 92.65	$ -	$ -	$ -	$ -	$ 12,803,125.12
14	Total Actual Fuel Costs Attributable to FPP Sales (Line 5 x Line 10)	$ 14,322,698.54	$ 2,296,235.84	$ (418,923.07)	$ -	$ -	$ -	$ 16,199,911.31
15	Under(Over) Recovery of Fuel Costs (Line 14 - Line 13)	$ 1,519,686.07	$ 2,296,143.19	$ (418,923.07)	$ -	$ -	$ -	$ 3,396,786.19
	Emissions Allowance Component (EA)							
21	kWh Subject to FPP (Line 9)	860,606,961	7,807	0	0	0	0	860,614,768
22	EA Expense Allocated to FPP (Line 20 x Line 21)	$ 1,979,396.01	$ 17.96	$ 62,824.58	$ -	$ -	$ 250,507.12	$ 2,292,745.96
23	EA Expense Recovered in Base Rates (Line 21 x 0.0126 ¢/kWh)	$ -	$ -	$ 108,437.46	$ -	$ -	$ -	$ 108,437.46
24	EA Revenue in FPP (per books)	$ 787,501.93	$ (1.28)	$ -	$ -	$ -	$ -	$ 787,500.65
25	Under(Over) Recovery of EA Costs (Line 22 - Line 23 - Line 24)	$ 1,191,894.08	$ 19.24	$ (45,612.88)	$ -	$ -	$ 250,507.12	$ 1,396,807.85
	Environmental Reagent Component (ER)							
26	Amount Recovered in Base Rates (0.0330 ¢/kWh x Line 9)	$ 284,000.30	$ 2.57	$ -	$ (284,002.87)	$ -	$ -	$ -
27	Amount Recovered via FPP	$ -	$ -	$ -	$ -	$ -	$ -	$ -
28	Total Actual Lime Costs for Quarter (per books)	$ 501,360.88	$ -	$ -	$ (501,360.88)	$ -	$ -	$ -
29	Total Actual Ammonia Costs for Quarter (per books)	$ -	$ -	$ -	$ -	$ -	$ -	$ -
30	Total Actual ER Costs for Quarter (per books) (Line 28+Line 29)	$ 501,360.88	$ -	$ -	$ (501,360.88)	$ -	$ -	$ -
31	Total Actual ER Costs Allocated to FPP Sales (Line 10 x Line 30)	$ 223,055.46	$ -	$ -	$ (223,055.46)	$ -	$ -	$ -
32	Under(Over) Recovery of ER Costs (Line 31 - Line 26 - Line 27)	$ (60,944.84)	$ (2.57)	$ -	$ 60,947.41	$ -	$ -	$ -
	System Loss Component (SLA)							
33	Losses in Base Rates (from Case No. 92-1464-EL-AIR) (cents per kWh)	0.0999	0.0000	0.0000	0.0000	0.0000	0.0000	0.0999
34	Total Losses Recovered in Base Rates (Line 33 x Line 21)	$ 859,746.35	$ 7.80	$ -	$ -	$ -	$ -	$ 859,754.15
35	Actual Losses on FPP Sales (Line 1 - Line 3) x (line 10)	$ 949,209.70	$ 131,656.01	$ -	$ -	$ -	$ -	$ 1,080,867.71
36	Under(Over) Recovery of Losses (Line 35 - Line 34)	$ 89,463.35	$ 131,658.21	$ -	$ -	$ -	$ -	$ 221,113.56
37	Net Under(Over) Recovery of FPP Costs (Line 15 +Line 25 + Line 32 + Line 36)	$ 2,739,978.66	$ 2,427,810.07	$ (464,535.85)	$ 60,947.41	$ -	$ 250,507.12	$ 5,014,707.60

The Cincinnati Gas & Electric Company
Electric Department
Calculation of Quarterly Fuel and Economy Purchased Power Component for Billing
2nd Quarter 2005 Changes to the Reconciliation Adjustment
Actual Fuel and Economy Purchased Power Costs Incurred, Actual FPP Revenues Billed Summary

Line	Reconciliation Adjustment (RA) (As Filed)	FPP Filing for 4th qrt 2005 April 2006 (A)	1st qrt 2006 changes April 2005 (B)	2nd qrt 2006 changes April 2005 (C)	3rd qrt 2006 changes April 2005 (D)	4th qrt 2006 changes April 2005 (E)	FPP Filing For 4th qrt 2006 April 2005 (F)
	Fuel Component (FC)						
1	Fuel Component (FC)	34,148,560.63	653,645.20	-	-	-	34,802,205.83
2	Ratio Metered Sales/Generation Sales	0.938933	0.000000	0.000000	0.000000	0.000000	0.938933
3	Fuel Cost @Meter Sales Level (Line 1 x Line 2)	32,063,210.48	613,729.06	-	-	-	32,676,939.53
4	Coal Sales Credits (per books)	$0.00	(596,979.51)	-	-	-	(596,979.51)
4a	RSG Make Whole Payments				(1,069,758.61)	(15,510.66)	(1,085,269.26)
5	Net Fuel Cost (Line 3 - Line 4 - Line 4a)	32,063,210.48	1,210,708.56	-	(2,363,717.83)	(15,510.66)	30,894,660.76
6	Total Generation and Purchase Power (per books)	1,729,524,282	(29,399,951)	0	0	0	1,700,124,331
7	Losses (kWh) (1-Line 2)*(Line 6)	105,616,859	(1,795,366)	0	0	0	103,821,493
8	Total Generation After Losses (kWh) (Line 6 - Line 7)	1,623,907,423	(27,604,585)	0	0	0	1,596,302,838
9	kWh Billed (@meter per books)	865,569,831	0	(51,914)	0	0	865,518,017
10	Ratio of FPP Sales to Total Generation (Line 9/Line 6)	53.30%	0.92%	0.00%	0.00%	0.00%	54.22%
11	Amount Recovered in Base Rates (@ 1.2327 ¢/kWh x Line 9)	10,669,879.31	-	(638.71)	-	-	10,669,240.60
12	Amount Recovered via FPP (per books)	3,776,178.23	0.01	-	-	-	3,776,178.24
13	Total Fuel Costs Recovered (Line 11 + Line 12)	14,446,057.54	0.01	(638.71)	-	-	14,445,418.84
14	Total Actual Fuel Costs Attributable to FPP Sales (Line 5 x Line 10)	17,089,891.19	951,427.71	-	(1,227,367.70)	(8,409.87)	16,806,321.33
15	Under/(Over) Recovery of Fuel Costs (Line 14 - Line 13)	2,643,833.65	951,427.70	638.71	(1,227,367.70)	(8,409.87)	2,359,902.49
	Emissions Allowance Component (EA)						
21	kWh Subject to FPP (Line 9)	865,569,831	0	(51,814)	0	0	865,518,017
22	EA Expense Allocated to FPP (Line 20 x Line 21)	1,788,287.27	(339,303.37)	44,920.20	-	(149,784.20)	1,344,119.90
23	EA Expense Recovered in Base Rates (Line 21 x 0.0126 ¢/kWh)	109,061.80	-	(6.53)	-	-	109,055.27
24	EA Revenue in FPP (per books)	816,943.46	-	-	-	-	816,943.46
25	Under/(Over) Recovery of EA Costs (Line 22 - Line 23 - Line 24)	862,282.01	(339,303.37)	44,926.73	-	(149,784.20)	418,121.17
	Environmental Reagent Component (ER)						
26	Amount Recovered in Base Rates (0.0330 ¢/kWh x Line 9)	285,638.04	-	(285,638.04)	-	-	-
27	Amount Recovered via FPP	131,826.04	-	-	-	-	131,826.04
28	Total Actual Lime Costs for Quarter (per books)	713,478.64	-	(713,478.64)	-	-	-
29	Total Actual Ammonia Costs for Quarter (per books)	56,569.35	-	(56,569.35)	-	-	-
30	Total Actual ER Costs for Quarter (per books) (Line 28+Line 29)	770,047.99	-	(770,047.99)	-	-	-
31	Total Actual ER Costs Allocated to FPP Sales (Line 10 x Line 30)	410,435.58	7,084.44	(417,520.02)	-	-	-
32	Under/(Over) Recovery of ER Costs (Line 31 - Line 26 - Line 27)	(7,028.50)	7,084.44	(131,881.98)	-	-	(131,826.04)
	System Loss Component (SLA)						
33	Losses in Base Rates (from Case No. 92-1464-EL-AIR) (cents per kWh)	0.0999	0.0000	0.0000	0.0000	0.0000	0.0999
34	Total Losses Recovered in Base Rates (Line 33 x Line 21)	864,704.26	-	(51.76)	-	-	864,652.50
35	Actual Losses on FPP Sales (Line 1 - Line 3) x (line 10)	1,111,491.63	40,827.76	-	-	-	1,152,319.39
36	Under/(Over) Recovery of Losses (Line 35 - Line 34)	246,787.37	40,827.76	51.76	-	-	287,666.89
37	Net Under/(Over) Recovery of FPP Costs (Line 15 +Line 25 + Line 32 + Line 36)	3,745,854.53	660,036.53	(86,264.78)	(1,227,387.70)	(158,174.07)	2,933,864.51
	ERSPP FPP Report				S165	S158	
	MISO Statement				R155	R395	

03245

CONFIDENTIAL

The Cincinnati Gas & Electric Company
Electric Department
Calculation of Quarterly Fuel and Economy Purchased Power Component for Billing
2nd Quarter 2005 Changes to the Reconciliation Adjustment
Actual Fuel and Economy Purchased Power Costs Incurred, Actual FPP Revenues Billed Summary

Line	Reconciliation Adjustment (RA) (As Filed)	FPP Filing For 4th qrt 2005 May 2005 (A)	1st qrt 2006 changes May 2005 (B)	2nd qrt 2006 changes May 2005 (C)	3rd qrt 2006 changes May 2005 (D)	4th qrt 2006 changes May 2005 (E)	FPP Filing For 4th qrt 2006 May 2005 (F)
	Fuel Component (FC)						
1	Fuel Component (FC)	$ 30,946,038.93	$ 1,336,317.68	$ -	$ -	$ -	$ 32,281,356.61
2	Ratio Metered Sales/Generation Sales	0.938933	0.000000	0.000000	0.000000	0.000000	0.938933
3	Fuel Cost @Meter Sales Level (Line 1 x Line 2)	$ 29,055,318.24	$ 1,254,712.77	$ -	$ -	$ -	$ 30,310,031.01
4	Coal Sales Credits (per books)	30.00	$ 458,527.23	$ -	$ -	$ -	$ 458,527.23
4a	RSG Make Whole Payments				$ (2,388,443.86)	$ 233,377.81	$ (2,155,065.95)
5	Net Fuel Cost (Line 3 - Line 4 - Line 4a)	$ 29,055,318.24	$ 1,713,240.00	$ -	$ (2,388,443.86)	$ 233,377.81	$ 28,613,492.39
6	Total Generation and Purchase Power (per books)	1,768,831,706	16,812,340	0	0	0	1,785,444,048
7	Losses (kWh) (1-Line 2)*(Line 6)	108,005,033	1,026,679	0	0	0	109,031,712
8	Total Generation After Losses (kWh) (Line 6 - Line 7)	1,660,826,676	15,785,661	0	0	0	1,676,412,336
9	kWh Billed (@meter per books)	853,147,961	0	(134,123)	0	0	853,013,838
10	Ratio of FPP Sales to Total Generation (Line 9/Line 8)	51.38%	-0.49%	-0.01%	0.00%	0.00%	50.88%
11	Amount Recovered in Base Rates (@ 1.2327 ¢/kWh x Line 9)	$ 10,516,754.92	$ -	$ (1,653.34)	$ -	$ -	$ 10,515,101.58
12	Amount Recovered via FPP (per books)	$ 3,829,247.55	$ -	$ -	$ -	$ -	$ 3,829,247.55
13	Total Fuel Costs Recovered (Line 11 + Line 12)	$ 14,346,002.47	$ -	$ (1,653.34)	$ -	$ -	$ 14,344,349.13
14	Total Actual Fuel Costs Attributable to FPP Sales (Line 5 x Line 10)	$ 14,928,622.51	$ 729,496.78	$ (3,076.86)	$ (1,215,240.13)	$ 118,742.63	$ 14,558,544.93
15	Under/(Over) Recovery of Fuel Costs (Line 14 - Line 13)	$ 582,620.04	$ 729,496.78	$ (1,423.52)	$ (1,215,240.13)	$ 118,742.63	$ 214,195.80
	Emissions Allowance Component (EA)						
21	kWh Subject to FPP (Line 9)	853,147,961	0	(134,123)	0	0	853,013,838
22	EA Expense Allocated to FPP (Line 20 x Line 21)	$ 1,604,981.44	$ (538,336.36)	$ 40,736.10	$ -	$ 168,732.71	$ 1,526,113.90
23	EA Expense Recovered in Base Rates (Line 21 x 0.0126 ¢/kWh)	$ 107,496.64	$ -	$ (16.90)	$ -	$ -	$ 107,479.74
24	EA Revenue in FPP (per books)	$ 628,434.55	$ -	$ -	$ -	$ -	$ 628,424.58
25	Under/(Over) Recovery of EA Costs (Line 22 - Line 23 - Line 24)	$ 869,060.25	$ (538,336.36)	$ 40,753.00	$ -	$ 168,732.71	$ 590,209.61
	Environmental Reagent Component (ER)						
26	Amount Recovered in Base Rates (0.0330 ¢/kWh x Line 9)	$ 281,538.83	$ -	$ (281,538.83)	$ -	$ -	$ -
27	Amount Recovered via FPP	$ 133,678.69	$ -	$ -	$ -	$ -	$ 133,678.69
28	Total Actual Lime Costs for Quarter (per books)	$ 1,018,788.62	$ -	$ (1,018,788.62)	$ -	$ -	$ -
29	Total Actual Ammonia Costs for Quarter (per books)	$ 79,331.83	$ -	$ (79,331.83)	$ -	$ -	$ -
30	Total Actual ER Costs for Quarter (per books) (Line 28+Line 29)	$ 1,098,120.45	$ -	$ (1,098,120.45)	$ -	$ -	$ -
31	Total Actual ER Costs Allocated to FPP Sales (Line 10 x Line 30)	$ 564,214.29	$ (6,380.79)	$ (566,833.60)	$ -	$ -	$ -
32	Under/(Over) Recovery of ER Costs (Line 31 - Line 26 - Line 27)	$ 148,996.77	$ (6,380.79)	$ (277,294.87)	$ -	$ -	$ (133,678.69)
	System Loss Component (SLA)						
33	Losses in Base Rates (from Case No. 92-1464-EL-AIR) (cents per kWh)	0.0999	0.0000	0.0000	0.0000	0.0000	0.0999
34	Total Losses Recovered in Base Rates (Line 33 x Line 21)	$ 852,294.81	$ -	$ (133.99)	$ -	$ -	$ 852,160.92
35	Actual Losses on FPP Sales (Line 1 - Line 3) x (line 10)	$ 970,938.49	$ 32,269.11	$ (197.13)	$ -	$ -	$ 1,003,010.47
36	Under/(Over) Recovery of Losses (Line 35 - Line 34)	$ 118,643.68	$ 32,269.11	$ (63.14)	$ -	$ -	$ 150,849.65
37	Net Under/(Over) Recovery of FPP Costs (Line 15 + Line 25 + Line 32 + Line 36)	$ 1,779,320.74	$ 218,048.74	$ (238,026.33)	$ (1,215,240.13)	$ 277,475.34	$ 821,876.37
	ERSPP FPP Report				S155	S185	
	MISO Statement				R185	R395	

The Cincinnati Gas & Electric Company
Electric Department
Calculation of Quarterly Fuel and Economy Purchased Power Component for Billing
2nd Quarter 2005 Changes to the Reconciliation Adjustment
Actual Fuel and Economy Purchased Power Costs Incurred, Actual FPP Revenues Billed Summary

Line	Reconciliation Adjustment (RA) (As Filed)	FPP Filing For 4th qrt 2005 June 2005 (A)	1st qrt 2006 changes June 2005 (B)	2nd qrt 2006 changes June 2005 (C)	3rd qrt 2006 changes June 2005 (D)	4th qrt 2006 changes June 2005 (E)	FPP Filing For 4th qrt 2006 June 2005 (F)
	Fuel Component (FC)						
1	Fuel Component (FC)	$ 46,526,280.61	$ (1,079,381.90)	$ (8,466,219.72)	$ -	$ -	$ 38,993,678.99
2	Ratio Metered Sales/Generation Sales	0.938933	0.000000	0.000000	0.000000	0.000000	0.938933
3	Fuel Cost @Meter Sales Level (Line 1 x Line 2)	$ 43,686,938.10	$ (1,013,467.29)	$ (8,061,018.81)	$ -	$ -	$ 36,612,452.00
4	Coal Sales Credits (per books)	30.00	$ (81,267.45)	$ -	$ -	$ -	$ (81,267.45)
4a	RSG Make Whole Payments				$ (2,182,977.15)	$ (33,402.36)	$ (2,218,379.50)
5	Net Fuel Cost (Line 3 - Line 4 - Line 4a)	$ 43,686,938.10	$ (1,094,734.74)	$ (8,061,018.81)	$ (2,182,977.15)	$ (33,402.36)	$ 34,314,816.05
6	Total Generation and Purchase Power (per books)	2,390,393,903	(105,631,759)	(19,365,068)	0	0	2,264,497,089
7	Losses (kWh) (1-Line 2)*(Line 6)	145,974,184	(5,605,574)	(1,182,580)	0	0	138,286,044
8	Total Generation After Losses (kWh) (Line 6 - Line 7)	2,244,419,719	(100,026,185)	(18,182,489)	0	0	2,126,211,045
9	kWh Billed (@meter per books)	953,553,766	0	85,141	0	0	953,638,907
10	Ratio of FPP Sales to Total Generation (Line 9/Line 8)	42.49%	1.98%	0.38%	0.00%	0.00%	44.85%
11	Amount Recovered in Base Rates (@ 1.2327 ¢/kWh x Line 9)	$ 11,764,467.27	$ -	$ 1,049.54	$ -	$ -	$ 11,755,506.81
12	Amount Recovered via FPP (per books)	$ 4,298,650.77	$ (0.01)	$ -	$ -	$ -	$ 4,288,659.76
13	Total Fuel Costs Recovered (Line 11 + Line 12)	$ 16,043,117.04	$ (0.01)	$ 1,049.54	$ -	$ -	$ 16,044,166.57
14	Total Actual Fuel Costs Attributable to FPP Sales (Line 5 x Line 10)	$ 18,562,580.00	$ 378,177.26	$ (2,556,518.52)	$ (979,065.26)	$ (14,990.95)	$ 15,390,194.55
15	Under/(Over) Recovery of Fuel Costs (Line 14 - Line 13)	$ 2,519,462.96	$ 378,177.29	$ (2,557,568.06)	$ (979,065.26)	$ (14,990.95)	$ (653,972.02)
	Emissions Allowance Component (EA)						
21	kWh Subject to FPP (Line 9)	953,553,766	0	85,141	0	0	953,638,907
22	EA Expense Allocated to FPP (Line 20 x Line 21)	$ 1,901,386.21	$ (196,432.08)	$ 17,317.73	$ -	$ 452,196.62	$ 2,174,468.49
23	EA Expense Recovered in Base Rates (Line 21 x 0.0126 ¢/kWh)	$ 120,147.77	$ -	$ 10.73	$ -	$ -	$ 120,158.50
24	EA Revenue in FPP (per books)	$ 927,814.41	$ -	$ -	$ -	$ -	$ 927,814.41
25	Under/(Over) Recovery of EA Costs (Line 22 - Line 23 - Line 24)	$ 853,424.03	$ (196,432.08)	$ 17,307.00	$ -	$ 452,196.62	$ 1,126,495.58
	Environmental Reagent Component (ER)						
26	Amount Recovered in Base Rates (0.0330 ¢/kWh x Line 9)	$ 314,672.74	$ -	$ (314,672.74)	$ -	$ -	$ -
27	Amount Recovered via FPP	$ 149,716.73	$ -	$ -	$ -	$ -	$ 149,716.73
28	Total Actual Lime Costs for Quarter (per books)	$ 1,156,883.84	$ -	$ (1,156,883.84)	$ -	$ -	$ -
29	Total Actual Ammonia Costs for Quarter (per books)	$ 530,989.69	$ -	$ (530,989.69)	$ -	$ -	$ -
30	Total Actual ER Costs for Quarter (per books) (Line 28+Line 29)	$ 1,687,873.53	$ -	$ (1,687,873.53)	$ -	$ -	$ -
31	Total Actual ER Costs Allocated to FPP Sales (Line 10 x Line 30)	$ 717,177.46	$ 33,419.50	$ (750,597.36)	$ -	$ -	$ -
32	Under/(Over) Recovery of ER Costs (Line 31 - Line 26 - Line 27)	$ 252,787.99	$ 33,419.50	$ (435,924.62)	$ -	$ -	$ (149,716.73)
	System Loss Component (SLA)						
33	Losses in Base Rates (from Case No. 92-1464-EL-AIR) (cents per kWh)	0.0999	0.0000	0.0000	0.0000	0.0000	0.0999
34	Total Losses Recovered in Base Rates (Line 33 x Line 21)	$ 952,600.21	$ -	$ 85.06	$ -	$ -	$ 952,685.27
35	Actual Losses on FPP Sales (Line 1 - Line 3) x (line 10)	$ 1,207,286.43	$ 26,946.36	$ (166,252.48)	$ -	$ -	$ 1,067,980.31
36	Under/(Over) Recovery of Losses (Line 35 - Line 34)	$ 254,686.22	$ 26,946.36	$ (166,337.54)	$ -	$ -	$ 115,295.04
37	Net Under/(Over) Recovery of FPP Costs (Line 15 +Line 25 + Line 32 + Line 36)	$ 3,880,361.20	$ 242,111.47	$ (3,142,521.22)	$ (979,065.26)	$ 437,215.67	$ 438,101.87
	ERSPP FPP Report				S185	S155	
	MISO Statement				R155	R369	

CONFIDENTIAL

The Cincinnati Gas & Electric Company
Electric Department
Calculation of Quarterly Fuel and Economy Purchased Power Component for Billing
3rd Quarter 2005 Changes to the Reconciliation Adjustment
Actual Fuel and Economy Purchased Power Costs Incurred, Actual FPP Revenues Billed Summary

Line	Reconciliation Adjustment (RA) (As Filed)	FPP Filing For 1st qrt 2006 July 2005 (A)	2nd qrt 2006 changes July 2005 (B)	3rd qrt 2006 changes July 2005 (C)	4th qrt 2006 changes July 2005 (D)	FPP Filing For 4th qrt 2006 July 2005 (E)
	Fuel Component (FC)					
1	Fuel Component (FC)	$ 83,659,673.92	$ (1,224,130.41)	$ (1,311,919.50)	$ -	$ 81,123,629.21
2	Ratio Metered Sales/Generation Sales	0.936933	0.000000	0.000000	0.000000	0.936933
3	Fuel Cost @Meter Sales Level (Line 1 x Line 2)	$ 38,382,843.31	$ (1,149,376.44)	$ (1,231,804.61)	$ -	$ 48,001,662.36
4	Coal Sales Credits (per books)	(51,221,662.54)	$ -	$ -	$ -	$ (1,221,662.54)
4a	RSG Make Whole Payments			$ (925,719.41)	$ -	$ (925,719.41)
5	Net Fuel Cost (Line 3 - Line 4 - Line 4a)	$ 49,181,180.77	$ (1,149,376.44)	$ (2,157,523.02)	$ -	$ 45,854,280.41
6	Total Generation and Purchase Power (per books)	2,476,405.774	(10,601,111)	(21,238,590)	0	2,444,566,066
7	Losses (KWh) (1-Line 2)*(Line 6)	151,226,732	(647,378)	(1,297,038)	0	149,282,316
8	Total Generation After Losses (KWh) (Line 6 - Line 7)	2,325,180,042	(9,953,733)	(19,941,560)	0	2,295,283,749
9	KWh Billed (@meter per books)	1,002,821,249	0	0	0	1,002,821,249
10	Ratio of FPP Sales to Total Generation (Line 9/Line 8)	43.13%	0.18%	0.38%	0.00%	43.69%
11	Amount Recovered in Base Rates (@ 1.2327 ¢/kWh x Line 9)	$ 12,361,777.54	$ -	$ -	$ -	$ 12,361,777.54
12	Amount Recovered via FPP (per books)	$ 6,078,916.71	$ -	$ -	$ -	$ 6,078,916.71
13	Total Fuel Costs Recovered (Line 11 + Line 12)	$ 18,440,694.25	$ -	$ -	$ -	$ 18,440,694.25
14	Total Actual Fuel Costs Attributable to FPP Sales (Line 5 x Line 10)	$ 21,730,120.32	$ (936,207.86)	$ (760,177.35)	$ -	$ 20,033,735.11
15	Under/(Over) Recovery of Fuel Costs (Line 14 - Line 13)	$ 3,289,426.07	$ (936,207.86)	$ (760,177.35)	$ -	$ 1,593,040.86
	Emissions Allowance Component (EA)					
21	KWh Subject to FPP (Line 9)	1,002,821,249	0	0	0	1,002,821,249
22	EA Expense Allocated to FPP (Line 20 x Line 21)	$ 1,561,382.68	$ 70,187.49	$ (0.00)	$ 399,552.54	$ 2,031,142.71
23	EA Expense Recovered in Base Rates (Line 21 x 0.0126 ¢/kWh)	$ 126,355.48	$ -	$ -	$ -	$ 126,355.48
24	EA Revenue in FPP (per books)	$ 2,405,768.66	$ -	$ -	$ -	$ 2,405,768.65
25	Under/(Over) Recovery of EA Costs (Line 22 - Line 23 - Line 24)	$ (970,731.45)	$ 70,187.49	$ (0.00)	$ 399,552.54	$ (500,981.42)
	Environmental Reagent Component (ER)					
26	Amount Recovered in Base Rates (0.0330 ¢/kWh x Line 9)	$ 330,931.01	$ (330,931.01)	$ -	$ -	$ -
27	Amount Recovered via FPP	$ 77,803.56	$ -	$ -	$ -	$ 77,803.56
28	Total Actual Lime Costs for Quarter (per books)	$ 1,251,791.96	$ (1,251,791.05)	$ -	$ -	$ -
29	Total Actual Ammonia Costs for Quarter (per books)	$ 395,008.82	$ (395,008.82)	$ -	$ -	$ -
30	Total Actual ER Costs for Quarter (per books) (Line 28+Line 29)	$ 1,646,799.87	$ (1,646,799.87)	$ -	$ -	$ -
31	Total Actual ER Costs Allocated to FPP Sales (Line 10 x Line 30)	$ 710,262.76	$ (710,264.78)	$ -	$ -	$ -
32	Under/(Over) Recovery of ER Costs (Line 31 - Line 26 - Line 27)	$ 301,530.19	$ (379,333.77)	$ -	$ -	$ (77,803.56)
	Reconciliation Adjustment Amortization (RA)					
33	RA Amount from 3rd Quarter Filing (spread evenly)	$ 1,407,789.33	$ -	$ -	$ -	$ 1,407,789.33
34	Actual RA recovery through FPP	$ 1,476,220.60	$ -	$ -	$ -	$ 1,476,220.60
35	Under/(Over) Recovery of RA (Line 33 - Line 34)	$ (68,431.27)	$ -	$ -	$ -	$ (68,431.27)
	System Loss Component (SLA)					
36	Losses in Base Rates (from Case No. 92-1464-EL-AIR) (cents per kWh)	0.0999	0.0000	0.0000	0.0000	0.0999
37	Total Losses Recovered in Base Rates (Line 9 x Line 36)	$ 1,001,818.43	$ -	$ -	$ -	$ 1,001,818.43
38	Actual SLA recovery through FPP	$ 198,603.88	$ -	$ -	$ -	$ 198,603.68
39	Actual Losses on FPP Sales ((Line 1 - Line 3) x (line 10))	$ 1,413,299.20	$ (26,477.64)	$ (22,834.83)	$ -	$ 1,363,987.23
40	Under/(Over) Recovery of Losses (Line 39 - Line 37 - Line 38)	$ 212,876.89	$ (26,477.64)	$ (22,834.83)	$ -	$ 163,564.92
47	Net Under/(Over) Recovery of FPP Costs (Line 15 +Line 25 + Line 32 + Line 35 + Line 40)	$ 2,764,670.43	$ (1,271,821.78)	$ (783,011.88)	$ 399,552.54	$ 1,109,389.51

ERGPP FPP Report	R156	R155
MISO Statement	R166	R155

CONFIDENTIAL

CONFIDENTIAL

The Cincinnati Gas & Electric Company
Electric Department
Calculation of Quarterly Fuel and Economy Purchased Power Component for Billing
3rd Quarter 2005 Changes to the Reconciliation Adjustment
Actual Fuel and Economy Purchased Power Costs Incurred, Actual FPP Revenues Billed Summary

Line	Reconciliation Adjustment (RA) (As Filed)	FPP Filing For 1st qrt 2005 August 2005 (A)	2nd qrt 2005 changes August 2005 (B)	3rd qrt 2005 changes August 2005 (C)	4th qrt 2005 changes August 2005 (D)	FPP Filing For 4th qrt 2005 August 2005 (E)
	Fuel Component (FC)					
1	Fuel Component (FC)	$ 68,578,107.20	$ (267,969.43)	$ (1,655,676.28)	$ -	$ 56,654,268.49
2	Ratio Metered Sales/Generation Sales	0.938933	0.000000	0.000000	0.000000	0.938933
3	Fuel Cost @Meter Sales Level (Line 1 x Line 2)	$ 55,000,917.93	$ (251,995.86)	$ (1,554,756.78)	$ -	$ 53,194,563.22
4	Coal Sales Credits (per books)	(51,168,712.07)	$ -	$ -	$ 586,303.00	$ (580,409.07)
4a	RSG Make Whole Payments			$ (1,343,670.80)	$ -	$ (1,343,670.80)
5	Net Fuel Cost (Line 3 - Line 4 - Line 4a)	$ 53,632,209.86	$ (251,595.95)	$ (2,898,429.58)	$ 586,303.00	$ 51,270,483.33
6	Total Generation and Purchase Power (per books)	2,528,136,673	(10,106,732)	(21,502,892)	0	2,496,526,049
7	Losses (kWh) (1-Line 2)*(Line 6)	154,365,661	(617,188)	(1,313,117)	0	152,456,356
8	Total Generation After Losses (kWh) (Line 6 - Line 7)	2,373,750,812	(9,489,544)	(20,189,775)	0	2,344,070,693
9	kWh Billed (@meter per books)	1,037,060,410	0	0	0	1,037,060,410
10	Ratio of FPP Sales to Total Generation (Line 9/Line 8)	43.69%	0.17%	0.38%	0.00%	44.24%
11	Amount Recovered in Base Rates (@ 1.2327 ¢/kWh x Line 9)	$ 12,783,843.67	$ -	$ -	$ -	$ 12,783,843.67
12	Amount Recovered via FPP (per books)	$ 6,292,918.90	$ -	$ -	$ -	$ 6,292,918.90
13	Total Fuel Costs Recovered (Line 11 + Line 12)	$ 19,076,762.57	$ -	$ -	$ -	$ 19,076,762.57
14	Total Actual Fuel Costs Attributable to FPP Sales (Line 5 x Line 10)	$ 24,029,901.04	$ (529,445.53)	$ (1,078,658.92)	$ 260,265.24	$ 22,682,061.83
15	Under/(Over) Recovery of Fuel Costs (Line 14 - Line 13)	$ 4,953,138.47	$ (529,445.53)	$ (1,078,658.92)	$ 260,265.24	$ 3,605,299.26
	Emissions Allowance Component (EA)					
21	kWh Subject to FPP (Line 9)	1,037,060,410	0	0	0	1,037,060,410
22	EA Expense Allocated to FPP (Line 20 x Line 21)	$ 2,025,378.98	$ 49,778.90	$ (0.00)	$ 397,561.36	$ 2,472,719.24
23	EA Expense Recovered in Base Rates (Line 21 x 0.0126 ¢/kWh)	$ 130,669.61	$ -	$ -	$ -	$ 130,669.61
24	EA Revenue in FPP (per books)	$ 2,490,461.33	$ -	$ -	$ -	$ 2,490,461.33
25	Under/(Over) Recovery of EA Costs (Line 22 - Line 23 - Line 24)	$ (595,751.96)	$ 49,778.90	$ (0.00)	$ 397,561.36	$ (148,411.70)
	Environmental Reagent Component (ER)					
26	Amount Recovered in Base Rates (0.0330 ¢/kWh x Line 9)	$ 342,229.94	$ (342,229.94)	$ -	$ -	$ -
27	Amount Recovered via FPP	$ 80,642.58	$ -	$ -	$ -	$ 80,642.58
28	Total Actual Lime Costs for Quarter (per books)	$ 1,216,920.10	$ (1,216,920.10)	$ -	$ -	$ -
29	Total Actual Ammonia Costs for Quarter (per books)	$ 490,868.05	$ (490,868.05)	$ -	$ -	$ -
30	Total Actual ER Costs for Quarter (per books) (Line 28 + Line 29)	$ 1,708,788.15	$ (1,708,788.15)	$ -	$ -	$ -
31	Total Actual ER Costs Allocated to FPP Sales (Line 10 x Line 30)	$ 745,695.74	$ (745,695.74)	$ -	$ -	$ -
32	Under/(Over) Recovery of ER Costs (Line 31 - Line 26 - Line 27)	$ 322,923.22	$ (403,465.80)	$ -	$ -	$ (80,642.58)
	Reconciliation Adjustment Amortization (RA)					
33	RA Amount from 3rd Quarter Filing (spread evenly)	$ 1,407,789.33	$ -	$ -	$ -	$ 1,407,789.33
34	Actual RA recovery through FPP	$ 1,528,189.46	$ -	$ -	$ -	$ 1,528,189.46
35	Under/(Over) Recovery of RA (Line 33 - Line 34)	$ (120,400.13)	$ -	$ -	$ -	$ (120,400.13)
	System Loss Component (SLA)					
36	Losses in Base Rates (from Case No. 92-1464-EL-AIR) (cents per kWh)	0.0999	0.0000	0.0000	0.0000	0.0999
37	Total Losses Recovered in Base Rates (Line 9 x Line 36)	$ 1,036,023.35	$ -	$ -	$ -	$ 1,036,023.35
38	Actual SLA recovery through FPP	$ 205,595.53	$ -	$ -	$ -	$ 205,595.53
39	Actual Losses on FPP Sales ((Line 1 - Line 3) x (line 10))	$ 1,562,873.99	$ (1,095.80)	$ (31,204.14)	$ -	$ 1,530,574.05
40	Under/(Over) Recovery of Losses (Line 39 - Line 37 - Line 38)	$ 321,255.11	$ (1,095.80)	$ (31,204.14)	$ -	$ 288,955.17
41	Net Under/(Over) Recovery of FPP Costs (Line 15 + Line 25 + Line 32 + Line 35 + Line 40)	$ 4,881,164.71	$ (884,228.23)	$ (1,109,863.06)	$ 657,826.60	$ 3,544,900.02

ERSPP FPP Report		R153	R156
MISO Statement	CONFIDENTIAL	R156	R155

03249

CONFIDENTIAL

03250

The Cincinnati Gas & Electric Company
Electric Department
Calculation of Quarterly Fuel and Economy Purchased Power Component for Billing
3rd Quarter 2005 Changes to the Reconciliation Adjustment
Actual Fuel and Economy Purchased Power Costs Incurred, Actual FPP Revenues Billed Summary

Line	Reconciliation Adjustment (RA) (As Filed)	FPP Filing For 1st qrt 2006 September 2005 (A)	2nd qrt 2006 changes September 2005 (B)	3rd qrt 2006 changes September 2005 (C)	4th qrt 2006 changes September 2005 (D)	FPP Filing For 4th qrt 2006 September 2005 (E)
	Fuel Component (FC)					
1	Fuel Component (FC)	$ 45,566,261.41	$ 391,666.11	$ (1,565,791.69)	$ -	$ 44,412,135.83
2	Ratio Metered Sales/Generation Sales	0.936933	0.000000	0.000000	0.000000	0.936933
3	Fuel Cost @Meter Sales Level (Line 1 x Line 2)	$ 42,602,446.18	$ 367,746.24	$ (1,470,173.49)	$ -	$ 41,700,016.93
4	Coal Sales Credits (per books)	$ 1,653,196.81	$ (0.01)	$ -	$ 196,463.06	$ (1,656,693.82)
4a	RSG Make Whole Payments			$ (1,217,540.23)	$ -	$ (1,217,540.23)
5	Net Fuel Cost (Line 3 - Line 4 - Line 4a)	$ 40,949,249.37	$ 367,746.23	$ (2,687,713.72)	$ 196,463.06	$ 38,825,783.88
6	Total Generation and Purchase Power (per books)	2,066,412,326	(10,737,640)	(24,148,635)	0	2,053,534,051
7	Losses (kWh) (1-Line 2)*(Line 6)	127,533,076	(855,716)	(1,474,195)	0	125,403,164
8	Total Generation After Losses (kWh) (Line 6 - Line 7)	1,938,879,250	(10,081,924)	(22,666,439)	0	1,928,130,887
9	kWh Billed (@meter per books)	1,016,950,570	0	0	0	1,016,950,570
10	Ratio of FPP Sales to Total Generation (Line 9/Line 8)	51.66%	0.27%	0.81%	0.00%	52.74%
11	Amount Recovered in Base Rates (@ 1.2327 ¢/kWh x Line 9)	$ 12,535,949.68	$ -	$ -	$ -	$ 12,536,949.68
12	Amount Recovered via FPP (per books)	$ 6,086,200.54	$ -	$ -	$ -	$ 6,086,200.54
13	Total Fuel Costs Recovered (Line 11 + Line 12)	$ 18,622,150.22	$ -	$ -	$ -	$ 18,622,150.22
14	Total Actual Fuel Costs Attributable to FPP Sales (Line 5 x Line 10)	$ 22,197,348.87	$ (858,776.89)	$ (1,166,486.20)	$ 103,614.58	$ 20,476,719.47
15	Under/(Over) Recovery of Fuel Costs (Line 14 - Line 13)	$ 3,575,198.65	$ (858,776.89)	$ (1,166,486.20)	$ 103,614.58	$ 1,854,569.25
	Emissions Allowance Component (EA)					
21	kWh Subject to FPP (Line 9)	1,016,950,570	0	0	0	1,016,950,570
22	EA Expense Allocated to FPP (Line 20 x Line 21)	$ 1,966,816.30	$ (130,322.23)	$ 84,406.89	$ 111,626.15	$ 2,026,527.12
23	EA Expense Recovered in Base Rates (Line 21 x 0.0126 ¢/kWh)	$ 128,136.77	$ -	$ -	$ -	$ 128,136.77
24	EA Revenue in FPP (per books)	$ 2,408,651.27	$ -	$ -	$ -	$ 2,408,651.27
25	Under/(Over) Recovery of EA Costs (Line 22 - Line 23 - Line 24)	$ (569,971.74)	$ (130,322.23)	$ 84,406.89	$ 111,626.15	$ (510,260.92)
	Environmental Reagent Component (ER)					
26	Amount Recovered in Base Rates (0.0330 ¢/kWh x Line 9)	$ 336,593.69	$ (336,593.69)	$ -	$ -	$ -
27	Amount Recovered via FPP	$ 77,896.81	$ -	$ -	$ -	$ 77,896.81
28	Total Actual Lime Costs for Quarter (per books)	$ 942,429.06	$ (942,429.06)	$ -	$ -	$ -
29	Total Actual Ammonia Costs for Quarter (per books)	$ 319,362.50	$ (319,362.50)	$ -	$ -	$ -
30	Total Actual ER Costs for Quarter (per books) (Line 28+Line 29)	$ 1,261,791.56	$ (1,261,791.56)	$ -	$ -	$ -
31	Total Actual ER Costs Allocated to FPP Sales (Line 10 x Line 30)	$ 654,359.83	$ (654,359.83)	$ -	$ -	$ -
32	Under/(Over) Recovery of ER Costs (Line 31 - Line 26 - Line 27)	$ 239,869.33	$ (317,766.14)	$ -	$ -	$ (77,896.81)
	Reconciliation Adjustment Amortization (RA)					
33	RA Amount from 3rd Quarter Filing (spread evenly)	$ 1,407,769.34	$ -	$ -	$ -	$ 1,407,769.34
34	Actual RA Recovery through FPP	$ 1,477,969.42	$ -	$ -	$ -	$ 1,477,969.42
35	Under/(Over) Recovery of RA (Line 33 - Line 34)	$ (70,200.08)	$ -	$ -	$ -	$ (70,200.08)
	System Loss Component (SLA)					
36	Losses in Base Rates (from Case No. 92-1464-EL-AIR) (cents per kWh)	0.0999	0.0000	0.0000	0.0000	0.0999
37	Total Losses Recovered in Base Rates (Line 9 x Line 36)	$ 1,015,933.62	$ -	$ -	$ -	$ 1,015,933.62
38	Actual SLA recovery through FPP	$ 196,841.85	$ -	$ -	$ -	$ 196,841.86
39	Actual Losses on FPP Sales ((Line 1 - Line 3) x (line 10))	$ 1,443,687.10	$ 19,984.89	$ (33,301.56)	$ -	$ 1,430,369.93
40	Under/(Over) Recovery of Losses (Line 39 - Line 37 - Line 38)	$ 230,911.63	$ 19,984.89	$ (33,301.56)	$ -	$ 218,594.46
41	Net Under/(Over) Recovery of FPP Costs (Line 15 +Line 25 + Line 32 + Line 35 + Line 40))	$ 3,406,808.09	$ (1,996,880.87)	$ (1,114,361.26)	$ 215,240.73	$ 1,410,806.90

ERSPP FPP Report — R155 — R155
MISO Statement — R159 — R153

CONFIDENTIAL

CONFIDENTIAL

03251

The Cincinnati Gas & Electric Company
Electric Department
Calculation of Quarterly Fuel and Economy Purchased Power Component for Billing
4th Quarter 2005 Changes to the Reconciliation Adjustment
Actual Fuel and Economy Purchased Power Costs Incurred, Actual FPP Revenues Billed Summary

Line	Reconciliation Adjustment (RA) (As Filed)	FPP Filing For 3rd qrt 2005 October 2005 (A)	3rd qrt 2005 changes October 2005 (B)	4th qrt 2005 changes October 2005 (C)	FPP Filing For 4th qrt 2005 October 2005 (D)
	Fuel Component (FC)				
1	Fuel Component (FC)	$ 36,846,237.70	$ (1,617,162.34)	$ -	$ 35,229,075.36
2	Ratio Metered Sales/Generation Sales	0.936933	0.000000	0.000000	0.936933
3	Fuel Cost @Meter Sales Level (Line 1 x Line 2)	$ 34,996,148.60	$ (1,518,407.09)	$ -	$ 33,077,741.41
4	Coal Sales Credits (per books)	(32,100,893.86)	$ -	$ 332,066.00	$ (1,768,507.55)
4a	RDG Make Whole Payments		$ (637,209.65)	$ -	$ (637,209.85)
5	Net Fuel Cost (Line 3 + Line 4 + Line 4a)	$ 32,496,554.88	$ (2,155,616.74)	$ 332,066.00	$ 30,672,024.11
6	Total Generation and Purchase Power (per books)	1,837,596,366	(35,246,115)	0	1,802,350,251
7	Losses (KWh) (1-Line 2)*(Line 6)	112,216,497	(2,152,374)	0	110,064,123
8	Total Generation After Losses (KWh) (Line 6 - Line 7)	1,725,379,869	(33,093,741)	0	1,692,286,128
9	kWh Billed (@meter per books)	924,155,524	0	0	924,155,524
10	Ratio of FPP Sales to Total Generation (Line 9/Line 8)	53.56%	1.05%	0.00%	54.61%
11	Amount Recovered in Base Rates (@ 1.2327 ¢/kWh x Line 9)	$ 11,392,065.14	$ -	$ -	$ 11,392,065.14
12	Amount Recovered via FPP (per books)	$ 5,356,769.18	$ -	$ -	$ 5,356,769.18
13	Total Fuel Costs Recovered (Line 11 + Line 12)	$ 16,748,834.32	$ -	$ -	$ 16,748,834.32
14	Total Actual Fuel Costs Attributable to FPP Sales (Line 5 x Line 10)	$ 17,404,619.18	$ (635,976.98)	$ 161,352.17	$ 16,749,992.37
15	Under/(Over) Recovery of Fuel Costs (Line 14 - Line 13)	$ 655,784.86	$ (635,976.98)	$ 161,352.17	$ 1,158.05
	Emissions Allowance Component (EA)				
21	kWh Subject to FPP (Line 9)	924,155,524	0	0	924,155,524
22	EA Expense Allocated to FPP (Line 20 x Line 21)	$ 1,535,022.33	$ 60,994.26	$ 237,391.98	$ 1,833,408.57
23	EA Expense Recovered in Base Rates (Line 21 x 0.0126 ¢/kWh)	$ 116,443.60	$ -	$ -	$ 116,443.60
24	EA Revenue in FPP (per books)	$ 1,817,047.66	$ -	$ -	$ 1,817,047.66
25	Under/(Over) Recovery of EA Costs (Line 22 - Line 23 - Line 24)	$ (398,468.93)	$ 60,994.26	$ 237,391.98	$ (100,082.69)
	Environmental Reagent Component (ER)				
26	Amount Recovered in Base Rates (0.0330 ¢/kWh x Line 9)	$ -	$ -	$ -	$ -
27	Amount Recovered via FPP	$ 140,856.41	$ -	$ -	$ 140,856.41
28	Total Actual Lime Costs for Quarter (per books)	$ -	$ -	$ -	$ -
29	Total Actual Ammonia Costs for Quarter (per books)	$ -	$ -	$ -	$ -
30	Total Actual ER Costs for Quarter (per books) (Line 28+Line 29)	$ -	$ -	$ -	$ -
31	Total Actual ER Costs Allocated to FPP Sales (Line 10 x Line 30)	$ -	$ -	$ -	$ -
32	Under/(Over) Recovery of ER Costs (Line 31 - Line 26 - Line 27)	$ (140,856.41)	$ -	$ -	$ (140,856.41)
	Reconciliation Adjustment Amortization (RA)			$ -	
33	RA Amount from 3rd Quarter Filing (spread evenly)	$ 5,379,812.36	$ -	$ -	$ 5,379,812.36
34	Actual RA recovery through FPP	$ 6,603,348.36	$ -	$ -	$ 6,603,348.36
35	Under/(Over) Recovery of RA (Line 33 - Line 34)	$ (1,223,536.00)	$ -	$ -	$ (1,223,536.00)
	System Loss Component (SLA)				
36	Losses in Base Rates (from Case No. 92-1464-EL-AIR) (cents per kWh)	0.0999	0.0000	0.0000	0.0999
37	Total Losses Recovered in Base Rates (Line 9 x Line 36)	$ 923,231.37	$ -	$ -	$ 923,231.37
38	Actual SLA recovery through FPP	$ 167,619.12	$ -	$ -	$ 167,619.12
39	Actual Losses on FPP Sales ((Line 1 - Line 3) x (line 10))	$ 1,205,147.78	$ (30,304.31)	$ -	$ 1,174,843.47
40	Under/(Over) Recovery of Losses (Line 39 - Line 37 - Line 38)	$ 114,297.29	$ (30,304.31)	$ -	$ 83,992.98
41	Net Under/(Over) Recovery of FPP Costs (Line 15 + Line 25 + Line 32 + Line 35 + Line 40)	$ (992,779.19)	$ (605,289.03)	$ 418,744.15	$ (1,379,324.07)
	ERSPP FPP Report		R155	R155	
	MISO Statement		R155	R156	

CONFIDENTIAL

CONFIDENTIAL

The Cincinnati Gas & Electric Company
Electric Department
Calculation of Quarterly Fuel and Economy Purchased Power Component for Billing
4th Quarter 2005 Changes to the Reconciliation Adjustment
Actual Fuel and Economy Purchased Power Costs Incurred, Actual FPP Revenues Billed Summary

Line	Reconciliation Adjustment (RA) (As Filed)	FPP Filing For 3rd qrt 2005 November 2005 (A)	3rd qrt 2005 changes November 2005 (B)	4th qrt 2005 changes November 2005 (C)	FPP Filing For 4th qrt 2005 November 2005 (D)
	Fuel Component (FC)				
1	Fuel Component (FC)	$ 34,612,362.72	$ (702,414.86)	$ -	$ 33,909,947.86
2	Ratio Metered Sales/Generation Sales	0.938933	0.000000	0.000000	0.938933
3	Fuel Cost @Meter Sales Level (Line 1 x Line 2)	$ 32,498,986.57	$ (659,530.30)	$ -	$ 31,839,159.07
4	Coal Sales Credits (per books)	(32,478,980.14)	$ -	$ 218,152.50	$ (2,266,787.54)
4a	RSG Make Whole Payments		$ (753,920.81)	$ -	$ (753,920.81)
5	Net Fuel Cost (Line 3 + Line 4 + Line 4a)	$ 30,019,729.43	$ (1,413,441.31)	$ 218,152.50	$ 28,824,450.62
6	Total Generation and Purchase Power (per books)	1,832,507,608	(18,969,031)	0	1,813,538,577
7	Losses (kWh) (1-Line 2)*(Line 6)	111,905,742	(1,158,382)	0	110,747,360
8	Total Generation After Losses (kWh) (Line 6 - Line 7)	1,720,601,866	(17,810,649)	0	1,702,791,217
9	kWh Billed (@meter per books)	860,602,285	0	0	860,602,285
10	Ratio of FPP Sales to Total Generation (Line 9/Line 8)	50.03%	0.52%	0.00%	50.55%
11	Amount Recovered in Base Rates (@ 1.2327 ¢/kWh x Line 9)	$ 10,611,109.77	$ -	$ -	$ 10,611,109.77
12	Amount Recovered via FPP (per books)	$ 5,012,134.16	$ -	$ -	$ 5,012,134.16
13	Total Fuel Costs Recovered (Line 11 + Line 12)	$ 15,623,243.93	$ -	$ -	$ 15,623,243.93
14	Total Actual Fuel Costs Attributable to FPP Sales (Line 5 x Line 10)	$ 15,018,870.63	$ (558,391.99)	$ 110,281.15	$ 14,570,759.79
15	Under/(Over) Recovery of Fuel Costs (Line 14 - Line 13)	$ (604,373.30)	$ (558,391.99)	$ 110,281.15	$ (1,052,484.14)
	Emissions Allowance Component (EA)				
21	kWh Subject to FPP (Line 9)	860,602,285	0	0	860,602,285
22	EA Expense Allocated to FPP (Line 20 x Line 21)	$ 1,318,746.10	$ 102,436.47	$ 425,626.63	$ 1,846,811.20
23	EA Expense Recovered in Base Rates (Line 21 x 0.0126 ¢/kWh)	$ 108,461.09	$ -	$ -	$ 108,461.09
24	EA Revenue in FPP (per books)	$ 1,700,145.43	$ -	$ -	$ 1,700,145.43
25	Under/(Over) Recovery of EA Costs (Line 22 - Line 23 - Line 24)	$ (489,857.42)	$ 102,436.47	$ 425,626.63	$ 38,204.68
	Environmental Reagent Component (ER)				
26	Amount Recovered in Base Rates (0.0530 ¢/kWh x Line 9)	$ -	$ -	$ -	$ -
27	Amount Recovered via FPP	$ 131,794.22	$ -	$ -	$ 131,794.22
28	Total Actual Lime Costs for Quarter (per books)	$ -	$ -	$ -	$ -
29	Total Actual Ammonia Costs for Quarter (per books)	$ -	$ -	$ -	$ -
30	Total Actual ER Costs for Quarter (per books) (Line 28+Line 29)	$ -	$ -	$ -	$ -
31	Total Actual ER Costs Allocated to FPP Sales (Line 18 x Line 30)	$ -	$ -	$ -	$ -
32	Under/(Over) Recovery of ER Costs (Line 31 - Line 26 - Line 27)	$ (131,794.22)	$ -	$ -	$ (131,794.22)
	Reconciliation Adjustment Amortization (RA)				
33	RA Amount from 3rd Quarter Filing (spread evenly)	$ 5,379,812.38	$ -	$ -	$ 5,379,812.38
34	Actual RA recovery through FPP	$ 6,178,513.00	$ -	$ -	$ 6,178,513.00
35	Under/(Over) Recovery of RA (Line 33 - Line 34)	$ (798,700.62)	$ -	$ -	$ (798,700.62)
	System Loss Component (SLA)				
36	Losses in Base Rates (from Case No. 92-1464-EL-AIR) (cents per kWh)	0.0999	0.0000	0.0000	0.0999
37	Total Losses Recovered in Base Rates (Line 9 x Line 36)	$ 859,941.46	$ -	$ -	$ 859,941.46
38	Actual SLA recovery through FPP	$ 156,836.12	$ -	$ -	$ 156,836.12
39	Actual Losses on FPP Sales ((Line 1 - Line 3) x (line 10))	$ 1,057,470.66	$ (10,692.00)	$ -	$ 1,046,778.66
40	Under/(Over) Recovery of Losses (Line 39 - Line 37 - Line 38)	$ 40,694.08	$ (10,692.00)	$ -	$ 30,002.08
41	Net Under/(Over) Recovery of FPP Costs (Line 15 + Line 25 + Line 32 + Line 35 + Line 40)	$ (1,984,031.48)	$ (466,648.52)	$ 535,907.78	$ (1,914,772.22)

ERSPP FPP Report		R155	R155
MISO Statement	CONFIDENTIAL	R155	R155

03253

The Cincinnati Gas & Electric Company
Electric Department
Calculation of Quarterly Fuel and Economy Purchased Power Component for Billing
4th Quarter 2006 Changes to the Reconciliation Adjustment
Actual Fuel and Economy Purchased Power Costs Incurred, Actual FPP Revenues Billed Summary

Line	Reconciliation Adjustment (RA) (As Filed)	FPP Filing For 3rd qrt 2006 December 2006 (A)	3rd qrt 2006 changes December 2006 (B)	4th qrt 2006 changes December 2006 (C)	FPP Filing For 4th qrt 2006 December 2006 (D)
	Fuel Component (FC)				
1	Fuel Component (FC)	$ 49,093,503.80	$ (1,335,910.49)	$ (2,197,263.30)	$ 45,550,340.01
2	Ratio Metered Sales/Generation Sales	0.938933	0.000000	0.000000	0.938933
3	Fuel Cost @Meter Sales Level (Line 1 x Line 2)	$ 46,095,121.47	$ (1,254,330.44)	$ (2,063,073.63)	$ 42,765,717.40
4	Coal Sales Credits (per books)	($3,273,356.84)	$ -	$ 163,912.80	$ (3,109,443.84)
4a	RSG Make Whole Payments		$ (663,692.23)	$ -	$ (663,692.23)
5	Net Fuel Cost (Line 3 + Line 4 + Line 4a)	$ 42,672,768.43	$ (1,918,022.67)	$ (1,899,161.13)	$ 38,995,581.63
6	Total Generation and Purchase Power (per books)	2,290,558,463	(20,812,404)	(56,673,578)	2,216,872,481
7	Losses (kWh) (1-Line 2)*(Line 6)	140,060,735	(1,222,098)	(3,460,886)	135,377,752
8	Total Generation After Losses (kWh) (Line 6 - Line 7)	2,150,497,728	(19,790,306)	(53,212,693)	2,081,494,729
9	kWh Billed (@meter per books)	925,531,825	0	0	925,531,825
10	Ratio of FPP Sales to Total Generation (Line 9/Line 8)	42.98%	0.36%	1.10%	44.46%
11	Amount Recovered in Base Rates (@ 1.2327 ¢/kWh x Line 9)	$ 11,409,030.82	$ -	$ -	$ 11,409,030.82
12	Amount Recovered via FPP (per books)	$ 5,367,275.33	$ -	$ -	$ 5,367,275.33
13	Total Fuel Costs Recovered (Line 11 + Line 12)	$ 16,776,306.15	$ -	$ -	$ 16,776,306.15
14	Total Actual Fuel Costs Attributable to FPP Sales (Line 5 x Line 10)	$ 18,400,926.58	$ (669,966.12)	$ (394,524.97)	$ 17,337,435.59
15	Under(Over) Recovery of Fuel Costs (Line 14 - Line 13)	$ 1,624,620.43	$ (669,966.12)	$ (394,524.97)	$ 561,129.44
	Emissions Allowance Component (EA)				
21	kWh Subject to FPP (Line 9)	925,531,826	0	0	925,531,826
22	EA Expense Allocated to FPP (Line 20 x Line 21)	$ 1,889,935.99	$ 39,797.87	$ 169,279.84	$ 2,099,013.70
23	EA Expense Recovered in Base Rates (Line 21 x 0.0126 ¢/kWh)	$ 116,617.01	$ -	$ -	$ 116,617.01
24	EA Revenue in FPP (per books)	$ 1,820,611.41	$ -	$ -	$ 1,820,611.41
25	Under/(Over) Recovery of EA Costs (Line 22 - Line 23 - Line 24)	$ (47,292.43)	$ 39,797.87	$ 169,279.84	$ 161,785.28
	Environmental Reagent Component (ER)				
26	Amount Recovered in Base Rates (0.0330 ¢/kWh x Line 9)	$ -	$ -	$ -	$ -
27	Amount Recovered via FPP	$ 141,132.67	$ -	$ -	$ 141,132.67
28	Total Actual Lime Costs for Quarter (per books)	$ -	$ -	$ -	$ -
29	Total Actual Ammonia Costs for Quarter (per books)	$ -	$ -	$ -	$ -
30	Total Actual ER Costs for Quarter (per books) (Line 28+Line 29)	$ -	$ -	$ -	$ -
31	Total Actual ER Costs Allocated to FPP Sales (Line 10 x Line 30)	$ -	$ -	$ -	$ -
32	Under/(Over) Recovery of ER Costs (Line 31 - Line 26 - Line 27)	$ (141,132.67)	$ -	$ -	$ (141,132.67)
	Reconciliation Adjustment Amortization (RA)				
33	RA Amount from 3rd Quarter Filing (spread evenly)	$ 5,379,812.39	$ -	$ -	$ 5,379,812.39
34	Actual RA recovery through FPP	$ 6,616,299.44	$ -	$ -	$ 6,616,299.44
35	Under/(Over) Recovery of RA (Line 33 - Line 34)	$ (1,236,487.05)	$ -	$ -	$ (1,236,487.05)
	System Loss Component (SLA)				
36	Losses in Base Rates (from Case No. 92-1464-EL-AIR) (cents per kWh)	0.0999	0.0000	0.0000	0.0999
37	Total Losses Recovered in Base Rates (Line 9 x Line 36)	$ 924,606.29	$ -	$ -	$ 924,606.29
38	Actual SLA recovery through FPP	$ 167,947.87	$ -	$ -	$ 167,947.87
39	Actual Losses on FPP Sales ((Line 1 - Line 3) x (line 10))	$ 1,288,274.93	$ (23,983.08)	$ (27,582.46)	$ 1,236,709.41
40	Under/(Over) Recovery of Losses (Line 39 - Line 37 - Line 38)	$ 195,720.77	$ (23,983.08)	$ (27,582.46)	$ 144,155.25
41	Net Under/(Over) Recovery of FPP Costs (Line 15 +Line 25 + Line 32 + Line 35 + Line 40)	$ 395,429.05	$ (653,151.31)	$ (252,827.49)	$ (510,549.78)
	ERSPP FPP Report		S14	R155	
	MISO Statement		R106	R198	

CONFIDENTIAL

CONFIDENTIAL

Attachment 1
Page 13 of 16

03254

The Cincinnati Gas & Electric Company
Electric Department
Calculation of Quarterly Fuel and Economy Purchased Power Component for Billing
1st Quarter 2006 Changes to the Reconciliation Adjustment
Actual Fuel and Economy Purchased Power Costs Incurred, Actual FPP Revenues Billed Summary

Line	Reconciliation Adjustment (RA) (As Filed)	FPP Filing For 3rd qrt 2005 January 2005 (A)	4th qrt 2006 changes January 2006 (B)	FPP Filing For 4th qrt 2006 January 2006 (C)
	Fuel Component (FC)			
1	Fuel Component (FC)	$ 34,631,025.73	$ 1,605,209.40	$ 36,236,235.13
2	Ratio Metered Sales/Generation Sales	0.938933	0.000000	0.938933
3	Fuel Cost @Meter Sales Level (Line 1 x Line 2)	$ 32,515,212.88	$ 1,507,184.08	$ 34,023,396.96
4	Coal Sales Credits (per books)	577,706.30	$ 70,447.50	$ 148,153.80
4a	RSG Make Whole Payments	($368,061.96)	$ 791.64	$ (367,270.34)
5	Net Fuel Cost (Line 3 - Line 4 - Line 4a)	$ 32,205,887.20	$ 1,578,423.22	$ 33,784,280.42
6	Total Generation and Purchase Power (per books)	1,749,252,225	44,037,211	1,793,289,436
7	Losses (kWh) (1-Line 2)*(Line 6)	106,821,586	2,689,220	109,510,806
8	Total Generation After Losses (kWh) (Line 6 - Line 7)	1,642,430,639	41,347,991	1,683,778,630
9	kWh Billed (@meter per books)	1,365,569,013	0	1,365,569,013
10	Ratio of FPP Sales to Total Generation (Line 9/Line 8)	83.14%	-2.04%	81.10%
11	Amount Recovered in Base Rates (@ 1.2327 ¢/kWh x Line 9)	$ 16,833,615.76	$ -	$ 16,833,615.76
12	Amount Recovered via FPP (per books)	$ 12,516,428.83	$ -	$ 12,516,420.83
13	Total Fuel Costs Recovered (Line 11 + Line 12)	$ 29,350,044.59	$ -	$ 29,350,044.59
14	Total Actual Fuel Costs Attributable to FPP Sales (Line 5 x Line 10)	$ 26,775,949.89	$ 623,101.74	$ 27,399,051.42
15	Under/(Over) Recovery of Fuel Costs (Line 14 - Line 13)	$ (2,574,094.81)	$ 623,101.74	$ (1,950,993.17)
	Emissions Allowance Component (EA)			
21	kWh Subject to FPP (Line 9)	1,365,589,013	0	1,365,589,013
22	EA Expense Allocated to FPP	$ 1,379,244.90	$ (99,440.53)	$ 1,279,804.37
23	EA Expense Recovered in Base Rates (Line 21 x 0.0126 ¢/kWh)	$ 172,064.22	$ -	$ 172,064.22
24	EA Revenue in FPP (per books)	$ 3,107,979.61	$ -	$ 3,107,979.81
25	Under/(Over) Recovery of EA Costs (Line 22 - Line 23 - Line 24)	$ (1,900,798.93)	$ (99,440.53)	$ (2,000,239.46)
	Environmental Reagent Component (ER)			
26	Amount Recovered in Base Rates (0.0330 ¢/kWh x Line 9)	$ -	$ -	$ -
27	Amount Recovered via FPP	$ 80,173.10	$ -	$ 80,173.10
28	Total Actual Lime Costs for Quarter (per books)	$ -	$ -	$ -
29	Total Actual Ammonia Costs for Quarter (per books)	$ -	$ -	$ -
30	Total Actual ER Costs for Quarter (per books) (Line 28+Line 29)	$ -	$ -	$ -
31	Total Actual ER Costs Allocated to FPP Sales (Line 10 x Line 30)	$ -	$ -	$ -
32	Under/(Over) Recovery of ER Costs (Line 31 - Line 26 - Line 27)	$ (80,173.10)	$ -	$ (80,173.10)
	Reconciliation Adjustment Amortization (RA)			
33	RA Amount from 3rd Quarter Filing (spread evenly)	$ 3,496,682.63	$ -	$ 3,496,682.63
34	Actual RA recovery through FPP	$ 3,741,501.71	$ -	$ 3,741,501.71
35	Under/(Over) Recovery of RA (Line 33 - Line 34)	$ (244,819.08)	$ -	$ (244,819.08)
	System Loss Component (SLA)			
37	Total Losses Recovered in Base Rates (Line 9 x Line 36)	$ 1,364,223.42	$ (33,948.86)	$ 1,330,274.56
38	Actual SLA recovery through FPP	$ 570,203.64	$ -	$ 570,203.64
39	Actual Losses on FPP Sales ((Line 1 - Line 3) x (line 10))	$ 1,758,256.40	$ 36,355.38	$ 1,794,611.78
40	Under/(Over) Recovery of Losses (Line 39 - Line 37 - Line 38)	$ (175,171.66)	$ 70,305.22	$ (105,866.42)
41	Net Under/(Over) Recovery of FPP Costs (Line 15 +Line 25 + Line 32 + Line 35 + Line 40))	$ (4,975,057.66)	$ 593,966.43	$ (4,382,091.25)

ERSPP FPP Report	S14	R155	
MISO Statement	S56	R155	

CONFIDENTIAL

CONFIDEN

The Cincinnati Gas & Electric Company
Electric Department
Calculation of Quarterly Fuel and Economy Purchased Power Component for Billing
1st Quarter 2006 Changes to the Reconciliation Adjustment
Actual Fuel and Economy Purchased Power Costs Incurred, Actual FPP Revenues Billed Summary

Line	Reconciliation Adjustment (RA) (As Filed)	FPP Filing For 3rd qrt 2005 February 2006 (A)	4th qrt 2005 February 2006 (B)	4th qrt 2005 changes February 2006 (C)	FPP Filing For 4th qrt 2005 February 2006 (D)
	Fuel Component (FC)				
1	Fuel Component (FC)	$ 34,340,749.86	$ 34,340,749.86	$ -	$ 34,340,749.86
2	Ratio Metered Sales/Generation Sales	0.938933	0.938933	0.000000	0.938933
3	Fuel Cost @Meter Sales Level (Line 1 x Line 2)	$ 32,243,663.29	$ 32,243,663.29	$ -	$ 32,243,663.29
4	Coal Sales Credits (per books)	$467,549.79	$ 751,278.29	$ 283,727.50	$ 751,278.29
4a	RSG Make Whole Payments	($194,176.06)	$ (194,176.06)	$ -	$ (194,176.06)
5	Net Fuel Cost (Line 3 - Line 4 - Line 4a)	$ 32,517,036.32	$ 32,800,763.82	$ 283,727.50	$ 32,800,763.82
6	Total Generation and Purchase Power (per Books)	1,691,835,759	1,691,835,759	0	1,691,835,759
7	Losses (kWh) (1-Line 2)*(Line 6)	103,315,334	103,315,334	0	103,315,334
8	Total Generation After Losses (kWh) (Line 6 - Line 7)	1,588,520,425	1,588,520,425	0	1,588,520,425
9	kWh Billed (@meter per books)	1,591,500,486	1,591,500,486	0	1,591,500,486
10	Ratio of FPP Sales to Total Generation (Line 9/Line 8)	100.19%	100.19%	0.00%	100.19%
11	Amount Recovered in Base Rates (@ 1.2327 ¢/kWh x Line 9)	$ 19,618,426.49	$ 19,618,426.49	$ -	$ 19,618,426.49
12	Amount Recovered via FPP (per books)	$ 14,533,993.03	$ 14,533,993.03	$ -	$ 14,533,993.03
13	Total Fuel Costs Recovered (Line 11 + Line 12)	$ 34,152,419.52	$ 34,152,419.52	$ -	$ 34,152,419.52
14	Total Actual Fuel Costs Attributable to FPP Sales (Line 5 x Line 10)	$ 32,578,818.39	$ 32,863,084.97	$ 284,266.58	$ 32,863,084.97
15	Under/(Over) Recovery of Fuel Costs (Line 14 - Line 13)	$ (1,573,601.13)	$ (1,289,334.55)	$ 284,266.58	$ (1,289,334.55)
	Emissions Allowance Component (EA)				
21	kWh Subject to FPP (Line 9)	1,591,500,486	1,591,500,486	0	1,591,500,486
22	EA Expense Allocated to FPP	$ 3,307,138.01	$ 3,327,309.88	$ 20,171.87	$ 3,327,309.88
23	EA Expense Recovered in Base Rates (Line 21 x 0.0126 ¢/kWh)	$ 200,529.06	$ 200,529.06	$ -	$ 200,529.06
24	EA Revenue in FPP (per books)	$ 3,608,938.20	$ 3,608,938.20	$ -	$ 3,608,938.20
25	Under/(Over) Recovery of EA Costs (Line 22 - Line 23 - Line 24)	$ (502,329.25)	$ (482,157.38)	$ 20,171.87	$ (482,157.38)
	Environmental Reagent Component (ER)				
26	Amount Recovered in Base Rates (@.0330 ¢/kWh x Line 9)	$ -	$ -	$ -	$ -
27	Amount Recovered via FPP	$ 93,060.92	$ 93,060.92	$ -	$ 93,060.92
28	Total Actual Lime Costs for Quarter (per books)	$ -	$ -	$ -	$ -
29	Total Actual Ammonia Costs for Quarter (per books)	$ -	$ -	$ -	$ -
30	Total Actual ER Costs for Quarter (per books) (Line 28+Line 29)	$ -	$ -	$ -	$ -
31	Total Actual ER Costs Allocated to FPP Sales (Line 10 x Line 30)	$ -	$ -	$ -	$ -
32	Under/(Over) Recovery of ER Costs (Line 31 - Line 26 - Line 27)	$ (93,060.92)	$ (93,060.92)	$ -	$ (93,060.92)
	Reconciliation Adjustment Amortization (RA)				
33	RA Amount from 3rd Quarter Filing (spread evenly)	$ 3,496,682.63	$ 3,496,682.63	$ -	$ 3,496,682.63
34	Actual RA recovery through FPP	$ 3,401,814.47	$ 3,401,814.47	$ -	$ 3,401,814.47
35	Under/(Over) Recovery of RA (Line 33 - Line 34)	$ 94,868.16	$ 94,868.16	$ -	$ 94,868.16
	System Loss Component (SLA)				
37	Total Losses Recovered in Base Rates (Line 6 x Line 36)	$ 1,589,908.99	$ 1,560,537.92	$ (29,371.07)	$ 1,560,537.92
38	Actual SLA recovery through FPP	$ 681,562.38	$ 681,562.38	$ -	$ 681,562.38
39	Actual Losses on FPP Sales ((Line 1 - Line 3) x (line 10))	$ 2,101,071.03	$ 2,101,071.03	$ -	$ 2,101,071.03
40	Under/(Over) Recovery of Losses (Line 39 - Line 37 - Line 38)	$ (170,400.34)	$ (141,029.27)	$ 29,371.07	$ (141,029.27)
41	Net Under/(Over) Recovery of FPP Costs (Line 15 +Line 25 + Line 32 + Line 35 + Line 40)	$ (2,244,523.48)	$ (1,910,713.96)	$ 333,809.52	$ (1,910,713.96)
	ERS/PP FPP Report	514		514	
	MISO Statement	585		5105	

CONFIDENTIAL

CONFIDENTIAL

03256

The Cincinnati Gas & Electric Company
Electric Department
Calculation of Quarterly Fuel and Economy Purchased Power Component for Billing
1st Quarter 2006 Changes to the Reconciliation Adjustment
Actual Fuel and Economy Purchased Power Costs Incurred, Actual FPP Revenues Billed Summary

Line	Reconciliation Adjustment (RA) (As Filed)	FPP Filing For 3rd qrt 2005 March 2006 [A]	4th qrt 2004 changes March 2006 [B]	FPP Filing For 4th qrt 2005 March 2006 [C]
	Fuel Component (FC)			
1	Fuel Component (FC)	$ 35,979,678.67	$ -	$ 35,979,678.67
2	Ratio Metered Sales/Generation Sales	0.938933	0.000000	0.938933
3	Fuel Cost @Meter Sales Level (Line 1 x Line 2)	$ 33,782,807.63	$ -	$ 33,782,807.63
4	Coal Sales Credits (per books)	($1,539,821.89)	$ 322,322.50	$ (1,217,499.39)
4a	RSG Make Whole Payments	($70,121.69)	$ -	$ (70,121.69)
5	Net Fuel Cost (Line 3 - Line 4 - Line 4a)	$ 32,172,864.05	$ 322,322.50	$ 32,494,886.55
6	Total Generation and Purchase Power (per books)	1,741,294,617	0	1,741,294,617
7	Losses (kWh) (1-Line 2)*(Line 6)	106,335,638	0	106,335,638
8	Total Generation After Losses (kWh) (Line 6 - Line 7)	1,634,958,979	0	1,634,958,979
9	kWh Billed (@meter per books)	1,597,586,441	0	1,597,586,441
10	Ratio of FPP Sales to Total Generation (Line 9/Line 8)	97.71%	0.00%	97.71%
11	Amount Recovered in Base Rates (@ 1.2327 ¢/kWh x Line 9)	$ 19,693,448.06	$ -	$ 19,693,448.06
12	Amount Recovered via FPP (per books)	$ 14,535,049.03	$ -	$ 14,535,049.03
13	Total Fuel Costs Recovered (Line 11 + Line 12)	$ 34,228,497.09	$ -	$ 34,228,497.09
14	Total Actual Fuel Costs Attributable to FPP Sales (Line 5 x Line 10)	$ 31,435,812.33	$ 314,941.32	$ 31,750,753.65
15	Under/(Over) Recovery of Fuel Costs (Line 14 - Line 13)	$ (2,792,684.76)	$ 314,941.32	$ (2,477,743.44)
	Emissions Allowance Component (EA)			
21	kWh Subject to FPP (Line 9)	1,597,586,441	0	1,597,586,441
22	EA Expense Allocated to FPP	$ 3,497,116.72	$ 56,976.28	$ 3,554,093.00
23	EA Expense Recovered in Base Rates (Line 21 x 0.0126 ¢/kWh)	$ 201,296.89	$ -	$ 201,295.89
24	EA Revenue in FPP (per books)	$ 3,609,201.10	$ -	$ 3,609,201.10
25	Under/(Over) Recovery of EA Costs (Line 22 - Line 23 - Line 24)	$ (313,380.27)	$ 56,976.28	$ (256,403.99)
	Environmental Reagent Component (ER)			
26	Amount Recovered in Base Rates (0.0330 ¢/kWh x Line 9)	$ -	$ -	$ -
27	Amount Recovered via FPP	$ 93,076.12	$ -	$ 93,076.12
28	Total Actual Lime Costs for Quarter (per books)	$ -	$ -	$ -
29	Total Actual Ammonia Costs for Quarter (per books)	$ -	$ -	$ -
30	Total Actual ER Costs for Quarter (per books) (Line 28+Line 29)	$ -	$ -	$ -
31	Total Actual ER Costs Allocated to FPP Sales (Line 10 x Line 30)	$ -	$ -	$ -
32	Under/(Over) Recovery of ER Costs (Line 31 - Line 26 - Line 27)	$ (93,076.12)	$ -	$ (93,076.12)
	Reconciliation Adjustment Amortization (RA)			
33	RA Amount from 3rd Quarter Filing (spread evenly)	$ 3,496,682.64	$ -	$ 3,496,682.64
34	Actual RA recovery through FPP	$ 3,473,020.26	$ -	$ 3,473,020.26
35	Under/(Over) Recovery of RA (Line 33 - Line 34)	$ 23,662.38	$ -	$ 23,662.38
	System Loss Component (SLA)			
37	Total Losses Recovered in Base Rates (Line 9 x Line 36)	$ 1,595,988.85	$ (31,151.09)	$ 1,564,837.76
38	Actual SLA recovery through FPP	$ 678,151.41	$ -	$ 678,151.41
39	Actual Losses on FPP Sales ((Line 1 - Line 3) x (line 10))	$ 2,146,855.82	$ -	$ 2,146,855.82
40	Under/(Over) Recovery of Losses (Line 39 - Line 37 - Line 38)	$ (127,284.44)	$ 31,151.09	$ (96,133.35)
41	Net Under/(Over) Recovery of FPP Costs (Line 15 +Line 25 + Line 32 + Line 35 + Line 40))	$ (3,302,763.21)	$ 433,069.69	$ (2,869,694.52)
	ERSPP FPP Report	514	514	
	MISO Statement	586	8105	

CONFIDENTIAL

CONFIDENTIAL

Duke Energy Ohio
4th Quarter FPP Filing
Reconciliation Adjustments

Line	Description	Jan-05	Feb-05	Mar-05	Apr-05	May-05	Jun-05	Jul-05	Aug-05	Sep-05	Oct-05	Nov-05	Dec-05	Jan-06	Feb-06	Mar-06	Apr-06	May-06	Jun-06	Total
1	[illegible] True Up	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	[illegible]	[illegible]	[illegible]	[illegible]
2	[illegible]	0.00	0.00	0.00	[illegible]	[illegible]	[illegible]	0.00	0.00	0.00	0.00	0.00	[illegible]	[illegible]	0.00	0.00	0.00	0.00	0.00	[illegible]
3	Coal [illegible]	0.00	0.00	0.00	0.00	0.00	0.00	0.00	[illegible]	[illegible]	181,282.17	[illegible]	[illegible]	[illegible]	[illegible]	204,941.37	0.00	0.00	0.00	[illegible]
4	EA Inventory Method	(46,447.61)	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	0.00	0.00	0.00	[illegible]
5	EA [illegible]	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	[illegible]	[illegible]	[illegible]
6	Voltage Reduction Loss Correction													[illegible]	[illegible]	[illegible]	0.00	0.00	0.00	[illegible]
7	Under (Over) Collected	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	References	Page 1 Col F	Page 2 Col G	Page 3 Col F	Page 4 Col E	Page 5 Col E	Page 6 Col E	Page 7 Col D	Page 8 Col B	Page 9 Col D	Page 10 Col C	Page 11 Col C	Page 12 Col C	Page 13 Col B	Page 14 Col B	Page 15 Col B				

Attachment 5-2. Documents Requested June 28, 2006.

Documents Requested from Cincinnati Gas and Electric Company now Duke Energy Ohio (Duke) 06282006
Phase 2 Financial Audit of the Electric Fuel Procurement Policies and Practices Of Cincinnati Gas and Electric Company
Period: July 1, 2005 through June 30, 2006
Plus Follow Through from Phase 1 Review (January 1 through June 30, 2005)

Please send one copy of your responses to the designated individuals at the following addresses:

Ralph Smith, CPA
Larkin & Associates PLLC
15728 Farmington Road
Livonia, MI 48154
734-522-3420
Email: RSmithLA@aol.com
(responses and documents/attachments to responses)

Seth Schwartz
Energy Ventures Analysis, Inc.
1901 N. Moore Street, Suite 1200
Arlington, VA 22209-1706
703-276-8900
(responses only)

Ray Strom
Public Utilities Commission of Ohio
180 East Broad Street
Columbus, OH 43209-1706
(responses only)

As it applies to the period Phase 2 review period, July 1, 2005 through June 30, 2006, please provide the following information and documents:

Minimum Review Requirements

LA-2-1. Company's procedures for accounting for fuel receipts, testing and payments.

LA-2-2. Company's procedures for weighing, testing and reporting coal burned.

LA-2-3. Company's procedures for recording purchases and interchanges of energy (it appears this can be limited to economic energy purchases that are included in the FPP)

LA-2-4. Description of how the Company accounts for fuel at jointly owned generation plants.

LA-2-5. Identification of any fuel amounts being deferred that affect the July 2005 through June 2006 period. If there are any, please identify such amounts by account and explain why they are being deferred.

Relating to Coal Order Processing

LA-2-6. A brief description of the Company's procedures for processing fuel purchase orders

LA-2-7. Copies of fuel purchase orders for fuel purchases recorded in the month of March 2006.

LA-2-8. Copies of approved purchase requisitions for the fuel purchases recorded in the month of March 2006.

LA-2-9. Cash vouchers and payment documentation for the fuel purchases recorded in the month of March 2006.

LA-2-10. Fuel ledger for July 2005 through June 2006

LA-2-11. Documentation (e.g., from the laboratory) for Btu adjustments for fuel purchases recorded in the month of March 2006. If there were none for March 2006 but were some in January or February, please provide the documentation for January or February 2006 Btu adjustments.

LA-2-12. Freight cash vouchers for two days of coal receipts in March 2006 and copies of the portions of the corresponding coal received reports.

LA-2-13. Two cash vouchers from each barge company for coal unloaded at CG&E plants during March 2006 and copies of the portions of the corresponding coal unloading reports and purchase orders.

LA-2-14. Description of the Company's procedures for preparing monthly fuel analysis reports.

LA-2-15. Copies of fuel analysis reports relating to fuel purchases recorded in the month of March 2006.

LA-2-16. Identification of all pending or approved retroactive escalations that affect fuel cost for the July 2005 through June 2006 period.

Relating to Station Visitation and Review of Company's Coal Processing Procedure from the Receipt of Coal to the Disposition of Fly Ash

LA-2-17. A description of the Company's coal receiving procedures and controls for shortages, overages or other discrepancies

LA-2-18. A description of how the coal is weighed as received.

LA-2-19. A description of how freight bills and car number discrepancies are handled.

LA-2-20. A description of how damaged cars are checked and who instigates claims for shortages.

LA-2-21. A description of the Company's month end cutoff procedure for coal.

LA-2-22. A description of the Company's coal sampling procedures, including the frequency of coal sampling, how the coal samples are identified, and what control is exercised over forwarding coal samples to the laboratory.

LA-2-23. Scale calibration logs for January through March 2006.

LA-2-24. Description of procedure that is followed when coal scales are inoperable.

LA-2-25. Copies of laboratory sampling reports for coal purchases recorded in March 2006 to compare with purchasing and accounting records

LA-2-26. A description of the company's procedure for handling coal from the stockpile to the firebox or boiler

LA-2-27. A description of the company's procedure for taking physical inventories of coal and fuel oil, including the frequency of the physical inventories, how density tests are performed and whether the samples are accurate, how cutoff data is established, who controls the data, and how often cutoffs are established.

LA-2-28. Company's working papers on physical inventories for July 1, 2005 through June 30, 2006.

LA-2-29. Accounting documentation for physical inventory adjustments recorded for the period July 2005 through June 2006, including the general ledger, and fuel stock and consumption records.

LA-2-30. A description of the levels of review applicable to plant operating statistics.

LA-2-31. A copy of generating station reports for the period July 2005 through June 2006.

LA-2-32. Identification of any Company internal investigations following through on generating station reports for the period July 2005 through June 2006.

LA-2-33. Copies of the station reports for July 2005 through June 2006 sent to the company's general office for incorporation into company statistics and trace the reports to the statistics.

Relating to Fuel Supplies Owned or Controlled by the Company

LA-2-34. Please confirm that the Company and its affiliates do not own or control any coal mines or entities that supply fuel to CG&E. If this is not the case, please identify each coal mine and other entity that supplies fuel to CG&E that is owned or controlled by CG&E or its affiliates.

Relating to Purchased Power

LA-2-35. For purchases of power recorded in March 2006 that are included in the FPP (economy purchases – are any other energy purchases included in FPP costs?), please provide the related invoices, and paid cash voucher or cash receipts.

LA-2-36. Concerning system dispatch, during the entire period July 2005 through June 2006, was the dispatch of CG&E's generating units under the control of MISO? If not, please explain.

LA-2-37. During the period July 2005 through June 2006 were any of CG&E's generating units designated as "must run" for reliability or voltage control purposes? If so, please identify the units, hours, and cost/Mwh for each "must run" situation at CG&E's generating units during this period.

Relating to Service Interruptions and Unscheduled Outages

LA-2-38. Identify any instances during the audit period (July 2005 through June 2006) in which customers' power supplies were interrupted or requested to be interrupted, and provide documentation concerning:

1. the cause(s) of the interruption.
2. steps taken by the company to minimize the impacts of interruption.

3. efforts made to secure replacement power, if applicable.

4. the methodology employed to price the replacement power, if applicable, and,

5. cost impacts resulting from the periods during which the interruptions occurred.

LA-2-39. Identify any instances during the audit period (July 2005 through June 2006) in which CG&E's generating units experienced unscheduled outages, and provide documentation concerning:

1. the cause(s) of the outage.

2. steps taken by the company to minimize the impacts of the unscheduled outage.

3. efforts made to secure replacement power, if applicable.

4. the methodology employed to price the replacement power, if applicable, and,

5. cost impacts resulting from the periods during which the unscheduled outage occurred.

FPP Filings, Supporting Workpapers and Audit Trail Documentation

LA-2-40. Provide a complete set of supporting workpapers for all calculations in the FPP filings for the second quarter 2005 FPP filing and all FPP filings covering the July 2005 through June 2006 period.

LA-2-41. During the July 2005 through June 2006 period did the Company engage in "active management" of its fuel, purchased power, or emission allowance positions? If so, please identify, quantify and provide the accounting documentation for each "active management" transaction during this period. For each such transaction, please also fully explain the reasoning and estimated economic benefit that was anticipated for the transaction.

LA-2-42. For each Reconciliation Adjustment (RA) in an FPP filing covering the January 2005 through June 2006 period, please provide a complete audit trail for all amounts in the RA portions of such filings, including:

a. The accounting records and other documentation needed to trace each dollar amount in the RAs through from the FPP filings to the fuel ledger, from the fuel ledger to the general ledger, and from the fuel ledger to the purchase orders and invoices.

b. The complete documentation to trace the energy and system loss quantities in the FPP filings to the source documents.

c. All journal entries, journal entry supporting documentation and workpapers related to recording RA adjustments in the Company's accounting records.

d. Provide all calculations and supporting documentation related to computing RA adjustments in the Company's FPP workpapers.

LA-2-43. Please provide all Excel files that were used in producing the FPP filings for the second quarter 2005 FPP filing and all FPP filings covering the July 2005 through June 2006 period.

LA-2-44. Please provide all Excel files that were used in producing the supporting workpapers for the FPP filings for the second quarter 2005 FPP filing and all FPP filings covering the July 2005 through June 2006 period.

LA-2-45. For the period January 2005 through June 2006 provide the detailed general ledger pages for each account that contains costs and/or revenues that are included in the FPP.

LA-2-46. To the extent not already being provided in response to other requests, for the period January 2005 through June 2006 please provide the detailed general ledger pages for all purchases and sales of emission allowances and for gains or losses realized on such purchases and sales of EAs.

LA-2-47. For the period January 2005 through June 2006 please provide the monthly Emission Allowance inventory (quantity of allowances and cost) and show how this was allocated between native and non-native customers.

Changes to Fuel, Purchased Power Procurement and Emission Allowance Procurement

LA-2-48. Please list and describe all organizational changes to CG&E's Fuel, Purchased Power Procurement and Emission Allowance Procurement, including changes that have resulted from the change in ownership, during the period July 2005 through June 2006.

LA-2-49. Please list and describe all procedural, policy and accounting changes to CG&E's Fuel, Purchased Power Procurement and Emission Allowance Procurement, including changes that have resulted from the change in ownership, during the period July 2005 through June 2006.

LA-2-50. Please provide the most current organizational chart(s) available showing in detail all personnel at Duke Energy Ohio and affiliates who are involved in the purchase and management of Fuel, Purchased Power Procurement and Emission Allowances, the related accounting, and the preparation of FPP filings.

LA-2-51. For each person/position listed in an organizational chart that is provided in response to LA-2-50, please provide a complete job description.

Internal Audits

LA-2-52. Provide a listing of and a copy of any and all internal audit reports related to fuel procurement, synfuel, coal trading, fuel inventory management, purchased power, emission allowances, accounting for FPP-includable costs, portfolio optimization, energy sales, MISO invoices and/or other FPP related subject matter for the period January 2005 through June 30, 2006.

CONFIDENTIAL

Attachment 5-3. Documents Requested July 6, 2006.

Information and Documents Requested from Cincinnati Gas and Electric Company now Duke Energy Ohio (Duke) 07062006
Phase 2 Financial Audit of the Electric Fuel Procurement Policies and Practices Of Cincinnati Gas and Electric Company
Phase 2 Review Period: July 1, 2005 through June 30, 2006
Plus Follow Through from Phase 1 Review (January 1 through June 30, 2005)

Please send one copy of your responses to the designated individuals at the following addresses by August 21, 2006:

Ralph Smith, CPA
Larkin & Associates PLLC
15728 Farmington Road
Livonia, MI 48154
734-522-3420
Email: RSmithLA@aol.com
(responses and documents/attachments to responses)

Seth Schwartz
Energy Ventures Analysis, Inc.
1901 N. Moore Street, Suite 1200
Arlington, VA 22209-1706
703-276-8900
(responses and documents/attachments to responses)

Ray Strom
Public Utilities Commission of Ohio
180 East Broad Street
Columbus, OH 43209-1706
(responses only)

As it applies to the period Phase 2 review period, July 1, 2005 through June 30, 2006, please provide the following information and documents:

Relating to Station Visitation and Review of Company's Coal Processing Procedure from the Receipt of Coal to the Disposition of Fly Ash

LA-2-53. A description of how freight bills and barge number, coal quantity and quality discrepancies are handled.

LA-2-54. A description of how damaged barges are checked and who instigates claims for shortages.

LA-2-55. A copy of any materials pertaining to the feasibility study conducted on the possible use of a PRB blended coal at the Beckjord plant.

Other follow-up from On-Site Interviews

LA-2-56. Please provide:

a. A copy of the agreement between the parties pursuant to Paragraph D of the PUCO Opinion and Order dated 2/6/06 in Case No. 05-806-

EL-UNC for allocation of the benefits and costs of CG&E's coal contract sales margins regarding contracts executed on or after January 1, 2005. If no agreement on this was reached by the parties, please explain why not.

b. The criteria the Company uses for the equitable assignment of the benefits and costs of CG&E's coal contract sales margins regarding contracts executed on or after January 1, 2005.

c. A copy of the official Company policies, guidelines or other documents where the criteria identified in response to part b is stated.

LA-2-57. The studies and analyses the Company has conducted so far relating to quantifying the impact on O&M dollars related to using different types of coal in its coal-fired generating plants.

LA-2-58. Please provide documentation showing in detail how the existing coal contract commitments were assigned to the East Bend plant.

a. For each contract assigned to East Bend, please also explain how the Company decided whether that contract (or portions of contracts) should be assigned to East Bend.

LA-2-59. Please provide documentation showing in detail how the existing coal contract commitments were assigned to Miami Fort Unit 6 and allocated to Union Heat, Light & Power Company.

LA-2-60. Please list the membership of the Transaction Review Committee.

LA-2-61. Please provide a line-item by line-item summary reconciliation for all of the Reconciliation Adjustments made through the 3Q06 FPP filing, showing, in columnar form, the RAs that affected each line item in each month. (This was discussed during the 8/2/06 interview with Bob Butts). The rightmost column in the summary reconciliation would thus show the final (or most current) actual dollar or quantity amount for each RA line item. Please also provide the related Excel file containing this summary reconciliation.

LA-2-62. Refer to LA-2-45. Please explain the Cumberland Force Majure item, including what caused it and when it was declared. Also, provide the related documentation (e.g., force majure letters, emails, analysis, resolution, etc.).

LA-2-63. Please include all documentation regarding the analysis performed to determine the Cumberland settlement.

LA-2-64. Please show how the Environmental Allowances related to East Bend and Miami Fort 6 were identified and allocated to Union Heat, Light & Power Company.

LA-2-65. Please provide the following related to the Dick's Creek generating plant:

a. The tariff that contains the monthly requirement for balancing.

b. The amount of imbalance charges by month, by account, for January 2005 through June 2006.

c. A description of how MISO directives are affecting the operation and dispatch of this plant.

LA-2-66. Please provide a copy of the "delegation of authority" which specifies the responsibility for, and the level of transactions authorized for (i.e., transaction limits on), each personnel classification within the Commercial Asset Management organization.

LA-2-67. Please provide an illustrative example of a "paper test burn" done using the Vista model of various types of coal under consideration for potential use in CG&E's plants.

LA-2-68. Please summarize the environmental limitations contained in the EPA permits for each unit at Beckjord, that affect the coal choices.

a. Please also provide the environmental permits for the Beckjord units.

LA-2-69. For the period June 30, 2005 through June 30, 2006, please show the Duke Energy Ohio EA position, by year for 2005, 2006, 2007 and 2008. Using whatever standard reports the Company already uses (i.e., do not create new reports to answer this), please show this EA position for native by year as of the last day of each month.

LA-2-70. Please provide the written policy on EAs applicable during the period June 30, 2005 through June 30, 2006, including any amendments to such policy that occurred within this time frame.

LA-2-71. Please provide the EA "buffer" calculation, quarterly, for the period June 30, 2005 through June 30, 2006.

LA-2-72. Please provide a schedule of the transactions that Duke Energy Ohio has entered into for the System Reliability Tracker (SRT).

LA-2-73. Please all documentation for offers received but not entered into for the SRT.

LA-2-74. Please provide the Company's policies and procedures related to capacity purchases and/or purchases for System Reliability.

LA-2-75. For 3 typical days in the month of June 2006, please provide the counter-party listings by product and transaction that are provided every morning by the Credit Group. (If there are no typical days in June 2006, please provide such listings for each day in the month.)

LA-2-76. For one day in June 2006, please provide actual sample illustrative copies of the standard Commercial Business Model reports that would be used by the Commercial Asset Management organization. This would include the "liquidity" curves.

LA-2-77. Please provide a complete copy of the "CAM Committed Coal Position" report for June 30, 2005 and the last day of each month during the audit period.

LA-2-78. Please show in detail how the Company is accounting for the Appalachia Fuels settlement. Show the dollar amounts, by account, by month.

LA-2-79. What analysis did the Company perform to arrive at the settlement with Appalachia Fuels? Please provide copies of legal opinions, claims filed

CONFIDENTIAL

in the litigation (including damage calculations), and internal memoranda prepared regarding this case.

LA-2-80. Please identify, quantify and explain any contractual coal delivery shortfalls during the period July 1, 2005 through June 30, 2006 and provide the related documentation (e.g., railroad and/or coal mine force majure notifications, under-delivery correspondence identifying causes and quantities, including letters and emails, etc.).

a. For each under-delivery situation during this period, please explain whether, and over what time frame, the delivery will be made up.

b. For each situation that is resulting in lost tons, please provide an analysis of the economic impact on FPP fuel costs.

LA-2-81. Please provide for June 2006, the Incremental Cost of Production (ICOP) letters that Duke Energy Ohio receives from the operators of co-owned plants.

LA-2-82. Please provide all documentation of "quality swaps" either considered or completed during the audit period.

LA-2-83. Please provide all documentation of coal sales made to balance native coal position.

LA-2-84. Please provide a copy of the TAR and any other documentation related to the Air Quality coal resale.

LA-2-85. Please provide a copy of the monthly 5-year fuel plans submitted to the partners of joint units.

LA-2-86. Please provide a copy of the burn schedule for all plants by unit and by month through 2008.

6

SYSTEM RELIABILITY TRACKER

Background

The Market-Based Standard Service Offer (MBSSO) includes different rate components including generation costs, Transmission Cost Rider, Fuel and Purchased Power Rider, Rate Stabilization Charge, Annually Adjustment Component, Infrastructure Maintenance Fund, Distribution Reliability Investment, Merger Savings, Stabilization Surcredit, and the System Reliability Tracker (Rider SRT). The Rider SRT, the subject of this section, is the *actual* cost of purchasing the reserve capacity instruments to reserve capacity requirements. As such, the Rider SRT is a true-up mechanism.

The Rider SRT 2005 funding was approved by the Commission in Case No. 04-1820-EL-ATA on an interim basis. The Rider SRT 2006 funding was approved by the Commission in Case No. 05-724-EL-UNC. The approval included the adoption of a stipulation that included the following provisions:

1. With respect to nonresidential customers, the SRT will be avoidable by any customer that signs a contract or provides a release agreeing to remain off CG&E's market-based standard service offer (MBSSO) service through December 31, 2008, and to return to the MBSSO service, if at all, at the higher of the RSP price or the hourly locational marginal pricing (LMP) market price, as set forth in the Commission's entry on rehearing in the RSP case.

2. With regard to residential customers, the SRT will be unavoidable. All residential customers who purchase generation from a competitive supplier may return to CG&E's MBSSO at the RSP price.

3. CG&E will calculate the SRT for the first quarter of 2006 using a planning reserve margin of 15 percent of the projected retail load not eligible to avoid the SRT on January 31, 2006. CG&E's plan to purchase reserves of 15 percent of the retail load not eligible to avoid the SRT is deemed by the parties to be prudent. CG&E agrees to make purchases to achieve that reserve, keeping records sufficient for Commission staff audit, and will recover the associated costs from customers that do not avoid the SRT.

4. CG&E will by and sell reserve capacity as needed and as possible, crediting revenues to SRT customers and managing the reserve position to maintain a 15 percent reserve level for the projected standard service load, to the extent possible. Such management will include the acquisition and sale of capacity. Such management will include the acquisition and sale of capacity for non-residential consumers that leave or return to the MBSSO at the higher of the RSP price or the hourly LMP price. Management of the 2006 SRT will be subject to a prudence review by the Commission.

5. The 2006 SRT will be adjusted and reconciled quarterly.

6. The SRT costs will be divided into separate pools allocable to residential and nonresidential customers, with 42.382 percent of costs allocated to residential customers' pool, along with the same percentage of over-collections, under-recoveries, and credits from third-party sales. Shopping by nonresidential customers will not cause residential customers to pay any additional charges. Nonresidential customers will pay the remainder of SRT costs.

7. SRT transactions shall be audited by Commission staff. The results of its audits shall be filed in the docket. Parties may request a hearing regarding such audit.

8. With respect to certain specified assets, the parties agree as follows: "To the extent that any assets owned by Duke Energy North America LLC (Dena Assets) are transferred to CG&E and CG&E proposes to use any such DENA Assets as part of the SRT portfolio, CG&E cannot use the DENA Assets as part of the SRT unless it receives Commission authorization to do so after CG&E applies to the Commission for approval to include such DENA Asset(s) in the portfolio and for approval of the SRT market price associated with such DENA Asset(s). CG&E shall provide OCC with workpapers and other data supporting the use of DENA Assets as part of the SRT and if any interested part is concerned about the use of DENA Assets in the SRT the Commission will hold a hearing." The parties also noted, in a footnote, that "(n)othing herein shall be construed as the parties' consent for approval of the transfer of the DENA Assets to CG&E. All parties retain their legal rights with respect to the transfer of the DENA Assets to CG&E."

In compliance with the Commission Opinion and Order, the Commission Staff reviewed the quarterly SRT filings for accuracy. Staff also met with DE-Ohio on multiple occasions to review the capacity contracts the Company had purchased in 2005. Staff

CONFIDENTIAL

found the Company's accounting to be accurate and its allocation methodology to be sound. Staff recommended that the Commission engage the services of a third party to insure the appropriateness of the Company's approach in the context of the energy markets. In response to this request, EVA's scope in the follow-up audit was expanded to include a prudency review of the Rider SRT.

2006 Rider SRT

For 2006, the DE-Ohio's Rider SRT was based upon DE-Ohio's estimated cost of capacity products required to maintain at least a 15 percent reserve margin adjusted by the over-recovered 2005 Rider SRT costs to be refunded to non-residential customers. Residential customers were not covered by the SRT in 2005 and are therefore not the beneficiaries of the refund.

DE-Ohio sought to minimize its 2006 SRT costs through exploring all available capacity products. To this end, DE-Ohio indicated that it considered the following products:

- [redacted]

DE-Ohio's commitments from January through June 2006 are summarized in Exhibit 6-1. The June 2006 commitments are shown in Exhibit 6-2.

Exhibit 6-1. Summary Of H12006 SRT Capacity and Purchased Power Costs

Exhibit 6-2. Comparison Of June 2005 and June 2006 SRT Costs

In the first half of 2006, DE-Ohio satisfied its SRT requirements by purchasing almost all of its required capacity through regulatory capacity purchases. DE-Ohio indicated it had entered into negotiations with [redacted]

EVA agrees with DE-Ohio as to the types of capacity products it is considering and notes that this list may change over time. As a result, monitoring of the market for alternatives is appropriate. EVA supports the use of a greater mix of products similar to what DE-Ohio employed in 2005 rather than the heavy reliance on one type of product in 2006. Further, and as noted below, DE-Ohio should be considering the use of multi-year arrangements rather than only single-year and spot products in its mix.

2007 Rider SRT Proposal

DE-Ohio is proposing a number of changes with respect to future capacity purchases in order to maintain its required reserve margin. DE-Ohio is seeking approval for the following:

- DE-Ohio would like to purchase capacity instruments for periods longer than a year, and
- DE-Ohio would like to purchase capacity from the legacy DENA assets.

Evaluation of DE-Ohio's 2007 Rider SRT Proposal

EVA agrees with DE-Ohio that is should employ arrangements that include capacity commitments for more than one year. In fact, it is not clear to EVA that DE-Ohio had previously been precluded from doing so.

EVA believes that DE-Ohio should employ a portfolio strategy similar to what EVA is recommending for fuel. DE-Ohio should develop a portfolio of available instruments to manage the risk.

EVA does not support DE-Ohio in its request to purchase capacity from the legacy DENA assets for several reasons. First, DE-Ohio has not demonstrated that its native customers are paying more for capacity in the market than they would if DE-Ohio purchased capacity from the legacy DENA. None of the workpapers provided by DE-Ohio support the contention that DENA assets would have provided SRT capacity at prices less than what DE-Ohio was able to purchase on the open market. Second, purchases from an affiliate are always problematic. Allowing such transactions makes the market suspicious regarding pricing and potentially reduces competitive offers. Further, the existence of such transactions puts a greater burden on the audit process which is then required to determine whether the transaction price was for no more than the market. Given the limited success to date in DE-Ohio's documentation of its FPP activities, EVA is not comfortable that such documentation would be sufficiently complete to support an audit process. Third, given the size of the market, DE-Ohio should not be disadvantaged by this position as the legacy DENA assets should be able to be sold at market prices, which is what DE-Ohio is proposing to pay. In fact, at true market prices, DE-Ohio should be indifferent to whether the legacy DENA assets are sold to DE-Ohio or on the open market.

03272

DE-Ohio Exhibit_____

RECEIVED-DOCKETING DIV

CONFIDENTIAL PROPRIETARY TRADE SECRET

2006 NOV 16 AM 10:53

BEFORE

PUCO

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of The Cincinnati Gas & Electric Company to Modify its Quarterly Fuel and Purchase Power Component of its Market Based Standard Service Offer.	)))))	Case No. 05-725-EL-UNC
In the Matter of the Application of The Cincinnati Gas & Electric Company to Adjust and Set its System Reliability Tracker Market Price	))))	Case No. 05-724-EL-UNC
In the Matter of the Application of Duke Energy Ohio, Inc. to Modify its Quarterly Fuel and Purchase Power Component of its Market Based Standard Service Offer	)))))	Case No. 06-1068-EL-UNC
In the Matter of the Application of Duke Energy Ohio, Inc. to Adjust and Set its System Reliability Tracker	)))	Case No. 06-1069-EL-UNC

SUPPLEMENTAL DIRECT TESTIMONY OF

CHARLES R. WHITLOCK

ON BEHALF OF

DUKE ENERGY OHIO

DATE: November 16, 2006

03273

TABLE OF CONTENTS

DESCRIPTION OF TESTIMONY | **TESTIMONY PAGES**

ATTACHMENTS

I. INTRODUCTION

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is Charles R. Whitlock and my business address is 139 East Fourth Street, Cincinnati, Ohio 45202.

Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?

A. I am employed by Duke Energy Americas, an affiliate of Duke Energy, as President, Commercial Asset Management ("CAM").

Q. ARE YOU THE SAME CHARLES R. WHITLOCK WHO PREVIOUSLY FILED TESTIMONY IN THIS PROCEEDING?

A. Yes.

II. PURPOSE OF TESTIMONY

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?

A. The purpose of my supplemental testimony is to respond to certain Management Audit Recommendations contained in pages 1-9 through 1-10 of the *Report of the Financial And Management/Performance Audit of the Fuel and Purchased Power Rider of Duke Energy Ohio.* Specifically, I address the Auditor's recommendations with respect to: 1.) Treatment of margins realized from the [redacted].) DE-Ohio's active management of the coal, emission allowance, and forward power purchases portfolio; 3.) Requiring coal suppliers to permit the resale of coal; and 4.) The purchase of reserve capacity from the Midwest generating assets, previously owned by DENA (DENA Assets).

III. DISCUSSION

Q. HAVE YOU REVIEWED THE AUDITOR'S REPORT OF THE FINANCIAL AND MANAGEMENT/PERFORMANCE AUDIT OF THE FUEL AND PURCHASED POWER RIDER OF DUKE ENERGY OHIO?

A. Yes.

Q. DOES THE AUDITOR MAKE ANY RECOMMENDATIONS REGARDING THE TREATMENT OF NET MARGINS DERIVED FROM THE [redacted]

A. Yes. The Auditor recommends that DE-Ohio pass through the entire margin related to the [redacted] d concludes that the total margin from the re-sale of this coal during the audit period was [redacted]

Q. DOES DE-OHIO AGREE WITH THE AUDITOR'S RECOMMENDATION?

A. No. DE-Ohio believes that the recommendation is too broad. A portion, but not all, of the benefits realized under the [redacted] should flow through to non-residential Rider FPP consumers.

Q. PLEASE EXPLAIN THE [redacted]

A. In March and April 2002, DE-Ohio entered into two contracts wit[redacted] for the delivery of specific amounts and types of coal during 2002, 2003, 2004 and 2005. In August 2003, [redacted] efaulted on these agreements, failing to deliver as contractually obligated. After extensive negotiation, on or about November 8, 2005, DE-Ohio and [redacted] eached a financial settlement [redacted] regarding the default on the prior contracts. [redacted] reed to deliver a specific quantity of NYMEX quality coal going forward in 2006, 2007 and 2008 at [redacted]

Q. PLEASE EXPLAIN WHY DE-OHIO BELIEVES ONLY A PORTION OF THE MARGINS DERIVED FROM THE [redacted] SHOULD FLOW THROUGH TO NON-RESIDENTIAL RIDER FPP CONSUMERS.

A. As I previously mentioned, the two original contracts with [redacted] quired delivery of coal during 2002, 2003, 2004, and 2005. Rider FPP was effective beginning January 1, 2005 for non-residential consumers and January 1, 2006 for residential consumers. Prior to January 1, 2005, DE-Ohio's market price included fuel prices frozen at the level approved by the Commission in Case No. 99-1658-EL-ETP. In other words, prior to January 1, 2005, neither the original [redacted] al costs, nor the replacement coal costs were passed through to consumers. Accordingly, the portion of the [redacted] that corresponds to the coal that was to be delivered prior to January 1, 2005, is remuneration for damages sustained by DE-Ohio, not retail consumers. This portion of the [redacted] hould not flow through Rider FPP. However, a portion of the [redacted] does replace coal deliveries that were to have occurred in 2005. Consequently, some of the costs incurred during 2005 were partially borne by non-residential Rider FPP consumers. Therefore, the affected Rider FPP consumers should share in the respective margins on sales of coal under the [redacted] ased upon the portion of the original contract delivery for 2005.

Q. PLEASE EXPLAIN HOW DE-OHIO PROPOSES TO FLOW THROUGH A PORTION OF THE [redacted] COAL MARGINS TO RIDER FPP CONSUMERS.

A. Assuming [redacted] does not default on th[redacted] DE-Ohio estimates that 19.3% of benefit of the [redacted] ould flow through to non-residential Rider FPP consumers via a credit to the Rider FPP market price. Since [redacted] eviously defaulted on its original delivery contract, it would be imprudent to pass through the full benefit of the [redacted] or to actual receipt of the coal discounts. Therefore, on a going forward basis, we propose to pass through the appropriate share of such credits as the margins are realized.

As previously mentioned, the [redacted] ecame effective in November 2005 and was for future deliveries in 2006, 2007, and 2008. To date, [redacted] has complied with the terms o[redacted] Therefore, value associated with the margins on coal already delivered under the [redacted] nd proportional to the defaulted 2005 deliveries, is owed to non-residential Rider FPP consumers. DE-Ohio proposes to credit this proportional amount to non-residential consumers through Rider FPP following the Commission's approval in this case.

Q. PLEASE EXPLAIN HOW DE-OHIO CALCULATED THE PROPORTIONAL SHARE OF THE [redacted] TO BE FLOWED THROUGH TO NON-RESIDENTIAL RIDER FPP CONSUMERS.

A. The calculation of the allocation is set forth in Attachment CRW-1 to my supplemental testimony. As I previously mentioned, the [redacted] is for specific amounts of [redacted] replacing deliveries that did not occur in 2003, 2004 and 2005. The 2005 deliveries, had they occurred, amounted to 40.57 % of the total quantity of coal under the defaulted contracts. Of the 40.57% of coal, that would have been delivered, approximately 47.6 % of that would have been allocated to non-residential Rider FPP consumers. Therefore, DE-Ohio is proposing to flow through the margins on 19.3% of the coal to be delivered under the Appalachian Settlement to non-residential FPP consumers (40.57% times 47.6%).

Q. **DOES THE AUDITOR MAKE ANY RECOMMENDATIONS REGARDING DE-OHIO'S ACTIVE MANAGEMENT OF FUEL, POWER AND EMISSION ALLOWANCES?**

A. Yes. The Auditor recommends that DE-Ohio adopt "traditional utility procurement strategies related to the procurement of coal, power, and emission allowances and cease its 'active management' through the balance of the RSP period."

Q. **DOES DE-OHIO AGREE WITH THE AUDITOR'S RECOMMENDATION?**

A. No. The Auditor's recommendation contradicts the stipulation and Commission's Opinion and Order in Case No. 05-806-EL-UNC. The active management of the emission allowance, fuel and forward power purchases portfolio is a "best practice" management technique that was specifically agreed to in the December

2005 Stipulation and approved by the Commission in its February 2006 Opinion and Order.

The Auditor made a similar recommendation, regarding "regulated utility industry practice," in the previous Rider FPP audit report and it was not adopted by this Commission. As DE-Ohio explained in its supplemental testimony in its last Rider FPP case, an actively managed portfolio allows gross margins to be continuously locked-in based on market signals. In turn, DE-Ohio is able to maximize the value of its generating asset portfolio while managing these inherent risks in the most cost effective manner relative to daily changes in the market.

Q. PLEASE EXPLAIN WHY THE AUDITOR'S PROPOSED PERIODIC MANAGEMENT TECHNIQUE IS IMPRUDENT.

A. The Auditor recommends that DE-Ohio no longer seek to flatten its position on a daily basis, but rather "adjust its SO_2 position on no more than a quarterly basis unless specific events dictate otherwise." The Auditor offers no opinion on what constitutes "specific events" which would warrant adjusting the position on a more frequent basis.

Essentially, the Auditor is now recommending that DE-Ohio make a speculative bet every 90 days in the coal, emission allowance, and power markets. DE-Ohio believes that the Auditor's recommended approach poses a significant risk to consumers. For instance, if DE-Ohio locks in a price by purchasing coal on a date certain and the price subsequently falls while power prices escalate, consumers cannot benefit from coal purchases at the lower price. Similarly, if the price of coal rises while forward power prices decline, consumers cannot benefit from the sale of the coal at the higher price in the market. In either scenario, consumers would suffer.

Additionally, the Auditor's recommendation fails to recognize that DE-Ohio is not a regulated utility for the sale of electricity. It is not permitted to recover generation investments plus a reasonable return through the regulatory process, nor is it permitted to recover increases in many other costs not included in Rider FPP. Rider FPP is fully avoidable by all consumers that purchase generation from a competitive retail electric service provider. Traditional regulated utility practice is not appropriate for managing all of the risks inherent in a deregulated environment.

In its previous audit report in Case No. 05-806-EL-UNC, this same Auditor recommended that DE-Ohio true-up the allowance allocations and the auction proceeds on an annual basis. Clearly, with its present recommendation of a 90-day position adjustment, followed by the caveat of "unless specific events dictate otherwise," the Auditor recognizes the benefits of a more frequent position review.

Finally, it is important to note that DE-Ohio manages these variables for Rider FPP consistent with its management of these variables for all of its sales of deregulated electricity.

Q. WHAT ARE THE BENEFITS OF AN ACTIVE MANAGEMENT PROCUREMENT APPROACH OVER "TRADITIONAL UTILITY PROCUREMENT STRATEGIES?"

A. The benefits of active management are that DE-Ohio may make rational economic decisions based on the market price of coal, power and emission allowances, and reduce market price risk on behalf of consumers. DE-Ohio will enter into transactions based on market commodity prices and all of the benefits of these transactions are credited to consumers. Just as there are examples where a bet on prices at a date certain will yield lower costs than active management, there are also examples where the same bet will yield higher costs. The risk lies in when to place the bet. Active management limits the market risk and reduces volatility in Rider FPP. In this case, the Auditor agrees, at page 2-14 of the report that DE-Ohio's active management techniques with respect to "quality swaps" have resulted in a substantial savings for Rider FPP consumers. Similarly, the Auditor found that if DE-Ohio had engaged in active management with respect to flattening its emission allowance position beginning on October 1, 2005, and prior to the Commission's Order in February 2006, in the last FPP case, DE-Ohio would have lowered consumer costs by over $14 million in one short period. It is clear that active management is commercially sound and provides benefits to consumers, relative to "traditional utility procurement strategies."

Q. DOES THE AUDITOR MAKE ANY FURTHER RECOMMENDATIONS REGARDING DE-OHIO'S ACTIVE MANAGEMENT PHILOSOPHY?

A. Yes, the Auditor also states that DE-Ohio should "develop and implement a portfolio strategy such that it purchases coal through a variety of short, medium and long-term agreements with appropriate supply and supplier diversification with credit worthy counterparties."

Q. IS DE-OHIO PURCHASING COAL THROUGH A VARIETY OF SHORT, MEDIUM AND LONG-TERM AGREEMENTS WITH APPROPRIATE SUPPLY AND SUPPLIER DIVERSIFICATION WITH CREDIT WORTHY COUNTERPARTIES?

A. Yes. DE-Ohio does in fact have short, medium and long-term contracts in its portfolio with multiple suppliers and requires all suppliers to meet specific credit requirements. This recommendation is simply a result of the Auditor's misunderstanding of DE-Ohio's portfolio management.

Q. DOES THE AUDITOR MAKE ANY RECOMMENDATIONS REGARDING THE RESALE OF COAL BY DE-OHIO?

A. Yes, the Auditor recommends that as long as the Rider FPP is in effect, coal suppliers should not be required to allow the resale of their coal.

Q. DOES DE-OHIO IN FACT REQUIRE THE POTENTIAL TO RESELL COAL AS A CONDITION TO CONSIDER OFFERS FROM SUPPLIERS?

A. No, it does not. DE-Ohio does include the resale of coal as a condition on its RFPs but does not exclude an offer from consideration if the supplier will not permit the resale of coal.

Q. WHY IS THE ABILITY TO RESELL COAL A BENEFIT TO CONSUMERS?

A. As part of the active management of coal inventories, the ability to resell coal permits DE-Ohio to manage price risk by selling an "expensive" coal, based on the then market price of coal and emission allowances, and burning a comparatively less expensive coal, also based on market prices. Consumers benefit from the sale transaction because any resulting margin is credited against the fuel cost in the calculation of the Rider FPP market price, and the exposure to market volatility is greatly reduced. In its report, the Auditor goes so far as to quantify this benefit and recognized that DE-Ohio's active management with respect to quality swaps of coal created a $14 million credit for Rider FPP consumers.

Q. DOES THE AUDITOR MAKE ANY RECOMMENDATIONS REGARDING THE PURCHASE OF RESERVE CAPACITY FROM THE LEGACY DENA ASSETS FOR INCLUSION IN RIDER SRT?

A. Yes. The Auditor recommends that the legacy DENA Assets should not be eligible for inclusion in Rider SRT.

Q. DOES DE-OHIO AGREE WITH THIS RECOMMENDATION?

A. No.

Q. PLEASE EXPLAIN WHY DE-OHIO BELIEVES THE DENA ASSETS SHOULD BE AVAILABLE FOR INCLUSION IN CAPACITY PURCHASES AS PART OF THE RIDER SRT?

A. The purpose of the SRT is to ensure adequate capacity to meet DE-Ohio's obligation as provider of last resort (POLR). At present, this obligation requires DE-Ohio to maintain a 15% capacity reserve margin. There are limited assets located in the MISO footprint that meet MISO's designated network resource (DNR) requirements. Consumers should have access to every possible economic option with respect to available generating assets. The risks to its consumers are substantial and increasingly likely if DE-Ohio does not have access to market price capacity during a time of need. This is particularly true if a capacity purchase must be made in the spot market where prices are exceptionally volatile. It is in the consumer's best interest if DE-Ohio has the ability to avoid such a risk through a readily available and reasonably priced alternative regardless of the source of supply.

Additionally, on a daily operational level, the ability to include the DENA Assets makes sense. MISO requires approximately 4% daily reserve margin from market participants such as DE-Ohio. DE-Ohio should be permitted to satisfy its reserve margin in the most economic manner. Limiting the options through which DE-Ohio may satisfy its capacity obligation by arbitrarily excluding specific generators from consideration can only increase the cost to consumers, if the capacity is available at all.

DE-Oho transacts to meet its capacity requirements in the long-term market. While DE-Ohio cannot predict that reasonably priced capacity will be unavailable in the long-term capacity market, there is no economic justification to deprive consumers of the opportunity to purchase the most reasonably priced capacity available simply because the capacity stems from a DENA Asset.

In short, if the DENA Assets provide the most economic option, it does not make sense to exclude them from consideration.

Q. WHAT IS THE AUDITOR'S JUSTIFICATION FOR RECOMMENDING THAT THE DENA ASSETS SHOULD NOT BE INCLUDED AS PART OF RIDER SRT CAPACITY PURCHASES?

A. First, the Auditor does not believe consumers are paying more for capacity in the market than if purchased from the DENA Assets. Second, the Auditor believes that purchases from affiliates are problematic and reduces competitive bid offers. Third, the Auditor believes the auditing of affiliate transactions is burdensome. Fourth, the Auditor believes that given the condition of the capacity market, DE-Ohio should be able to sell its legacy DENA capacity on the open market.

Q. WHAT IS YOUR RESPONSE TO THESE CRITICISMS?

A. DE-Ohio recognizes the issues of documenting a market price for a transaction, where it owns the capacity purchased. DE-Ohio accepts the burden of demonstrating its purchases at a market price by comparison to other capacity available in the market. DE-Ohio is constantly probing the market and making decisions identifying the best offers for its consumers. If DE-Ohio is permitted to consider DENA Assets for capacity purchases through Rider SRT, DE-Ohio will commit to providing the Commission in future audit proceedings with a written record of the concurrent bids and offers to show that the market price for capacity is equal to or greater than the market price associated with a capacity purchase from the DENA Assets.

The Auditor's concern about the reduction of competitive bid offers is simply unwarranted. The vast majority of competitive bidders are not aware of the nuances of DE-Ohio's exclusion of DENA Assets. As far as the outside world is concerned, the DENA Assets are part of DE-Ohio's generating assets. DE-Ohio is currently receiving and accepting competitive bids. There is no reason to believe that DE-Ohio will not continue to do so. Additionally, there is no reason to believe that DE-Ohio's motives are nefarious and that the Company will not continue to act in the best interests of its consumers.

The Auditor's concerns about the added "burden" regarding the mechanics of auditing DENA transactions should not be a determining factor. DE-Ohio accepts the burden to prove the prudence of its transactions. The Auditor's reluctance to perform additional work is immaterial. DE-Ohio will provide documentation of the concurrent competitive bids during the audit period along with the purchase price for capacity from the DENA Assets. This should demonstrate the prudence of DE-Ohio's management decisions.

Lastly, the Auditor's position with respect to the "size of the market" and ability to sell legacy DENA capacity in the market is dubious. If the Commission does not permit DE-Ohio to purchase capacity from its DENA Assets to satisfy its Rider SRT obligations, DE-Ohio will continue to sell the capacity on the open market. However, the Auditor should recognize that it is not in the best interests of DE-Ohio's consumers to deprive them of a viable economic market option simply because of its status as a legacy DENA Asset. There is limited capacity in the MISO footprint that meets MISO's DNR requirement. Consumers should have access to all of it.

Q. ARE ANY OF THE DENA ASSETS CURRENTLY BEING ECONOMICALLY DISPATCHED WITHIN THE MISO FOOTPRINT?

A. Yes, the Vermillion generating station is in MISO and is being dispatched.

Q. DO ALL OF THE DENA ASSETS MEET MISO'S DNR REQUIREMENTS?

A. Yes. All the DENA Assets meet MISO's DNR Requirements. As I mentioned previously, Vermillion is the only DENA asset actually located in MISO. The other assets are located in the PJM market. However, their location should not exclude them from consideration for Rider SRT capacity purchases. PJM DENA assets could be a more economical solution. I believe that Ohio consumers will benefit from having access to DENA Assets.

IV. CONCLUSION

Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

A. Yes.

03288

[redacted]

Estimated Benefit to Rider FPP Non-Residential Customers

Line No.	Description	Fuel Type		Total
		[redacted]	[redacted]	
1	Date signed	[redacted]		
2	Contract No.			
	Scheduled Shipments (tons):			
3	2002	[redacted]	[redacted]	[redacted]
4	2003	[redacted]	[redacted]	[redacted]
5	2004	[redacted]	[redacted]	[redacted]
6	2005	[redacted]	[redacted]	[redacted]
7	Total Scheduled Shipments	[redacted]	[redacted]	[redacted]
	Actual Shipments (tons):			
8	2002	[redacted]	[redacted]	[redacted]
9	2003	[redacted]	[redacted]	[redacted]
10	Total Actual Shipments	[redacted]	[redacted]	[redacted]
11	Undelivered Tonnage *(line 7 - line 10)*	[redacted]	[redacted]	[redacted]
12	2005 Portion of Undelivered Tonnage *(line 6 + line 11)*			[redacted]
13	2005 Load Ratio of Non-Residential Rider FPP Customers *(see page 2 of 2)*			[redacted]
14	Net Settlement Allocable to Non-Residential Rider FPP Customers *(line 12 * line 13)*			[redacted]

03289

[redacted] Worksheet)
Estimated Non-Residential Share of 2005 Rider FPP Load

Month	Total Generation After Losses (kWh)	Sales Subject to FPP (kWh)	Percent of Total
January 2005	[redacted]	[redacted]	[redacted]
February 2005	[redacted]	[redacted]	[redacted]
March 2005	[redacted]	[redacted]	[redacted]
April 2005	[redacted]	[redacted]	[redacted]
May 2005	[redacted]	[redacted]	[redacted]
June 2005	[redacted]	[redacted]	[redacted]
July 2005	[redacted]	[redacted]	[redacted]
August 2005	[redacted]	[redacted]	[redacted]
September 2005	[redacted]	[redacted]	[redacted]
October 2005	[redacted]	[redacted]	[redacted]
November 2005	[redacted]	[redacted]	[redacted]
December 2005	[redacted]	[redacted]	[redacted]
Total	[redacted]	[redacted]	[redacted]

CONFIDENTIAL 03290 RECEIVED-DOCKETING DIV

2007 APR -9 PM 4:45

PUCO

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Consolidated Duke Energy Ohio, Inc. Rate Stabilization Plan Remand and Rider Adjustment Cases	: Case Nos.	05-725-EL-UNC 06-1069-EL-UNC 05-724-EL-UNC 06-1068-EL-UNC 06-1085-EL-UNC

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) and the Commission's December 20, 2006, Entry in these cases relative to the suspension of the Fuel and Purchased Power (FPP) tracker, System Reliability Tracker (SRT), and the Annually Adjusted Component (AAC) of DE-Ohio's market-based standard service offer (MBSSO).

This Stipulation is supported by adequate data and information; represents a just and reasonable resolution of the issues raised in these proceedings; violates no regulatory principle or precedent; and is the product of lengthy, serious bargaining among knowledgeable and capable Parties in a cooperative process, encouraged by this Commission and undertaken by the Parties representing a wide range of interests, including the Commission's Staff,[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 certain issues raised by these proceedings, the Parties stipulate, agree and recommend as set forth below.

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

This Stipulation is expressly conditioned upon its adoption by the Commission, in its entirety and without modification. Should the Commission reject or modify all or any part of this Stipulation or impose additional conditions or requirements upon the Parties, the Parties shall have the right, within 30 days of issuance of the Commission's order, to file an application for rehearing. Upon the Commission's issuance of an Entry on Rehearing that does not without modification adopt the

[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).

Stipulation in its entirety; any Party may terminate and withdraw from the Stipulation by filing a notice with the Commission within 30 days of the Commission's order on rehearing. Upon such notice of termination or withdrawal by any Party, pursuant to the above provisions, the Stipulation shall immediately become null and void.

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

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 FPP, SRT, and AAC;

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

1. The Parties Agree, as set forth on Stipulation Attachment 1, that DE-Ohio shall credit FPP consumers with [redacted] to be included in the quarterly Rider FPP filing for the period beginning July 1, 2007, and ending September 30, 2007, to provide consumers with benefits associated with DE-Ohio's [redacted] This credit resolves all issues associated with the [redacted] for past, current, and future FPP audit periods. The credit shall be allocated to all customer classes pursuant to the allocation methodology embedded in the calculation of the Rider FPP. Nothing herein is an admission by any Party of any interpretation of the Stipulation and Recommendation filed January 18, 2006, in Case No. 05-806-EL-UNC, and all Parties retain their legal rights regarding the interpretation of that Stipulation and Recommendation. Further, the Parties agree that Recommendation 1 on page 1-9 of the Audit Report dated October 12, 2006, shall be withdrawn.

2. The FPP auditor's recommendation 2 on page 1-9 of the Audit Report dated October 12, 2006, that the Company discontinue its active management practices shall be withdrawn.

3. The Parties agree that DE-Ohio, Staff, and interested Parties shall meet to discuss the terms and conditions under which DE-Ohio may purchase and manage coal assets, emission allowances, and purchased power for the period after December 31, 2008. The Parties agree that such discussions address the auditor's finding 6 at page 1-8 that DE-Ohio actively looks to limit purchased fuel and emission allowance commitments beyond December 31, 2008. Based upon the discussions committed to in this paragraph the Parties will use their best efforts to agree and make a recommendation regarding the purchase and cost recovery after December 31, 2008, of coal, emission allowances, and purchased power for consideration no later than the next FPP audit.

4. The Parties agree that DE-Ohio's congestion costs shall be recovered through Rider FPP instead of Rider TCR, as approved in paragraph 26 of the PUCO's December 20, 2006 Order in Case No. 03-93-EL-ATA *et al.* The congestion components to transfer from Rider TCR to Rider FPP include Congestion (day-ahead & real-time), Losses (day-ahead & real-time), and Firm Transmission Rights (FTR) that were previously included on Schedule B of DE-Ohio's Rider TCR application.

5. The Parties agree that DE-Ohio's proposed Rider AAC Calculation shall be adjusted in accordance with the Staff corrected supplemental testimony of L'Nard E. Tufts, as shown on Attachment LET-1 shown as Stipulation Attachment 2. Rider AAC revenue will be trued-up to January 1, 2007, such that the amount calculated to be recovered in 2007, will be recovered by December 31, 2007.

6. The Parties agree that DE-Ohio shall work with the Staff to amend its bill format. Such amendments will be intended to reflect generation-related charges such as the FPP, SRT, and AAC, in the generation portion of the customer bill. Additionally, the parties agree to simplify and standardize the monthly bill message regarding updated rider charges. Lastly, the Parties agree that such amendments will not result in additional programming or billing costs.

7. The Parties agree that Rider SRT will be updated with the first billing cycle of the month following Commission approval of this Stipulation to recover DE-Ohio's projected 2007 planning reserve capacity purchases by year-end. Rider SRT will be updated in future quarterly filings to reconcile any projected over/under collection.

8. The Parties agree that DE-Ohio may recover short term (7 days or less) capacity purchases from its generating assets formerly owned by Duke Energy North America through the SRT. DE-Ohio and Staff shall agree on a pricing methodology prior to DE-Ohio's purchase of such capacity. Such purchases shall be acquired at a market price to be determined as either:

   a. Midpoint of broker quotes received; or

   b. Average price of 3rd party purchases transacted; or

   c. An alternative method which DE-Ohio and the Staff agree upon as a reasonable price.

   In all instances DE-Ohio's ability to maintain an offer of firm generation service to all consumers pursuant to R.C. 4928.14 shall remain paramount. The Parties agree that recommendation 6 on page 1-10 of the October 12, 2006 Audit Report is inapplicable to the extent it is in conflict with this paragraph.

9. The Parties agree that DE-Ohio accepts all audit recommendations made in the Report of the Financial and Management/Performance

Audit of the Fuel and Purchased Power Rider of Duke Energy-Ohio dated October 12, 2006, except as set forth in paragraphs one through eight above.

The undersigned hereby stipulate and agree and each represents that it is authorized to enter into this Stipulation and Recommendation this 9th day of April, 2007.

Respectfully Submitted,

Paul A. Colbert, Trial Attorney
Associate General Counsel
Rocco D'Ascenzo, Counsel
Duke Energy Ohio
2500 Atrium II, 139 East Fourth Street
P. O. Box 960
Cincinnati, Ohio 45201-0960
(513) 287-3015

On behalf of Staff

Stephen A. Reilly

Its Attorney Stephen Reilly

On Behalf of Ohio Energy Group

David Boehm / SAR per e-mail authority

Its Attorney Dave Boehm

On behalf of the Ohio Hospital Association

Rick Sites / SAR per e-mail authority

Its Attorney Rick Sites

On behalf of the City of Cincinnati

Thomas O'Brien / SAR per e-mail authority

Its Attorney Tom O'Brien

On behalf of People Working

Mary Christensen / SAR per telephone authority

Its Attorney Mary Christensen

On behalf of Cognis

Its Attorney Theodore Schneider

03299

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was served electronically on the following parties this 9th day of April 2007.

Paul A. Colbert
Rocco D'Ascenzo, Counsel

EAGLE ENERGY, LLC
DONALD I. MARSHALL, PRESIDENT
4465 BRIDGETOWN ROAD SUITE 1
CINCINNATI OH 45211-4439
Phone: (513) 251-7283

SKIDMORE SALES & DISTRIBUTING COMPANY, INC.
ROGER LOSEKAMP
9889 CINCINNATI-DAYTON RD.
WEST CHESTER OH 45069-3826
Phone: 513-755-4200
Fax: 513-759-4270

Intervener

AK STEEL CORPORATION
LEE PUDVAN
1801 CRAWFORD ST.

MIDDLETOWN OH 45043-0001

BOEHM, DAVID ESQ.
BOEHM, KURTZ & LOWRY
36 EAST SEVENTH STREET SUITE 1510
CINCINNATI OH 45202-4454

CITY OF CINCINNATI
JULIA LARITA MCNEIL, ESQ

805 CENTRAL AVE STE 150
CINCINNATI OH 45202-5756

COGNIS CORPORATION
35 E. 7TH STREET SUITE 600
CINCINNATI OH 45202-2446
Phone: (513) 345-8291
Fax: (513) 345-8294
CONSTELLATION NEWENERGY, INC.
TERRY S. HARVILL
1000 TOWN CENTER SUITE 2350
SOUTHFIELD MI 48075
Phone: (248) 936-9004

CONSTELLATION POWER SOURCE, INC.	PETRICOFF, M.
MICHAEL D SMITH	VORYS, SATER, SEYMOUR & PEASE
111 MARKETPLACE, SUITE 500	52 EAST GAY STREET P.O. BOX 1008
BALTIMORE MA 21202	COLUMBUS OH 43216-1008
Phone: 410-468-3695	Phone: (614) 464-5414
Fax: 410-468-3541	Fax: (614) 719-4904
CONSUMERS' COUNSEL, OFFICE OF	HOTZ, ANN
	ATTORNEY AT LAW
10 WEST BROAD STREET SUITE 1800	OFFICE OF CONSUMERS' COUNSEL 10 W. BROAD STREET, SUITE 1800
COLUMBUS OH 43215	COLUMBUS OH 43215
DOMINION RETAIL, INC.	ROYER, BARTH
GARY A. JEFFRIES, SENIOR COUNSEL	BELL, ROYER & SANDERS CO,. L.P.A.
1201 PITT STREET	33 SOUTH GRANT AVENUE
PITTSBURGH PA 15221	COLUMBUS OH 43215-3900
Phone: (412) 473-4129	

FIRSTENERGY SOLUTIONS CORP. IRENE PREZELJ, MANAGER, MARKETING 395 GHANT ROAD GHE-408 AKRON OH 44333 Phone: (330) 315-6851	KORKOSZ, ARTHUR FIRST ENERGY, SENIOR ATTORNEY 76 SOUTH MAIN STREET LEGAL DEPT., 18TH FLOOR AKRON OH 44308-1890
GREEN MOUNTAIN ENERGY COMPANY JOHN BUI 600 W. 6TH STREET SUITE 900 AUSTIN TX 78701 Phone: (512) 691-6339 Fax: (512) 691-5363	STINSON, DANE ESQ. BAILEY CAVALIERI LLC 10 W. BROAD ST. SUITE 2100 COLUMBUS OH 43215 Phone: (614) 221-3155 Fax: (614) 221-0479
INDUSTRIAL ENERGY USERS-OHIO SAMUEL C. RANDAZZO, GENERAL COUNSEL MCNEES WALLACE & NURICK LLC 21 EAST STATE STREET 17TH FLOOR COLUMBUS OH 43215 Phone: (614) 469-8000	NONE
KROGER COMPANY, THE MR. DENIS GEORGE 1014 VINE STREET-GO7 CINCINNATI OH 45202-1100	KURTZ, MICHAEL BOEHM, KURTZ & LOWRY 36 EAST SEVENTH STREET SUITE 1510 CINCINNATI OH 45202 Phone: (513) 421-2255 Fax: (513) 421-2764
LEGAL AID SOCIETY OF CINCINNATI 215 E. 9TH STREET SUITE 200 CINCINNATI OH 45202-2146	MORGAN, NOEL LEGAL AID SOCIETY OF CINCINNATI 215 E. NINTH STREET SUITE 200 CINCINNATI OH 45202

03302

MIDAMERICAN ENERGY COMPANY	PETRICOFF, M.
BARBARA HAWBAKER, BALANCING & SETTLEMENT ANALYST	VORYS, SATER, SEYMOUR & PEASE
4299 NW URBANDALE DRIVE	52 EAST GAY STREET P.O. BOX 1008
URBANDALE IA 50322	COLUMBUS OH 43216-1008
Phone: (515) 242-4230	Phone: (614) 464-5414
	Fax: (614) 719-4904
NATIONAL ENERGY MARKETERS ASSOCIATION	GOODMAN, CRAIG
CRAIG G. GOODMAN, ESQ.	NATIONAL ENERGY MARKETERS ASSOC.
3333 K STREET N.W. SUITE 110	3333 K STREET, N.W. SUITE 110
WASHINGTON DC 20007	WASHINGTON DC 20007
Phone: (202) 333-3288	
Fax: (202) 333-3266	
OHIO ENERGY GROUP, INC.	KURTZ, MICHAEL
	BOEHM, KURTZ & LOWRY
	36 EAST SEVENTH STREET SUITE 1510
	CINCINNATI OH 45202
	Phone: (513) 421-2255
	Fax: (513) 421-2764
OHIO HOSPITAL ASSOCIATION	*SITES, RICHARD ATTORNEY AT LAW
RICHARD L. SITES	OHIO HOSPITAL ASSOCIATION
155 E. BROAD STREET 15TH FLOOR	155 EAST BROAD STREET 15TH FLOOR
COLUMBUS OH 43215-3620	COLUMBUS OH 43215-3620
Phone: (614) 221-7614	Phone: 614-221-7614
Fax: (614) 221-7614	Fax: 614-221-4771

OHIO MANUFACTURERS ASSN

33 N. HIGH ST
COLUMBUS OH 43215

PETRICOFF, M.
OHIO MARKETER GROUP
VORYS, SATER, SEYMOUR & PEASE
52 EAST GAY STREET P.O. BOX 1008
COLUMBUS OH 43216-1008
Phone: (614) 464-5414
Fax: (614) 719-4904

OHIO PARTNERS FOR AFFORDABLE ENERGY
COLEEN MOONEY
DAVID RINEBOLT
337 SOUTH MAIN STREET 4TH FLOOR, SUITE 5, P.O. BOX 1793
FINDLAY OH 45839-1793
Phone: 419-425-8860
Fax: 419-425-8862

PEOPLE WORKING COOPERATIVELY, INC.
CHRISTENSEN, MARY ATTORNEY AT LAW
CHRISTENSEN & CHRISTENSEN
401 N. FRONT STREET SUITE 350
COLUMBUS OH 43215
Phone: (614) 221-1832
Fax: (614) 221-2599

LEYDEN, SHAWN ATTORNEY AT LAW
PSEG ENERGY RESOURCES & TRADE LLC
80 PARK PLAZA, 19TH FLOOR
NEWARK NJ 07102

Phone: 973-430-7698

STRATEGIC ENERGY, L.L.C.
CARL W. BOYD

TWO GATEWAY CENTER

PITTSBURGH PA 15222
Phone: (412) 644-3120

PETRICOFF, M.
VORYS, SATER, SEYMOUR & PEASE
52 EAST GAY STREET P.O. BOX 1008
COLUMBUS OH 43216-1008
Phone: (614) 464-5414
Fax: (614) 719-4904

WPS ENERGY SERVICES, INC.

DANIEL VERBANAC

1716 LAWRENCE DRIVE

DE PERE WI 54115
Phone: (920) 617-6100

HOWARD, STEPHEN ATTORNEY AT LAW
VORYS, SATER, SEYMOUR AND PEASE
52 EAST GAY STREET P.O. BOX 1008
COLUMBUS OH 43216-1008
Phone: (614) 464-5401

GRAND ANTIQUE MALL
9701 READING RD.
CINCINNATI OH 45215

MIDWEST UTILITY CONSULTANTS, INC.
PATRICK MAUE
5005 MALLET HILL DRIVE
CINCINNATI OH 45244
Phone: 513-831-2800
Fax: 513-831-0505

RICHARDS INDUSTRIES VALVE GROUP
LEE WOODURFF
3170 WASSON ROAD
CINCINNATI OH 45209
Phone: 513-533-5600
Fax: 513-871-0105

03305

03306

Stipulation Attachment 1
[redacted]
Estimated Benefit to Rider FPP Customers

Line No.	Description	Fuel Type		Total	Comment
		Midsulfur contract	Compliance		

03307

DUKE ENERGY OHIO
Case No. 06-1085
Summary AAC Revenue Requirement

1)	Environmental Compliance	$	79,652,559
2)	Homeland Security		128,000
3)	Tax Law Changes		(5,477,473)
	Total Revenue Requirement	$	74,303,086

03308

DUKE ENERGY OHIO
Case No. 06-1065-EL-UNC
Incremental Environmental Cost

		12/31/2000	5/31/2006	Inncrement
	Return on Environmental Plant			
1)	Original Cost	$ 405,942,184	$ 682,657,284	$ 276,715,100
2)	Reserve for Depreciation	165,336,370	221,251,787	55,915,417
3)	Net Plant	240,605,814	461,405,497	220,799,683
4)	Construction Work in Progress		249,891,773	249,891,773
5)	Total Environmental Plant	$ 240,605,814	$ 711,297,270	$ 470,691,456
6)	Pre-tax Return (11.69%)	$ 28,126,820	$ 83,150,651	$ 55,023,831
	Environmentati O&M Expenses			
7)	Operation and Maintenance	4,453,158	4,809,397	356,239
8)	Environmental Reagents	4,598,944	18,854,155	14,255,211
9)	Annualized Depreciation	7,749,260	17,766,538	10,017,278
10)	Total Environmental Revenue Requirement	$ 44,928,182	$ 124,580,741	$ 79,652,559

03309

DUKE ENERGY OHIO
Case No. 06-1085-EL-UNC
Homeland Security Cost

		Information Technology	Cyber Security	Physical Security	Total
	Return on Capital Expenditures				
1)	Original Cost	$ 84,370	$ 226,365	$ 28,531	$ 339,266
2)	Reserve for Depreciation	22,499	56,591	2	79,092
3)	Net Plant	$ 61,871	$ 169,774	$ 28,529	$ 260,174
4)	Pre-tax Return (11.69%)	$ 7,233	$ 19,847	$ 3,335	$ 30,414
	Homeland Security O&M				
5)	Operation and Maintenance				34,387
6)	Annualized Depreciation	16,874	45,273	548	62,695
7)	Annualized Property Taxes			504	504
8)	Total Homeland Security Revenue Requirement	$ 24,107	$ 65,120	$ 4,387	$ 128,000

DUKE ENERGY OHIO
Case No. 06-1085
Tax Law Changes

1)	Section 199 - Production Activity Deduction	$	(2,116,364)
2)	Commercial Activity Tax vs. Ohio Franchise Tax		(3,361,109)
3)	Total Tax Law Changes	$	(5,477,473)

03311

DUKE ENERGY OHI
Case No. 06-1085
Tax Law Changes - Ol

		Old Law
1)	Pre-tax Income	154,159,400
2)	Effective State Franchise Tax Rate	7.8341%
3)	State Franchise Tax	12,077,002
4)	Gross Revenues	1,025,928,479
5)	Commercial Activity Tax Rate	0.0000%
6)	Commercial Activity Tax (CAT)	0
7)	Federeal Taxable Income	142,082,398
8)	Federal Income Tax @ 35%	49,728,839
9)	Total Income,Franchsie, and CAT	61,805,841

03312

IO

hio

New Law	Change
154,159,400	
4.8525%	
7,480,585	
1,025,928,479	
0.1040%	
1,066,966	
145,611,849	
50,964,147	
58,444,732	(3,361,109)

DUKE ENERGY OHIO
Case No. 06-1085
Tax Law Changes - Section 199

1)	Section 199 Deduction - Year 2005 (a)
2)	Ohio Franchise Rate - Year 2006
3)	Effective State Average Rate (5.1% / 105.1)
4)	Effective Statutory Tax Rate
5)	Less: Average Ohio Franchise Tax Rate
6)	Net Effective Statutory Tax Rate
7)	Statutory Federal Tax Rate
8)	Effective Stautory Federal Tax Rate
9)	Plus: Average Ohio Franchise Tax Rate
10)	Total Effective Statutory Tax Rate
11)	Overall Income Tax Reduction for the 12-Months ended May 31, 2006

(a) Duke Energy Ohio's 2005 Section 199 Deduction
After transfer of generating assets -
Duke Energy Ohio's Share - 83.3%
Duke Energy Kentucky's Share - 16.7%

$	5,547,119
	5.10%
	4.85%
	100.00%
	-4.85%
	95.15%
	35.00%
	33.30%
	4.85%
	38.15%
$	2,116,364
$	6,659,206
$	5,547,119
$	1,112,087

03315

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke Energy Ohio, Inc. to Modify Its Fuel and Economy Purchased Power Component of Its Market-Based Standard Service Offer.	)	Case No. 06-1068-EL-UNC
In the Matter of the Application of the Cincinnati Gas & Electric Company to Modify Its Fuel and Economy Purchased Power Component of Its Market-Based Standard Service Offer.	)	Case No. 05-725-EL-UNC
In the Matter of the Application of Duke Energy Ohio, Inc. to Adjust and Set its System Reliability Tracker.	)	Case No. 06-1069-EL-UNC
In the Matter of the Application of Duke Energy Ohio, Inc. to Adjust and Set its System Reliability Tracker Market Price.	)	Case No. 05-724-EL-UNC
In the Matter of the Application of Duke Energy Ohio, Inc. To Adjust and Set the Annually Adjusted Standard Service Offer.	)	Case No. 06-1085-EL-UNC

CONFIDENTIAL

APPLICATION FOR REHEARING
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL

The Office of the Ohio Consumers' Counsel ("OCC"), on behalf of the residential consumers of Duke Energy Ohio, Inc. ("Company" or "Duke Energy," including its predecessor, The Cincinnati Gas and Electric Company) and pursuant to R.C. 4903.10 and Ohio Adm. Code 4901-1-35(A), applies for rehearing of the Opinion and Order ("Order") issued by the Public Utilities Commission of Ohio ("PUCO" or

"Commission") on November 21, 2007 in the above-captioned cases. The OCC submits that the Commission's Remand Order is unreasonable and unlawful in the following particulars:

A. The Commission's Remand Order is unreasonable and unlawful because the Commission failed, as a quasi-judicial decision-maker, to "permit a full hearing upon all subjects pertinent to the issues(s), and to base [its] conclusion upon competent evidence" in violation of case law and R.C. 4903.09. *City of Bucyrus v. State Dept. of Health*, 120 Ohio St. 426, 430.

   1. The Auditor's Report should be followed regarding FPP Charges.

   2. Capacity costs should be based on actual costs, which excludes charges related to the DENA Assets at this time.

   3. The Order fails to eliminate additional "AAC" charges requested by the Company without any evidentiary basis.

B. The Commission's Order is unreasonable and unlawful because the Commission improperly delegated its duties to the Company and the Commission's Staff.

C. The Commission's Order is unreasonable and unlawful because the Commission failed to determine that certain entities had no standing in these cases.

D. The Commission's Order is unreasonable and unlawful because the Commission failed to properly apply the test for approval of a partial stipulation. *Consumers Counsel v. Pub. Util. Comm.*, (1992), 64 Ohio St. 3d 123, 125.

   1. The settlement was not the product of serious bargaining.

   2. The settlement package does not benefit the public interest.

   3. The settlement package violates important regulatory policies and practices.

The reasons for granting this Application for Rehearing are set forth in the attached Memorandum in Support.

03317

Respectfully submitted,

Janine L. Migden-Ostrander
Consumers' Counsel

Jeffrey L. Small, Counsel of Record
Ann M. Hotz
Larry S. Sauer
Assistant Consumers' Counsel

Office of The Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
Telephone: 614-466-8574
E-mail: small@occ.state.oh.us
hotz@occ.state.oh.us
sauer@occ.state.oh.us

03318

TABLE OF CONTENTS

TABLE OF CONTENTS cont'd.

03320

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke Energy Ohio, Inc. to Modify Its Fuel and Economy Purchased Power Component of Its Market-Based Standard Service Offer.	)	Case No. 06-1068-EL-UNC
In the Matter of the Application of the Cincinnati Gas & Electric Company to Modify Its Fuel and Economy Purchased Power Component of Its Market-Based Standard Service Offer.	)	Case No. 05-725-EL-UNC
In the Matter of the Application of Duke Energy Ohio, Inc. to Adjust and Set its System Reliability Tracker.	)	Case No. 06-1069-EL-UNC
In the Matter of the Application of Duke Energy Ohio, Inc. to Adjust and Set its System Reliability Tracker Market Price.	)	Case No. 05-724-EL-UNC
In the Matter of the Application of Duke Energy Ohio, Inc. To Adjust and Set the Annually Adjusted Standard Service Offer.	)	Case No. 06-1085-EL-UNC

MEMORANDUM IN SUPPORT

I. HISTORY OF THE CASE AND INTRODUCTON

A. Introduction

The OCC's Application for Rehearing and briefs in the "Remand Cases," Case Nos. 03-93-EL-ATA, et al., identified the parties who supported the proposals offered by Duke Energy in the Remand Cases (heard in "Phase I" of the cases consolidated with the above-captioned cases).[1] Those parties supporting Duke's proposals remained essentially the same in the above-captioned cases (the subject of "Phase II" of the hearings). This situation further demonstrates the importance of evidence regarding the side deals between the Duke-affiliated companies and parties or members of parties to these proceedings. The impact of those side deals is documented, among other places, in the Commission's Order on Remand in the cases that were consolidated with the above-captioned cases.[2]

Serious negotiation of a stipulation regarding the Company's Fuel and Purchased Power ("FPP") tracker, System Reliability Tracker ("SRT"), and Annually Adjusted Component ("AAC") charges could only take place with parties that represent customers who bear the full brunt of the rate increases and that have not otherwise been "captured" by the Company by means of other financial arrangements. Such serious negotiation did not take place regarding the stipulation entered into by parties and filed on April 9, 2007 ("2007 Stipulation," Joint Remand Rider Ex. 1[3]).

---

[1] *In re Post-MDP Generation Service Cases*, Case Nos. 03-93-EL-ATA, et al., OCC Application for Rehearing (November 23, 2007). For notational convenience, the portions of the case before and after the Court's deliberations are cited separately. The proceedings prior to the appeal are referred to, collectively, as the "*Post-MDP Service Case*." The proceedings after the appeal are referred to, collectively, as the "*Post-MDP Remand Case*." The *Post-MDP Remand Case* was separated in some respects into Phase I and Phase II (the latter the subject of the Order dated November 20, 2007).

[2] *In re Post-MDP Remand Case*, Order on Remand at 27 (October 24, 2007) ("inevitable conclusion").

[3] The cases consolidated to form the *Post-MDP Service Case* were further consolidated with the above-captioned "Rider" cases. Order at 6. A single evidentiary record exists that is applicable to the ultimate decisions in all the consolidated cases, including those that were originally consolidated with Case No. 03-93-EL-ATA, even though the above-captioned cases were heard, briefed, and decided separately in Phase II of the hearings. Exhibit references to the portion of the proceedings in Phase I after remand from the Court contain the word "Remand" to distinguish them from other exhibits. Exhibit references to the portion of the proceedings in Phase II after remand from the Court contain the words "Remand Rider."

B. Burden of Proof

The burden of proof in these cases rests upon Duke Energy, and the OCC does not bear any burden of proof in these cases. In a hearing regarding a proposal that does not involve an increase in rates, R.C. 4909.18 provides that "the burden of proof to show that the proposals in the application are just and reasonable shall be upon the public utility." In a hearing regarding a proposal that does involve an increase in rates, R.C. 4909.19 provides that, "[a]t any hearing involving rates or charges sought to be increased, the burden of proof to show that the increased rates or charges are just and reasonable shall be on the public utility." In the following sections, the OCC will explain how Duke Energy failed to prove that its post-MDP pricing proposals should have been adopted by the Commission.

C. Procedural History for These Cases

As stated in the Order, these cases were consolidated with the proceedings regarding the remand from the Court in a transcribed prehearing conference held on December 14, 2006.[4] That prehearing conference was attended by counsel for People Working Cooperatively ("PWC") who stated a lack of interest in the above-captioned cases and a desire that these cases not be consolidated with those on remand. The prehearing conference was not attended by other parties to the *Post-MDP Service Case*, which included the Ohio Hospital Association ("OHA"). Neither PWC nor OHA moved to intervene in the above-captioned cases, and neither is a party. Counsel for the Ohio Energy Group ("OEG") attended the prehearing conference, but OEG did not intervene in

[4] Order at 6.

Case No. 06-1085-EL-UNC that deals with the AAC portion of Duke Energy's proposed standard service offer.

Phase II of the hearings featured the submission of the Auditor's Report prepared by Energy Ventures Analysis, Inc. ("EVA"), as assisted by Larkin & Associates. Mr. Seth Schwartz of EVA and Mr. Ralph Smith of Larkin & Associates ("Larkin") supported the results of the Auditor's Report in their live testimony on April 10, 2007. The Audit's Report was prepared by EVA and Larkin for the audit period July 1, 2005 through June 30, 2006.[5]

The second day of the hearing for Phase II convened on April 19, 2007, and largely dealt with the 2007 Stipulation. Although not parties to the case, PWC and OHA both instructed counsel for the PUCO Staff to execute the 2007 Stipulation on their behalf. Also, OEG gave similar instructions even though it did not move to intervene in Case No. 06-1085-EL-UNC.

The Commission's Order in the above-captioned cases was issued on November 20, 2007, and is the subject of the instant Application for Rehearing.

[5] PUCO Ordered Remand Rider Exhibit 1 at 1-1 (Auditor's Report).

II. ARGUMENT

A. The Commission's Order Is Unreasonable And Unlawful Because The Commission Failed, As A Quasi-Judicial Decision-Maker, To "Permit A Full Hearing Upon All Subjects Pertinent To The Issues(s), And To Base [Its] Conclusion Upon Competent Evidence" In Violation Of Case Law And R.C. 4903.09. *City Of Bucyrus V. State Dept. Of Health*, 120 Ohio St. 426, 430.

1. The Auditor's Report should be followed regarding FPP charges.

The Commission has placed in effect a process by which management audits are conducted regarding the costs that are included to arrive at the FPP and SRT charges. The Commission undertook this evaluation because "[i]t is not in the public interest to cede this review."[6] During the hearing, at which an OCC witness supported a similar process regarding AAC charges,[7] the cost of audits was raised by Duke Energy.[8] The Commission has exerted considerable effort to review Duke Energy's management of generation costs by means of obtaining technical advice from outside experts, and costs undeniably exist in connection with such audits. The recommendations of the experts hired by the PUCO, submitted on the record in these cases, should be heeded and not ignored in favor of the intransigent policies of Duke Energy.

The audit of Duke Energy's practices revealed that the Company's treatment of matters that affect the FPP calculation has needlessly raised costs. The Auditor's Report, entered into the record as PUCO Ordered Remand Rider Ex. 1, contained major

[6] *Post-MDP Service Case*, Entry on Rehearing at 10 (November 23, 2004).

[7] OCC Remand Rider Ex. 1 at 5 (Haugh).

[8] See, e.g., Tr. Remand Rider Vol. II at 58 (April 19, 2007) (Haugh).

recommendations regarding Duke Energy's transactions that affect FPP charges that were rejected as the result of the PUCO's approval of the Stipulation. The recommendations rejected by Duke Energy, and therefore by the Commission in its Order, concern the adoption of "traditional utility procurement strategies related to the procurement of coal and emission allowances" (i.e. cease active management of such procurements) and the development of "portfolio strategy such that [Duke Energy] purchases coal through a variety of short, medium and long-term agreements with appropriate supply and supplier diversification with credit-worthy counterparties."[9] The Order mentions these two issues, but does not address another issue raised by the OCC regarding the recommendation by EVA "that as long as the FPP is in effect coal suppliers should not be required to allow the resale of their coal for the offers to be considered."[10] These three recommendations should be adopted by the Commission based on the record in these cases.

As noted in the Order, EVA's Seth Schwartz supported the recommendation that Duke Energy adopt a traditional utility procurement strategy for its coal purchases.[11] As stated in the Order, Mr. Swartz testified that the Company failed to "demonstrate whether the [active management] approach was a lower-cost approach."[12] The Company has the burden of proof, which has not been met under these circumstances. In further support for the Auditor's position, the Company's only argument is that an approach that is

---

[9] PUCO Ordered Remand Rider Exhibit 1 at 1-9 through 1-10 (Auditor's Report).

[10] Id. at 1-10.

[11] Order at 13.

[12] Id. at 14, citing Tr. Vol. Remand Rider I at 69-70.

appropriate for a regulatory environment is not appropriate for a deregulated environment.[13] On cross examination, the Auditor stated his "position that it is reasonable for the [C]ompany to project that there will, in fact, be a demand for electricity to be supplied from these [Company] generating stations whether or not they had regulated retail sales or firm sales at the present time."[14] It is, therefore, unreasonable for Duke Energy to approach the purchase of coal by means other than it uses for its utilities that are in a fully regulated situation. The PUCO should not dismiss the expert opinion that was obtained at the behest of the Commission.

Related to the "active management" issue -- but subject to a separate EVA recommendation that is not mentioned in the Order -- EVA recommended that Duke Energy permit the consideration of bids from bidders who seek to limit the resale of their coal.[15] The Company should follow this recommendation because it opens up additional opportunities to obtain low-cost bids. The Auditor's Report states that "[n]ot every coal producer allows their coal to be resold. CG&E buys from those who do."[16] Duke Energy's defense of its practice is disingenuous. Company Witness Whitlock stated that "DE-Ohio does *include the resale of coal as a condition on its RFPs* but does not exclude an offer from consideration if the supplier will not permit the resale of coal."[17] Suppliers who desire to place restrictions on the resale of coal should not be told not to bid, and any

[13] Order at 14.

[14] Tr. Vol. Remand Rider Vol. I at 106 (April 10, 2007) (Auditor).

[15] PUCO Ordered Remand Rider Exhibit 1 at 1-10 (Auditor's Report).

[16] Id. at 2-11 (Auditor's Report).

[17] Company Remand Rider Ex. 2 at 9 (Whitlock Supplemental) (emphasis added).

other result would not result in acceptance of "all audit recommendations . . . except as set forth in paragraphs one through eight above."[18] Duke Energy should be specifically ordered to remove the restriction on the resale of coal from its requests for proposals and to select bids on a least cost basis.

EVA's recommendation that the Company should develop a portfolio approach to the purchase of coal essentially argues that the Company's self-imposed constraint against the purchase of coal on a longer-term basis does not offer lower costs than a purchasing regimen that is not artificially constrained. The response to this evidence seems to accept this result by approving a provision within the 2007 Stipulation that provides for the "initiation of discussions."[19] The best that can result from the Order is the beginning of discussions that are too late to protect customers through the end of 2008, and a result that "leav[es] DE-Ohio's customers totally exposed to the market at that time [i.e. the beginning of 2009]."[20] The result, therefore, is especially inconsistent "in light of pending legislation related to the post-RSP period."[21]

Company Witness Whitlock made an argument similar to that made by EVA and the OCC in his testimony regarding capacity purchases that are charged as part of the SRT:

> As I discussed earlier regarding economic management and balancing our resources earlier, DE-Ohio believes that it is beneficial to purchase capacity instruments for periods longer than a year and to do so would enable DE-Ohio to take advantage of

[18] Joint Remand Rider Ex. 1 at 7-8 ("accepts all audit recommendations . . . except as set forth in paragraphs one through eight above").

[19] Order at 16.

[20] PUCO Ordered Remand Rider Exhibit 1 at 2-19 (Auditor's Report).

[21] Order at 16.

> reliability and pricing opportunities in the market that would accrue to the benefit of MBSSO consumers.[22]

The Auditor's Report states that Duke Energy has passed up attractive coal contracts that have increased FPP charges and left an exposure to coal markets after 2008.[23] The Company's self-imposed restriction on the periods covered by its coal contracts raises fuel costs, a policy that does not serve either Duke Energy or its customers.

Duke Energy should be ordered to follow EVA's recommendations regarding its coal management policies. The Commission should arrive at this result based upon the evidence in the record stemming from the Audit Report and related testimony, but also based upon the testimony of the Company's witnesses.

2. Capacity costs should not include charges related to the DENA Assets at this time.

The Auditor's Report contained the following major recommendation regarding Duke Energy's SRT charges:

> 6. EVA recommends that purchase of reserve capacity from DENA Assets should not be eligible for inclusion in the SRT, as is currently the case.[24]

The Order unreasonably rejects the Auditor's recommendation, stating the Commission's lack of concern over the Company's non-compliance with prior orders and its acceptance of the proposed pricing mechanism.[25] The Auditor's expert recommendation, solicited

---

[22] Company Remand Rider Ex. 1 at 7 (Whitlock).

[23] PUCO Ordered Remand Rider Exhibit 1 at 2-19 (Auditor's Report).

[24] PUCO Ordered Remand Rider Exhibit 1 at 1-10 (Auditor's Report).

[25] Order at 20-21.

by the PUCO and made part of the record, should be accepted in the Order instead of being ignored.

The record displays a conflict between Duke Energy's demands as stated in the 2007 Stipulation and requirements stated in earlier proceedings. In PUCO Case No. 05-724-EL-UNC, the Commission adopted a stipulation filed on October 27, 2005 ("SRT Stipulation"[26]). The SRT Stipulation was entered into by Duke Energy, the OCC, and other parties who agreed in October 2005 to a number of provisions in Case No. 05-724-EL-UNC.[27] The SRT Stipulation, part of which is quoted in the Order,[28] required Duke Energy to submit an application "for approval of the SRT market price associated with such DENA Asset(s)" and to "provide OCC with workpapers and other data supporting the use of DENA Assets . . . ."[29]

The hallmark of the SRT Stipulation provisions regarding the use of the DENA Assets was the ability of the OCC to review and analyze Duke Energy proposals at the before-the-application and application stages of the Company's proposals. The SRT Stipulation required much more than the discovery provided for in every proceeding.[30] The Order recognizes that the Company provided no information to the OCC in these

[26] The SRT Stipulation is reviewed in the Auditor's Report. PUCO Ordered Remand Rider Exhibit 1at 6-1 through 6-2 (Auditor's Report). The SRT Stipulation itself is an exhibit in the record. OCC Remand Rider Exhibit 4. in which it was stated that Duke Energy could not use the DENA Assets in its SRT calculations without an application to the Commission requesting approval. *In re Setting of SRT*, Case No. 05-724-EL-UNC, Order at 6 (November 22, 2005).

[27] OCC Remand Rider Ex. 4.

[28] Order at 17.

[29] Id. at 5, ¶8.

[30] R.C. 4903.082. The agreement in the SRT Stipulation is therefore meaningless unless more was required of Duke Energy than responding to OCC discovery requests after an application was filed.

cases other than that which was sought by the OCC in ordinary discovery.[31] The application did not contain the pricing proposal associated with the use of the DENA Assets, as required by the SRT Stipulation, and the Order documents that that Duke Energy did not even provide a proposed price in the late-negotiated 2007 Stipulation.[32] The substance of the Commission's order that adopted the SRT Stipulation was not followed.

The Auditor's Report states that Duke Energy "has not demonstrated that its native customers are paying more for capacity in the market than they would if DE-Ohio purchased capacity for the legacy DENA [plants].[33] That is, the Company has not met its burden of proof regarding the use of the DENA plants. The Auditor's Report discusses the alternatives available to Duke Energy:

> EVA agrees with DE-Ohio as to the types of capacity products it is considering and notes that this list may change over time. As a result, monitoring of the market for alternatives is appropriate. EVA supports the use of a greater mix of products similar to what DE-Ohio employed in 2005 rather than the heavy reliance on one type of product in 2006. Further, and as noted below, DE-Ohio should be considering the use of multi-year arrangements rather than only single-year and spot products in its mix. * * * EVA agrees with DE-Ohio that is {sic, it} should employ arrangements that include capacity commitments for more than one year. In fact, it is not clear to EVA that DE-Ohio had previously been precluded from doing so. EVA believes that DE-Ohio should employ a portfolio strategy similar to what EVA is recommending for fuel.[34]

---

[31] Order at 20. The record, upon which the PUCO must base its decision, does not contain any information regarding the discovery process unless that information is contained in testimony.

[32] Id.

[33] PUCO Ordered Remand Rider Exhibit 1at 6-5 (Auditor's Report).

[34] Id. at 6-4 through 6-5.

EVA recommended the expansion of options applied by Duke Energy beyond the limited options selected by the Company's management.[35] The Order unreasonably adopts the Company's proposal to use the DENA Assets while completely ignoring the Auditor's expert advice regarding least-cost alternatives.

The Order approves the vague pricing proposal contained in the 2007 Stipulation. That document proposes to charge for capacity from the DENA Assets based upon broker quotes, prices for third-party transactions, or by a method acceptable to only the Company and the PUCO Staff.[36] The use of broker quotes or third party transaction prices would not deliver savings from "the most reasonably priced capacity available" that was promised by Company Witness Whitlock.[37] To the contrary, use of the DENA Assets presents the danger of unreasonably high charges that could result from the Company's determination of costs associated with *Company-owned generation*.[38] The third pricing mechanism, agreement with the PUCO Staff, amounts to providing Duke Energy and the PUCO Staff the opportunity to enter into negotiations without the involvement of other parties and for these two parties to the 2007 Stipulation to make decisions in these cases. As further explained later in this Application for Rehearing, the

---

[35] Company Remand Rider Exhibit 2 at 11 (Whitlock Supplemental) ("[l]imiting the options . . . [which] can only increase the cost to consumers"). The opportunity presented by the DENA Assets appears to be limited. Although Company Witness Whitlock stated that the location of DENA Assets "should not exclude them from consideration for Rider STR capacity purchases" (Company Remand Rider Exhibit 2 at 14), Mr. Whitlock stated under cross examination that he did not know whether a MISO transmission study had been conducted to determine whether the DENA Assets located in the PJM footprint could qualify as a Designated Network Resource ("DNR") to meet MISO requirements. Tr. Vol. Remand Rider Vol. I at 141-142 (April 10, 2007) (Whitlock).

[36] Joint Remand Rider Ex. 1 at 7, ¶8 (2007 Stipulation).

[37] Company Remand Rider Ex. 2 at 11 (Whitlock Supplemental).

[38] Company Witness Smith agreed that the word "purchases" in paragraph 8 of the 2007 Stipulation is inappropriate under circumstances where the generating facilities are owned by the Company. Tr. Remand Rider Vol. II at 95 (April 19, 2007) (Smith).

Commission may not lawfully delegate such decision-making responsibilities, and any such decision would not be based upon the record in these cases.

The Commission should rely on the expert opinion of the Auditor and reinstate the PUCO's previous position that did not permit the calculation of the SRT based upon reserve capacity from DENA Assets.

3. A return on CWIP should not be included in the AAC charges.

The Order's inclusion of plant CWIP amounts in the AAC recognize that the Commission previously stated that a review would be undertaken regarding these charges.[39] Approval of the CWIP amounts, however, has been achieved by Duke Energy without undergoing any significant review of its underlying costs. The reasonableness of a return on CWIP for environmental plant in the AAC calculations is a matter that is not covered by Staff's inquiries. Asked whether he formulated an opinion regarding whether a return on such CWIP is an appropriate component of the AAC, Staff Witness Tufts stated that he "did not form an opinion and that's not part of [his] testimony."[40] Neither the Company nor the Staff provided any detail -- for example, of the percentage completion of environmental upgrades at Duke Energy's plants -- that might further inform the Commission regarding the Company's cost of providing service.

Without more detailed knowledge of the CWIP accounts, the calculations available to the Commission are provided in the testimony of Company Witness Wathen and OCC Witness Haugh. Mr. Wathen provides a calculation of 9.1 percent of "little g"

[39] Order at 23.

[40] Tr. Remand Rider Vol. II at 35 (April 19, 2007) (Tufts).

based upon the inclusion of all CWIP, regardless of its state of completion.[41] As OCC Witness Haugh pointed out, this calculation takes advantage of the CWIP regulatory concept while completely ignoring regulatory practice for the evaluation of generation costs while plant additions are in progress.[42]

Mr. Haugh's calculation of 5.6 percent of "little g" excludes the return on CWIP from the calculation of the AAC.[43] Mr. Haugh explained that the elimination of a return on CWIP is consistent with Commission discretion regarding the treatment of CWIP for rate setting purposes. In the present situation, elimination of the return on CWIP is appropriate since customers may receive little or no benefit from the plant additions.[44]

Mr. Haugh's result is also consistent with the previous statements within the context of the *Post-MDP Service Case*, including the Commission's statement that the AAC should include "expenses."[45] The Company's proposed AAC in the 2004 Stipulation for purposes of charging market-based rates requested $60,172,508 out of a total calculation of $107,514,533.[46] The Commission's related finding resulted in only approval of $53,725,267,[47] a result that is inconsistent with Company Witness Wathen's calculations. The Order states that the PUCO originally "based [its] determination in part

[41] Company Remand Rider Ex. 4 at 11 (Wathen).

[42] OCC Remand Rider Exhibit 1 at 7 (Haugh).

[43] Id. at 11 (Haugh).

[44] Id. at 7.

[45] Id. at 9, quoting *Post-MDP Service Case*, Order at 32 (September 29, 2004).

[46] Id. at 8-9.

[47] Id.

on Duke's supplied calculations."[48] The history of these cases reveals, however, that the Commission never accepted the entirety of the Company's calculations and rejected the type of calculations presented by Company Witness Wathen. The Commission should return to its earlier reasoning and reduce the AAC charge.

The Company's argument regarding the AAC charge is inconsistent with the Company's representations regarding other generation charge components in the consolidated record.[49] As discussed above, Duke Energy submitted costs for its FPP and SRT purchases that reflect new contracts that do not extend beyond the end of 2008, thereby increasing these costs and the corresponding charges required of customers.[50] Duke Energy should not be permitted to charge customers for plant CWIP amounts through the AAC in a manner that could only be justified by the assumption of long-term provision of generation service to its customers while increasing costs that become part of the FPP and SRT with the explanation that the Company can not assume it will be the long-term provider. The AAC should not include amounts requiring customers to pay for CWIP.

[48] Order at 23.

[49] The Remand Order again runs afoul of R.C. 4903.09 that requires that the Commission "shall file . . . finding of fact and written opinions setting forth the reasons prompting the decision arrived at, based upon said findings of fact." See also, *City of Bucyrus v. State Dept. of Health*, 120 Ohio St. 426, 430.

[50] These matters, along with evidentiary support that includes warnings from the Auditor, were extensively briefed in the *Rider Cases*. OCC Initial Post-Remand Brief, Phase II at 6-7.

B. The Commission's Order Is Unreasonable And Unlawful Because The Commission Impermissibly Delegated Its Duties To The Company And The Commission's Staff.

Portions of the Order give the appearance that the Commission adopted the 2007 Stipulation,[51] but the 2007 Stipulation cannot be carried out according to its literal terms due to the time that elapsed between the hearing and issuance of the Order. As an example, the 2007 Stipulation provides that FPP credits will be "included in the quarterly Rider FPP filing for the period beginning July 1, 2007, and ending September 30, 2007 . . . ."[52] That action is impossible as the result of an Order dated November 20, 2007. The Order's apparent resolution of this conflict is contained in its order that "Duke [Energy] work with staff to determine a reasonable period over which the amounts authorized by this Opinion and Order should be trued-up and collected."[53] This provision amounts to providing Duke Energy and the PUCO Staff the opportunity to enter into negotiations without the involvement of other parties and for these two parties to the 2007 Stipulation to make decisions in these cases. The Commission may not lawfully delegate such decision-making responsibilities, and any such decision cannot be based upon the record in these cases.

These cases ultimately rest upon the Commission's authority to approve standard service offer rates after a filing that is required by R.C. 4928.14(A). That division states

---

[51] Order at 30 (November 20, 2007) ("the stipulation [is] approved and adopted").

[52] Joint Remand Rider Ex. 1 at 4 (2007 Stipulation).

[53] Order at 30. The Order appears to also intend for true-up and *crediting to customers*. Any other interpretation of the Order is unreasonable and unlawful based upon the absence of a record to support asymmetrical treatment of the provisions in the 2007 Stipulation. As stated earlier, the Order also illegally delegates the SRT pricing mechanism associated with use of the DENA Assets to the Company and the PUCO Staff. These two parties to the 2007 Stipulation may not legally be provided authority to implement agreements that have not undergone scrutiny by the PUCO itself.

that "[s]uch [a standard service offer] shall be filed with the public utilities commission under section 4909.18 of the Revised Code." Decisions regarding rates, pursuant to R.C. 4909.18, reside with the Commission. Pursuant to R.C. 4903.09, such a decision must state "the reasons prompting the decisions arrived at, based upon . . . findings of fact." In contravention with the requirements set forth in the Revised Code, the Order delegates decision-making to agreement between the Company and the PUCO's Staff, decisions that cannot be based on the record in this case because the provision in the 2007 Stipulation are out of date due to the timing of the Order.

The Commission resisted earlier attempts by Duke Energy (then CG&E) to determine rate matters by submissions to only the PUCO Staff and not to the Commission itself. In response to Duke Energy's proposals in its Application for Rehearing submitted in 2004, the Commission stated:

> The amendment to the stipulation, attached to CG&E's application for rehearing, details the involvement that it expects from the Commission in the determination of the appropriate levels for the SRT, the AAC, and the FPP in various years. * * * In all of these cases, the Commission finds that it is . . . necessary to clarify that the Commission, in its consideration of CG&E's expenditures in these categories, will continue to consider the reasonableness of expenditures. *It is not in the public interest to cede this review.*[54]

The matters raised in the Order and not definitely resolved must be decided by the Commission itself as a matter of sound policy as well as a matter of law.

Examples illustrate the importance of a complete Commission decision in these cases. As one example, the Order notes the "pending legislation relating to the electric

[54] *Post-MDP Service Case*, Case Nos. 03-93-EL-ATA, et al., Entry on Rehearing at 9-10 (November 23, 2004).

industry,"[55] and that legislation (i.e. S.B. 221) recently passed the Ohio Senate containing a provision forming baseline rates based upon those rates in effect on February 1, 2008. Therefore, the manner of carrying out the "true-up" for 2007 could result in an actual true-up, or could result in a permanent increase in rates. The Commission, not Duke Energy and the PUCO Staff, should make the decisions regarding the adjustment of rates based upon a record developed in these cases.

Other matters of implementing the true-ups may remain in dispute without clear decisions by the Commission regarding implementation of true-ups that are the subject of the outdated provisions contained in the 2007 Stipulation. For instance, the Order mentions the OCC's observation that the 2007 Stipulation provides a true-up process without charging interest.[56] An appropriate interpretation of the 2007 Stipulation precludes the application of carrying charges that was previously the subject of a Commission Entry regarding interim rates for 2007.[57] The Order does not clearly state the Commission's treatment of interest charges. The OCC objects to the imposition of such charges to the extent that they result from the Order and the implementation of the Order by the Company and the PUCO Staff which cannot be based upon the record in these cases.

The proper authority for the approval of rates is the Commission, and not the Company or the Commission's Staff. A decision by the Commission on all matters before it in these cases will also resolve matters regarding the implementation of the

[55] Order at 28.

[56] Order at 28. The observation is further explained regarding SRT and AAC charges is contained in the OCC's briefs. See, e.g., OCC Initial Post-Remand Brief, Hearing Phase II at 27 (May 17, 2007).

[57] Entry at 6 (December 20, 2006).

Order that remain unclear. Such a resolution must be based upon the record in these cases.

C. The Commission's Order Is Unreasonable And Unlawful Because The Commission Failed To Determine That Certain Entities Had No Standing In These Cases.

The Order states "APPEARANCES" at its beginning and unquestioningly considers the support of signatories to the 2007 Stipulation. Two of those signatories – PWC and OHA -- never moved to intervene in the above-captioned cases and did not file timely briefs.[58] These entities were not parties to the above-captioned cases and have no standing. OEG, which moved to intervene in all but Case No. 06-1085-EL-UNC, is not a party to that case and did not have standing in that case.

Intervention in proceedings before the PUCO is governed by R.C. 4903.221 and is the subject of Ohio Adm. Code 4901-1-11. A request to intervene is not an empty gesture. R.C. 4903.221 states criteria that the Commission must consider when the matter of a party's participation in a case is placed at issue. Ohio Adm. Code 4901-1-11(C) states that "[a]ny person desiring to intervene in a proceeding *shall* file a motion to intervene with the commission, and shall *serve* it upon all parties . . . ." The words used in the Commission's rules *require* action before a person may gain standing as a party. The filing and service of a motion to intervene provide others the opportunity to oppose such an intervention request.[59] Party status also brings with it responsibilities such as the

[58] On June 1, 2007, PWC submitted a Motion for Extension of Time to File Reply Brief, Phase II, that did not comply with Ohio Adm. Code 4901-1-13(B) regarding an extension of time. The motion to file a brief out of time was neither granted nor denied. PWC's pleading is best described as a renewed motion to strike, and the Order discusses PWC's pleading in that context. Order at 29 (November 20, 2007) ("dedicated to renewal of its prior motion . . . intended to strike").

[59] Ohio Adm. Code 4901-1-12(B)(1).

requirement to respond to discovery inquiries that might reveal the intervenor's interests. These requirements were not met in any of the above-captioned cases by PWC or OHA, and were not met regarding by OEG in Case No. 06-1085-EL-UNC.

The present circumstances illustrate the importance of the intervention process, which might include opposition to a motion to intervene. The Order states that "[r]esidential consumers were represented by PWC" in negotiations over the rates provided for in the 2007 Stipulation. The OCC brought PWC's failure to intervene to the Commission's attention at the point when PWC sought to strike portions of the OCC's Reply Brief after the Phase II hearing.[60] The absence of a motion to intervene by PWC, however, deprived the OCC of the opportunity to state its objection to any characterization (had it been made) that PWC represents residential customers in rate-setting matters.[61] From its Motion to Intervene in the *Post-MDP Service Case* during 2004, PWC is "a small, non-profit organization * * * [whose] mission is to provide essential repairs and services so that homeowners can remain in their homes. . . ."[62] By extension of the Order's reliance on PWC as a representative of residential customers, every company would become a consumer advocate if it provides services to people who might be residential consumers. Such a result from the Order is error, and is inimical to organized legal practice before the Commission.

[60] OCC Memorandum Contra PWC's Motion for Extension of Time to File Reply Brief, Phase II at 8 (June 6, 2007).

[61] The Commission also erred by accepting PWC as a representative of residential customers for purposes of supporting the 2007 Stipulation, which is examined further in later argument.

[62] *Post-MDP Service Cases*, PWC Motion to Intervene at 2 (March 9, 2004).

The OCC was improperly and illegally deprived of an opportunity to argue matters of standing regarding PWC, OHA, and OEG in the cases where they did not move to intervene.

D. The Commission's Order Is Unreasonable And Unlawful Because The Commission Failed To Properly Apply The Test For Approval Of A Partial Stipulation. *Consumers Counsel V. Pub. Util. Comm.*, (1992), 64 Ohio St. 3d 123, 125.

The 2007 Stipulation was filed just prior to the hearing on Phase II of these cases.[63] The standard of review for consideration of a partial stipulation has been discussed in a number of Commission cases and by the Ohio Supreme Court. See, e.g., *CG&E ETP Case*, PUCO Case No. 99-1212-EL-ETP, et al., at 65 (July 19, 2000).

Among other places, the Ohio Supreme Court has addressed its review of stipulations in *Consumers Counsel v. Pub. Util. Comm.*, (1992), 64 Ohio St. 3d 123, 125 ("*Consumers' Counsel 1992*"). Citing *Akron v. Pub. Util. Comm.* (1978), 55 Ohio St.2d 155, 157, the Ohio Supreme Court stated in *Consumers' Counsel 1992* that:

> The Commission, of course, is not bound to the terms of any stipulation; however, such terms are properly accorded substantial weight. Likewise, the commission is not bound by the findings of its staff. Nevertheless, those findings are the result of detailed investigations and are entitled to careful consideration.
>
> In *Duff v. Pub. Util. Comm.* (1978), . . . in which several of the appellants challenged the correctness of a stipulation, we stated:
>
> A stipulation entered into by the parties present at a commission hearing is merely a recommendation made to the commission and is in no sense legally binding upon the commission. The commission may take the stipulation into consideration, but must determine what is just and reasonable from the evidence presented at the hearing.[64]

[63] Joint Remand Rider Ex. 1 (2007 Stipulation).

[64] *Consumers' Counsel 1992* at 125.

The negotiations of the 2007 Stipulation served narrow interests while broader interests were ignored. The Court is concerned with *actual* participation for representatives of all classes of customers in settlement discussions, including residential customers.[65] The 2007 Stipulation rejects many of the recommendations contained in the Audit Report that were supported in testimony by the Auditor. The result advanced by the 2007 Stipulation is not "just and reasonable."

The Court in *Consumers' Counsel 1992* considered whether a just and reasonable result was achieved with reference to criteria adopted by the Commission in evaluating settlements:

> 1. Is the settlement a product of serious bargaining among capable, knowledgeable parties?
>
> 2. Does the settlement, as a package, benefit ratepayers and the public interest?
>
> 3. Does the settlement package violate any important regulatory principle or practice?[66]

The OCC submits that the 2007 Stipulation, which "recommend[s] that the Public Utilities Commission of Ohio . . . approve the [2007 Stipulation]," violates the criteria set out by the Commission and the Ohio Supreme Court.[67] The Commission's erred when it failed to properly apply the test set out in *Consumers' Counsel 1992*.

---

[65] *Time Warner AxS v. Pub. Util. Comm.* (1996), 75 Ohio St.3d 229, 234, 661 N.E.2d 1097.

[66] Id. at 126.

[67] Joint Ex. 1 at 2.

1. The settlement was not the product of serious bargaining.

The Order misapplies the first criterion in *Consumers' Counsel 1992*. That first criterion asks whether the negotiations over a settlement took place in an environment of sufficient conflict (i.e. "serious bargaining") between signatories that were well-positioned to negotiate ("capable, knowledgeable parties"). These conditions were absent regarding the negotiation of the 2007 Stipulation.

The Order fails to provide a detailed analysis regarding whether there was sufficient conflict between the signatory parties. The consolidated record contains an extensive record of agreements between many of the signatories (or members of signatories) to the 2007 Stipulation and the Duke-affiliated companies. The Order, however, totally dismisses the arguments by the OCC and OPAE that these side agreements have a bearing on the above-captioned cases.

> [T]here is no argument that there was a similar connection to the [2007] [S]tipulation we are considering today. The signatory parties to this [2007] [S]tipulation specifically confirmed that there were no *side agreements* related to this [2007] [S]tipulation.[68]

The record documents the extensive efforts taken by parties to these cases to prevent the Commission's review of side agreements, and the allegations that side agreements did not affect negotiations over the 2007 Stipulation should come as no surprise. The Commission's refusal to consider the side agreements, however, is reminiscent of the Commission's refusal to consider the possibility that side agreements affected the course of the *Post-MDP Service Case* in 2004. That refusal ultimately required the additional hearings on remand.

---

[68] Order at 27.

The Commission's deliberations failed to consider the absence of significant conflict between the supporters of the 2007 Stipulation. The OCC Initial Brief, Phase I, and the OCC's Application for Rehearing regarding the Order on Remand demonstrated the narrow support for the 2004 Stipulation once the support of those connected with side deals is disregarded.[69] The 2007 Stipulation was again executed or has gone unopposed by Staff; OHA, OEG, and the Industrial Energy Users – Ohio ("IEU")[70] whose members have "option agreements"; the City of Cincinnati ("City"); and People Working Cooperatively ("PWC").[71] The narrowness of the stated support for the 2007 Stipulation diminishes significantly after it is recognized that *the City is the only non-Staff signatory that can claim that it properly intervened in all of the cases listed on the heading of the 2007 Stipulation.* The OCC's efforts to correct even the obvious flaws in the document were entirely rebuffed.[72]

The option agreements that were discussed in detail in the *Post-MDP Remand Cases* (i.e. Phase I of the consolidated cases) provide OHA, OEG, and IEU members with protections against the increases that are the subject of Phase II of these proceedings. The option agreements are numerous, but can be summarized by discussion of the three

[69] See, e.g., *Post-MDP Remand Case*, OCC Initial Post-Remand Brief, Phase I, at 37-38.

[70] IEU, while not a signatory to the 2007 Stipulation, made it publicly known that it did not oppose the agreement. Tr. Remand Rider Vol. II at 153 (April 19, 2007) (position statement by IEU Counsel Neilsen).

[71] Joint Remand Rider Ex. 1 at 9 (2007 Stipulation).

[72] For instance, the OCC's observations regarding the weak consumer protections in paragraph 8 of the 2007 Stipulation went unheeded. The hastily executed stipulation led to a cross-examination of Duke Energy Witness Whitlock by the Assistant Attorney General that revealed a disagreement between the Staff and Duke Energy. See OCC Remand Rider Ex. 2 at 3 (Haugh Supplemental), citing Tr. Remand Rider I at 143 (Whitlock). The 2007 Stipulation, therefore, lacked the balanced that concerns the Court regarding the partial settlement standard set forth in *Consumers' Counsel 1992*. See, e.g., *Time Warner AxS v. Pub. Util. Comm.* (1996), 75 Ohio St.3d 229, 234, 661 N.E.2d 1097.

representative agreements that are featured in the testimony of OCC Witness Hixon.[73] The option agreement fo[redacted]an OHA member) provides reimbursement of[redacted]harges and [redacted] The option agreement for [redacted](an OEG member) provides reimbursement o[redacted] as well as th[redacted] The option agreement for Marathon[78] (an IEU member) provides for reimbursement of the AAC, half the SRT charges, and the remainder of FPP charges after removal of its emission allowance component.[79] The side agreements are "related to this [2007] [S]tipulation"[80] by means of the insulation they provided to selected customers regarding the increased rates that are addressed in the 2007 Stipulation. The legacy of the side agreements in the *Post-MDP Service Case* continues to show the lack of serious conflict between the signatory parties.

The remaining signatories to the 2007 Stipulation besides the Company and the PUCO Staff were the City and PWC – signatories that the Order states represented the residential class of customers in negotiations over the 2007 Stipulation.[81] These entities

---

[73] OCC Remand Ex. 2(A).

[74] Id., BEH Attachment 17 (Bate stamp 89).

[75] Id.; see also id. at 51 (Hixon).

[76] Id., BEH Attachment 17 (Bate stamp 11).

[77] Id.; see also id. at 52 (Hixon).

[78] Id., BEH Attachment 17 (Bate stamp 44).

[79] Id.; see also id. at 52 (Hixon).

[80] Order at 27.

[81] Order at 27.

did not represent residential customers in the manner contemplated by the first criterion for evaluating settlements, and neither were "capable, knowledgeable parties" as stated in the first criterion stated in *Consumers' Counsel 1992.*

The City's Motion to Intervene in the *Post-MDP Service Case* stated:

> Cincinnati recently signed agreements with . . . CG&E . . . to deliver the electric power necessary for various city-owned and/or operated governmental facilities * * * [and] it is . . . clear that the City's recently negotiated agreements with CG&E would be negatively affected to some significant, but as yet unknown, degree.[82]

The City withdrew from the *Post-MDP Service Case* on July 13, 2004 without any apparent participation other than the execution of a side deal with the Company that provided the City with $1 million and required the City's withdrawal.[83] The City submitted a Motion to Intervene in the above-captioned "Rider" cases (i.e. and not in the cases on remand) on February 21, 2007, again emphasizing the City's operation of the City's water utility and the Metropolitan Sewer District that is owned by Hamilton County.[84] The City's only other activity even arguably connected with these cases was a "special appearance" at the status conference held on December 14, 2006 for the sole purpose of opposing the OCC's efforts to obtain documents that involved the City[85] and the City's execution of the 2007 Stipulation. Counsel for the City did not appear at the hearings conducted in 2007, and did not file a brief.

[82] *Post-MDP Service Case,* City Motion to Intervene at 2 (April 21, 2004).

[83] OCC Remand Ex. 6 at ¶4.

[84] *Post-MDP Remand Rider Case,* City Motion to Intervene at 2 (February 21, 2007).

[85] Tr. at 49-50 (December 14, 2007).

The City's efforts have been limited to agreements between the City and the Company. The City has not demonstrated any knowledge of the issues in the above-captioned Rider cases, whether those affecting residential customers or any other customers. The City's interest in these cases is clear: its million dollar side agreement would terminate if the "Commission, in Case No. 03-93-EL-ATA *or a related case necessary to carry out the terms and conditions of the Stipulation and Recommendation filed in that case*, issues an order unacceptable to CG&E."[86] The City's execution of the 2007 Stipulation is, therefore, directly and explicitly linked to its side deal that also required the City's withdrawal from the *Post-MDP Service Case*.[87] Serious bargaining did not take place between Duke Energy and the City in the above-captioned cases. The City's course was set in 2004 when it entered into its side agreement with Duke Energy.

PWC's role in support of the 2007 Stipulation is more questionable than that of the City. *PWC did not submit a motion to intervene* in the above-captioned cases (and did not timely file a brief). In the *Post-MDP Service Case*, PWC's motion to intervene (March 9, 2004) stated that PWC is "a small, non-profit organization * * * [whose] mission is to provide essential repairs and services so that homeowner can remain in their homes. . . ."[88] PWC's counsel appeared at the status conference conducted on December 14, 2006, stating that PWC opposed the consolidation of the cases on remand with these Rider cases because PWC would not normally be interested in the Rider cases.[89] PWC

[86] OCC Remand Ex. 6 at ¶6.

[87] Id. at ¶4.

[88] *Post-MDP Service Cases*, PWC Motion to Intervene at 2 (March 9, 2004).

[89] Tr. at 25-27 and 72 (December 14, 2007).

counsel appeared for portions of the consolidated hearings, again stating to the Attorney Examiners that, "as you all know, People Working Cooperatively has limited interests in the case . . . ."[90] The Order may not reasonably and legally rely upon the support by PWC -- which is not a party to the above-captioned cases -- as either a representative of residential customers or as a representative of any other interest.

The Order's reliance upon PWC's support of the 2007 Stipulation is misplaced even if PWC had standing in these cases. PWC's support for the 2007 Stipulation is best explained by its Motion to Intervene in the 2004 *Post-MDP Service Case* and its Motion to Strike regarding the OPAE's brief.[91] The 2004 Motion to Intervene states that PWC is concerned with home repairs,[92] and the Motion to Strike states PWC's dependency on funds provided by Duke Energy.[93] PWC stated its interest: "Parties intervene because they want something from the Commission process and usually that outcome involves money."[94] PWC's "issues," as reflected by its Motion to Strike, relate to its status as a recipient of the Company's funding. Like the City, PWC has not demonstrated that it is capable, knowledgeable, and serious about settling a conflicting view regarding the issues raised in the 2007 Stipulation.

[90] Tr. Vol. Remand Vol. I at 19 (March 19, 2007).

[91] PWC Motion to Strike (April 27, 2007).

[92] *Post-MDP Service Cases*, PWC Motion to Intervene at 2 (March 9, 2004).

[93] PWC Motion to Strike at 3-5 (April 27, 2007).

[94] PWC Motion for Extension of Time to File Reply Brief, Phase II, Attachment at 6 (June 1, 2007).

For the purpose of residential customer representation, the Commission should rely upon the OCC as the statutory representative of these customers.[95] For that purpose, the Commission should *not* rely upon the City, whose position was set as the direct result of the City's side agreement with Duke Energy in the *Post-MDP Service Case*, and should not rely upon a non-party to these Rider cases (i.e. PWC). The diversity of interests that is referred to in the Order[96] does not exist when only the actual participants in these Phase II cases are considered, and no representative of the residential class is a signatory regardless of the number of signatories to the 2007 Stipulation that are considered.

The circumstances of these cases, and of the signatories to the 2007 Stipulation, demonstrate that the partial settlement was reached without serious bargaining that involved capable, knowledgeable parties. The Order's conclusions to the contrary[97] were error.

2. The settlement package does not benefit the public interest.

The settlement package stated in the 2007 Stipulation does not provide a benefit to ratepayers or serve the public interest. Instead of adopting the 2007 Stipulation without alteration, the Commission should have adopted the recommendations of its technical expert regarding the FPP and the SRT and reject the treatment given to the AAC as stated above.

---

[95] R.C. Chapter 4911.

[96] Order at 27 ("each stakeholder group").

[97] Order at 25-27.

Paragraph 2 of the 2007 Stipulation states that an EVA recommendation "shall be withdrawn," referring to the second major management audit recommendation.[98] EVA recommended that Duke Energy Ohio adopt a portfolio approach to the procurement of coal and emission allowances. Paragraph 3 of the 2007 Stipulation offers "meet[ings] to discuss the terms and conditions under which DE-Ohio may purchase and manage coal assets, emission allowances, and purchased power for the period after December 31, 2008" in order to "make a recommendation . . . for consideration no later than the next FPP audit."[99] This provision for meetings in the 2007 Stipulation concedes that the EVA recommendation regarding coal procurement has substance.

Paragraph 5 of the 2007 Stipulation states that "DE-Ohio's proposed Rider AAC Calculation shall be adjusted in accordance with the Staff corrected supplemental testimony of L'Nard E. Tufts."[100] The controversy in these cases regarding AAC charges does not, however, involve Mr. Tufts' work or dispute regarding the manner in which any AAC calculations were carried out. The controversy in these cases is whether a return on CWIP should be included in the AAC, a matter on which Staff Witness Tufts stated no opinion.[101] The Commission should reject Paragraph 5 of the 2007 Stipulation and set the AAC charge at 5.6 percent of "little g" as supported in OCC Witness Haugh's

---

[98] Joint Remand Rider Ex. 1 at 5, ¶2.

[99] Id. at 5, ¶3.

[100] Id. at 6, ¶5. Construed literally, the 2007 Stipulation does not make a recommendation regarding AAC charges. Paragraph 5 states agreement regarding the Company's calculations, not the AAC charge. The Company's calculations having been adjusted by agreement between certain parties, the issue of whether to accept the inclusion of a return on CWIP remains unaddressed by the 2007 Stipulation.

[101] Tr. Remand Rider Vol. II at 35 (April 19, 2007) (Tufts) ("I did not form an opinion and that's not part of my testimony.").

testimony as part of the PUCO's efforts "to consider the reasonableness of expenditures" in the AAC category.[102]

Paragraph 6 states that "DE-Ohio shall work with the Staff to amend its bill format" "to reflect generation-related charges such as the FPP, SRT, and AAC, in the generation portion of the customer bill."[103] The proper placement of generation-related charges was raised in the testimony of OCC Witness Haugh.[104] The agreement that "such amendments will not result in additional programming or billing costs" is the correct result.[105] However, that result is not particularly gratifying as part of the settlement quid pro quo since the Company caused the problem when it prepared customer bills that did not recognize the Commission's determinations that these charges are generation in nature.[106] Paragraph 6 is also vague, referring to charges "*such as* the FPP, SRT, and AAC."[107] The RSC, SRT, IMF, and AAC -- all charges that resulted from the *Post-MDP Service Case* that dealt with standard service offer generation rates pursuant to R.C. 4928.14(A) -- were incorrectly stated and billed to customers as distribution charges when all these charges are part of the Company's charges for generation service.[108] The Company's post-hearing activities illustrate that implementation of Paragraph 6 is

---

[102] *Post-MDP Service Case*, Entry on Rehearing at 10 (November 23, 2004).

[103] Joint Remand Rider Ex. 1 at 6, ¶6.

[104] OCC Remand Rider Ex. 1 at 16-18 (Haugh).

[105] Joint Remand Rider Ex. 1 at 6, ¶6.

[106] OCC Remand Rider Ex. 1 at 16-17 (Haugh), citing Commission orders including the Entry on Rehearing dated November 23, 2004 in the Post-MDP Service Case.

[107] Joint Remand Rider Ex. 1 at 6, ¶6 (emphasis added).

[108] OCC Remand Rider Ex. 1, MPH Attachment 2 (Haugh).

imperiled[109] -- Duke Energy submitted a separate application in Case No. 07-1205-GE-UNC to change its bill format in an "end around" the Commission's Order.

Paragraph 7 states a minor concession on the part of Duke Energy by providing for the collection of "DE-Ohio's projected 2007 planning reserve capacity purchases by year-end," which would not require the payment of interest.[110] The Commission's Entry dated December 20, 2006 set the SRT at zero and provided for interest as part of the true-up following its decision in these cases.[111] Paragraph 5 of the 2007 Stipulation also refers to collections -- this time for the AAC -- trued-up "such that the amount calculated to be recovered in 2007, will be recovered by December 31, 2007" and does not include interest charges.[112] The Order states that it adopts the 2007 Stipulation provisions,[113] but does not explicitly state that interest charges will not be assessed. Combined with the delegation of tasks to the PUCO Staff, it is not clear that customers will benefit from the small concession that is contained in the 2007 Stipulation.[114]

Paragraph 8 of the 2007 Stipulation presented the most obvious controversy at hearing, and remains an unsettled element regarding Duke Energy's intentions under the

---

[109] The Company's intentions regarding this new case are unknown, but the filing may undercut Duke Energy's agreement that bill format "amendments will not result in additional programming or billing costs." Joint Remand Rider Ex. 1 at 7, ¶6.

[110] Joint Remand Rider Ex. 1 at 7, ¶7.

[111] Entry at 6 (December 20, 2006).

[112] Joint Remand Rider Ex. 1 at 5, ¶5.

[113] Order at 30.

[114] Any check on proper implementation of the Order is also made difficult by Duke Energy's efforts to collaterally deal with the issues in these cases in other dockets. For instance, the SRT true-up (without supporting calculations) is contained in a stipulation filed in Case Nos. 07-723-EL-UNC, et al. on December 13, 2007. The bill format issues in these cases are also the subject of Case No. Case No. 07-1205-GE-UNC.

agreement. Paragraph 8 would render EVA's "recommendation 6 on page 1-10 of the . . . Audit[or's] Report . . . inapplicable."[115] EVA's recommendation would exclude the use of the DENA Assets for purposes of calculating the SRT. In its place, the Company proposes to charge for capacity from the DENA Assets based upon broker quotes, prices for third-party transactions, or by a method acceptable to only the Company and the PUCO Staff.[116] The use of broker quotes or third-party transaction prices would not deliver savings from "the most reasonably priced capacity available" that was promised by Company Witness Whitlock.[117] To the contrary, use of the DENA Assets presents the danger of unreasonably high charges that could result from the Company's determination of costs associated with *Company-owned generation*.[118]

Paragraph 8 is weakly worded and unable to protect customers from the Company's overcharges if Duke Energy is permitted to use the DENA Assets.[119] For instance, the 2007 Stipulation does not provide for Commission approval of an agreement reached between the Company and the PUCO Staff regarding charges for using the DENA Assets. Also, OCC Witness Haugh noted the apparent disagreement regarding the interpretation of paragraph 8 that broke out as early as the cross-examination of Company Witness Whitlock on April 10, 2007. In Mr. Haugh's supplemental testimony filed on

[115] Joint Remand Rider Ex. 1 at 7, ¶8.

[116] Id.

[117] Company Remand Rider Ex. 2 at 11 (Whitlock Supplemental).

[118] Company Witness Smith agreed that the word "purchases" in paragraph 8 of the 2007 Stipulation is inappropriate under circumstances where the generating facilities are owned by the Company. Tr. Remand Rider Vol. II at 95 (April 19, 2007) (Smith).

[119] See OCC Remand Rider Ex. 2 at 3-5 (Haugh Supplemental).

April 17, 2007, he observed that the Assistant Attorney General's cross-examination of Mr. Whitlock revealed Staff's more narrow interpretation of paragraph 8 that would not permit the Company to repeatedly use the DENA Assets.[120] The 2007 Stipulation was apparently executed hastily and without complete agreement between the stipulating parties.

Paragraph 9 is deceptive in its provision regarding Duke Energy's acceptance of "all audit recommendations made in the Report of the Financial and Management/ Performance Audit . . . except as set forth in paragraphs one through eight above."[121] As noted above, Company Witness Whitlock testified that Duke Energy "does not exclude an offer from consideration if the [coal] supplier will not permit the resale of coal."[122] From that statement, the Company apparently believes it already complies with EVA's major recommendation 3 which states that "coal suppliers should not be required to allow the resale of their coal for the offers to be considered."[123] Company Witness Whitlock admits, however, that Duke Energy "include[s] the resale of coal as a condition on its RFPs."[124] That condition on the RFPs renders meaningless the Company's "agreement" in Paragraph 9 to consider bids that Duke Energy actively discourages and that the Company would consider non-complying with its RFPs. The Commission should reject

[120] Id. at 3, citing Tr. Remand Rider I at 143 (Whitlock).

[121] Joint Remand Rider Ex. 1 at 7-8, ¶9.

[122] Company Remand Rider Ex. 2 at 9 (Whitlock Supplemental).

[123] PUCO Ordered Remand Rider Exhibit 1at 1-10 (Auditor's Report).

[124] Company Remand Rider Ex. 2 at 9 (Whitlock Supplemental).

the Company's subterfuge whereby it states agreement to an EVA recommendation but intends (in practice) the opposite result.

The 2007 Stipulation contains numerous faults that result from the narrow interests of those who fashioned the agreement and the haste with which the agreement was patched together. The broad public interest is not served by approval of the 2007 Stipulation.[125] Instead, the Commission should order the Company to comply with all the recommendations contained in the Auditor's Report and the OCC-sponsored testimony.

3. The settlement package violates important regulatory policies and practices.

The 2007 Stipulation violates important regulatory policies and practices in more than one way. Most fundamentally, the settlement was reached by involving entities who had no standing in the cases identified in the caption of the 2007 Stipulation. OHA and PWC, entities that did not move to intervene in the above-captioned cases, should not have been involved in the negotiations and become signatories. Paragraph 5 addresses the calculation of the AAC, and OEG was not properly a party to Case No. 06-1085-EL-UNC whose topic is determination of the AAC. Inclusion of PWC as "representative" of residential customers, when it is neither a party nor interested in the rate-setting for residential customers, is another means by which the residential class has been completely excluded from settlement of the case.[126]

Paragraph 5 of the 2007 Stipulation addresses the calculation of the AAC, and adoption of that provision violates a traditional regulatory policy and practice. That

[125] *Time Warner AxS v. Pub. Util. Comm.* (1996), 75 Ohio St.3d 229, 234, 661 N.E.2d 1097 requires the balancing of important, competing interests.

[126] Id.

paragraph fails to recognize the Commission's earlier statements that AAC calculations would consider "expenses."[127] Commission policies and practices should be used to guide the development of reasonable standard service offer rates. The Commission failed to undertake the evaluation of AAC costs, in the PUCO's words, "to consider the reasonableness of expenditures" in the AAC category because "[i]t is not in the public interest to cede this review."[128] The Commission should have rejected Paragraph 5 of the 2007 Stipulation and set the AAC charge at 5.6 percent of "little g" as supported in OCC Witness Haugh's calculations and testimony.[129]

As stated above, Paragraph 8 of the 2007 Stipulation permits pricing of supply from DENA Assets based upon agreement between Duke Energy and the PUCO Staff. Such delegation of authority is illegal, was rejected by the Commission in 2004 based upon sound regulatory practice,[130] and should be rejected again.

Paragraph 8 also supports Duke Energy's breach of the SRT Stipulation as well as the Company's violation of the Commission's Order that adopted the SRT Stipulation in its entirety.[131] The Order's conclusion that the intent of the SRT Stipulation[132] was

---

[127] OCC Remand Rider Ex. 1 at 9, quoting *Post-MDP Service Case*, Order at 32 (September 29, 2004).

[128] *Post-MDP Service Case*, Entry on Rehearing at 10 (November 23, 2004). Staff Witness Tufts did not formulate an opinion as to whether a return on CWIP was appropriate for standard service offer rates. Tr. Remand Rider Vol. II at 35 (April 19, 2007) (Tufts) ("I did not form an opinion and that's not part of my testimony.").

[129] OCC Remand Rider Exhibit 1 at 11 (Haugh).

[130] *Post-MDP Service Case*, Entry on Rehearing at 10 (November 23, 2004). The agreement of the PUCO Staff raises a legal issue, but that legal issue is linked to practical problems. The Commission acts by vote in open session. In contrast, it is not clear how the PUCO Staff would express its agreement with a Duke Energy proposal and the Order lends no clarity to the situation.

[131] *In re Setting of SRT*, Case No. 05-724-EL-UNC, Order at 6 (November 22, 2005).

[132] Order at 20.

served even though Duke Energy undertook no affirmative effort to comply with the SRT Stipulation encourages non-compliance with Commission orders and discourages efforts to settle cases before the Commission.[133]

The Commission should reconsider its decisions in light of the important regulatory policies and practices that are violated by adoption of the 2007 Stipulation.

III. CONCLUSION

The Commission's should not ignore the recommendations of the technical experts who reviewed the Company's policies and practices as requested by the PUCO. The Auditor's Report makes many recommendations regarding the manner in which the FPP and SRT should be dealt. OCC-sponsored testimony also supports the Auditor's recommendation that would continue the prohibition against including the cost of using DENA Assets in the calculation of SRT charges.

OCC-sponsored testimony also supports Commission review of the charges that Duke Energy proposes for the AAC charge. On rehearing the Commission should eliminate that portion of the proposed charge that can be attributed to a return on all CWIP.

The Commission should correct its legal errors, consistent with the arguments stated above.

[133] Order at 20.

03357

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER
CONSUMERS' COUNSEL

Jeffrey L. Small, Counsel of Record
Ann M. Hotz
Larry S. Sauer
Assistant Consumers' Counsel

Office Of The Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
Telephone: 614-466-8574
E-mail small@occ.state.oh.us
hotz@occ.state.oh.us
sauer@occ.state.oh.us

03358

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing *Application for Rehearing by the Office of the Ohio Consumers' Counsel*, has been served upon the below-named persons via electronic transmittal this 20th day of December 2007. Counsel for parties who receive the confidential, redacted version of this pleading are reminded to treat its contents as required for the confidential versions of briefs and the applications for rehearing in Phase 1 of the proceedings.

Jeffrey L. Small
Assistant Consumers' Counsel

Confidential Document:

cmooney2@columbus.rr.com
dboehm@bkllawfirm.com
mkurtz@bkllawfirm.com
sam@mwncmh.com
dneilsen@mwncmh.com
barthroyer@aol.com
mhpetricoff@vssp.com

paul.colbert@duke-energy.com
rocco.d'ascenzo@duke-energy.com
mdortch@kravitzllc.com
Thomas.McNamee@puc.state.oh.us
anita.schafer@duke-energy.com

Scott.Farkas@puc.state.oh.us
Jeanne.Kingery@puc.state.oh.us

ricks@ohanet.org (courtesy copy)
mchristensen@columbuslaw.org (courtesy)

Redacted (public) Version Only:

WTTPMLC@aol.com
tschneider@mgsglaw.com
cgoodman@energymarketers.com
sbloomfield@bricker.com
TOBrien@Bricker.com
dane.stinson@baileycavalieri.com
korkosza@firstenergycorp.com

C3358

OCC Exhibit # 12

Ohio Consumers' Counsel Fifth Set Interrogatories
CG&E Case No. 03-93-EL-ATA
Date Received: April 22, 2004
Response Due: May 3, 2004

OCC-INT-05-269
Confidential & Proprietary Trade Secret

REQUEST:

269. With respect to the POLR charge in the Company's revised ERRSP whose 2005 costs are summarized on Attachment JPS-2:

a. What are the expected amounts of the cost recovery in dollars and percent to be recovered for each year 2006-2008. (This answer should separate out costs to be recovered from the indicated year from costs carried over from the previous year.)

b. In the even *(sic)* that the values requested in part a above are not available does the company expect the 10% cap in increases to be reached during each of these years.

RESPONSE:

CONFIDENTIAL PROPRIETARY TRADE SECRET

a. The following estimates are based on preliminary estimates of potential environmental capital expenditures and operating costs, the continued costs of maintaining adequate reserves, complying with homeland security requirements, and the projected costs of emission allowances.

Year	Current Year Revenue Requirement	Carry-Over from Prior Year Revenue Requirement	Allowed Recovery in Current Year
2006	$153	$34	$150
2007	$212	$27	$225
2008	$241	$24	$265

b. See response to (a).

WITNESS RESPONSIBLE: John P. Steffen

L3359

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the	:		
Consolidated Duke Energy Ohio, Inc.	:	Case Nos.	03-0093-EL-ATA
Rate Stabilization Plan Remand and	:		03-2079-EL-AAM
Rider Adjustment Cases	:		03-2080-EL-AAM
	:		03-2081-EL-ATA
	:		05-0724-EL-UNC
	:		05-0725-EL-UNC
	:		06-1068-EL-UNC
	:		06-1069-EL-UNC
	:		06-1085-EL-UNC

ATTACHMENT TO JOINT MEMORANDUM CONTRA TO THE APPLICATION FOR REHEARING OF THE OFFICE OF OHIO CONSUMERS' COUNSEL

RESPECTFULLY SUBMITTED UNDER SEAL

Michael D. Dortch (0043897)
Richard R. Parsons (0082270)
KRAVITZ, BROWN & DORTCH, LLC
65 East State Street, Suite 200
Columbus, Ohio 43215
Phone: 614-464-2000
Fax: 614-464-2002
mdortch@kravitzllc.com
rparsons@kravitzllc.com

PUCO Page #	Line #	Comments
58	18	The PUCO's redactions are correct. The referenced terms include financial consideration consistent with the PUCO Order of Remand. Simply because the financial consideration is in the "currency" of MBSSO components does not result in the pricing term becoming public.
215		The PUCO's redactions are correct. The OCC's description is incorrect. Customers are named in the chart.
218	12	Redact consistent with DE-Ohio redactions submitted in November 2007.
219	1 through 4	Redact consistent with DE-Ohio redactions submitted in November 2007.
312		The PUCO's redactions are correct. The information in "bubbles" reveal financial consideration. The "bubbles" are tracked changes between contracts during negotiations. This shows the price and consideration negotiated between the Parties to the contracts. Release would provide insight into how price was determined.
641		The PUCO's redactions are correct. The OCC's chart, however, has a typo indicating an incorrect category for its recommended change. It should be category "C" rather than "B".
647		Duke does not oppose OCC's suggestion to release the employee name and phone number on the top of the page because it was already released. The remainder of the PUCO's redactions are correct.
649 through 662		Duke agrees with OCC's re-collation, but disagrees with OCC's redactions. Redact consistent with DE-Ohio redactions submitted in November 2007.
654		The PUCO's redactions are correct. The document is a projection of the impacts of the RSP on earnings through 2008. Such information meets the test of a trade secret and remains relevant.
685		The PUCO's redactions are correct. The text is a discussion of a Party to a contract and the Party provides contracts later used as attachments to the OCC's testimony. Thus by inference it is possible to identify the party. The paragraph on the bottom of the page discusses a contract and releases the name elsewhere in the section which would then identify the party to a contract.
707 through 748		Duke agrees with the OCC's redactions, but notes that the OCC failed to find all of the Party names that need to be redacted. (See: P.721, L24; P.723, L16; P.730, L19; P.731, L20)
749	6 through 7	The PUCO's redactions are correct. The referenced terms include financial consideration consistent with the PUCO Order of Remand. Simply because the financial consideration is in the "currency" of MBSSO components does not result in the pricing term becoming public.
751 through 762		Duke agrees with the OCC's redactions, but notes that the OCC failed to find all of the Party names that need to be redacted. (See: P.752,L20; P.757, L1)

768		The PUCO's redactions are correct. Price and financial consideration are confidential under the PUCO Remand Order. These redactions are pricing terms in the contracts. Release as suggested would divulge portions of the financial consideration.
769		The PUCO's redactions are correct. Price and financial consideration are confidential under the PUCO Remand Order. These redactions are pricing terms in the contracts. Release as suggested would divulge portions of the financial consideration.
904	12	The PUCO's redactions (on line 12) are correct. Duke agrees with the OCC that lines 13 and 14 can be released.
943		The PUCO's redactions are correct. The material describes the financial impact of the MBSSO on Cinergy Corp. shares.
991		The PUCO's redactions are correct. The information in "bubbles" reveal financial consideration. The "bubbles" are tracked changes between contracts during negotiations. This shows the price and consideration negotiated between the Parties to the contracts. Release would provide insight into how price was determined.
1044 through *1050*		Duke agrees with the OCC's redactions but must clarify that the customer names should be redacted starting on page 1044 through *1050. The OCC's chart omits the dash between the numbers.*
1091		The PUCO's redactions are correct. The information includes customer generation levels and load factors. Releasing this information would put Duke at a competitive disadvantage. This information is confidential by Ohio Adm. Code 4901-1-20-16 (G)(4)(a).
1093		The PUCO's redactions are correct. The information includes customer generation levels and load factors. Releasing this information would put Duke at a competitive disadvantage. This information is confidential by Ohio Adm. Code 4901-1-20-16 (G)(4)(a).
1095 through 1106		The PUCO's redactions are correct. The material describes the financial impact of the MBSSO on Cinergy Corp. shares.
1107 through 1108		The information includes customer generation levels and load factors. Releasing this information would put Duke at a competitive disadvantage. This information is confidential by Ohio Adm. Code 4901-1-20-16 (G)(4)(a).
1110		The information includes customer generation levels and load factors. Releasing this information would put Duke at a competitive disadvantage. This information is confidential by Ohio Adm. Code 4901-1-20-16 (G)(4)(a).
1614		*Duke agrees with OCC's proposal but notes that line 23 should remain* redacted per the PUCO's Remand Order.
1772		The PUCO's redactions are correct. The redactions are consistent with DE-Ohio redactions submitted in November 2007 and January 2008.
1749		Duke agrees with the OCC's redactions but wishes to clarify, that while the attachment numbers released in the footnotes are correct, the remainder of the information in the footnote should remain redacted.

1982		The PUCO's redactions are correct. Footnote 133 identifies a Party to a contract.
2076		Duke agrees with the OCC's redactions but the OCC's chart missed a customer's name in the footnote.
2129 through 2829		The PUCO's redactions are correct. The information was submitted under seal with an appropriate motion for confidential protection on May 6, 2004. The motion and the accompanying affidavit set forth the reasons why the information should be treated as confidential. The PUCO considered the OCC's arguments and granted DE-Ohio's Motion. The information remains sensitive and confidential.
2835		The document includes revenue requirements and recovery of POLR costs through 2008.
2958		The PUCO's redactions are correct. The information listed discusses pricing terms and consideration in the contract.
3071 through 3113		The PUCO's redactions are correct. The information continues to be sensitive because competitors could discover Dukes' capacity needs, costs, and other information that is still relevant to today's business operations and modeling.
3114 through 3116		The PUCO's redactions are correct. The information continues to be sensitive because competitors could discover Dukes' capacity needs, costs, and other information that is still relevant to today's business operations and modeling.
3120		The PUCO's redactions are correct. The information continues to be sensitive because competitors could discover Dukes' capacity needs, costs, and other information that is still relevant to today's business operations and modeling.