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VIA OVERNIGHT MAIL DELIVERY

July 23, 2009

Docketing Division
Public Utilities Commission of Ohio
180 East Broad Street
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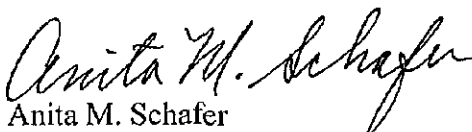
Re: Case No. 09-90-EL-COI

Dear Docketing:

Enclosed please find an original and sixteen copies of the *Reply Comments of Duke Energy Ohio, Inc. in Response to the Commission's Investigation into the Value of the Continued Participation in Regional Transmission Organizations*. Please date-stamp the extra copy and return in the envelope provided.

Should you have any questions, please contact me at (513) 419-1847.

Very truly yours,


Anita M. Schafer
Senior Paralegal

cc: Parties of Record

Enclosure

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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission's)	
Investigation into the Value of)	Case No. 09-90-EL-COI
Continued Participation in Regional)	
Transmission Organizations)	

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**REPLY COMMENTS OF DUKE ENERGY OHIO, INC. IN RESPONSE TO THE
COMMISSION'S INVESTIGATION INTO THE VALUE OF THE CONTINUED
PARTICIPATION IN REGIONAL TRANSMISSION ORGANIZATIONS**

Comes now Duke Energy Ohio, Inc. (Duke Energy Ohio) and for its reply comments in connection with the investigation of the Public Utilities Commission of Ohio (Commission) into the value of the continued participation in regional transmission organizations (RTOs) hereby submits the following.

I. INTRODUCTION

Pursuant to an Entry dated March 4, 2009, this Commission initiated an investigation into the continued participation in RTOs. Such an investigation is consistent with R.C. 4928.24, which created a federal energy advocate responsible for examining “the value of the participation of this state’s electric utilities in regional transmission organizations and [submitting] a report...on whether continued participation of those utilities is in the interest of those consumers.”¹

Through its Entry, the Commission solicited comments from interested persons on various RTO issues. Duke Energy Ohio submitted its initial comments on May 26, 2009, and now replies to the comments submitted by other interested persons. In doing so, Duke Energy Ohio does not respond to every comment offered by each interested

¹ R.C. 4928.24.

person. Rather, its comments are selective in nature and relate to those comments of particular interest or concern to Duke Energy Ohio. Thus, to the extent Duke Energy Ohio does not address a particular comment, its lack of response should not be interpreted as specific acquiescence or objection thereto.

II. DISCUSSION

A. General Overview/Executive Summary

Several interested persons submitted introductory comments by way of an Executive Summary or General Overview. Duke Energy Ohio replies here to the introductory comments of the Industrial Energy Users-Ohio (IEU-Ohio), the Office of the Ohio Consumers' Counsel (OCC) and American Municipal Power (AMP).

1. Industrial Energy Users-Ohio

IEU-Ohio suggests that an RTO is incapable of serving the public interest.² It improperly attacks regulators by stating the regulators are creating the false illusion that RTOs are working in the public interest.³ But IEU-Ohio's comments are both unsubstantiated and patently incorrect.

As detailed in its initial comments, Duke Energy Ohio believes that the Midwest Independent System Operator (ISO) has functioned properly in achieving the goals of the Federal Energy Regulatory Commission (FERC).⁴ Moreover, the FERC also acknowledges the undeniable fact that RTOs provide benefits to customers. Indeed, on July 16, 2009, the FERC approved MidAmerican Energy Company's request to join the

² *In the Matter of the Commission's Investigation into the Value of Continued Participation in Regional Transmission Organizations*, Case No. 09-90-EL-COI, Comments of Industrial Energy Users-Ohio, pg. 2 (May 26, 2009) (hereinafter referred to as, IEU-Ohio's Initial Comments).

³ *Id.*, pp. 2-3.

⁴ *In the Matter of the Commission's Investigation into the Value of Continued Participation in Regional Transmission Organizations*, Case No. 09-90-EL-COI, Comments of Duke Energy Ohio, Inc., pp. 2-3 (May 26, 2009) (hereinafter referred to as, Duke Energy Ohio's Initial Comments).

Midwest ISO.⁵ In the press release announcing this action, FERC Chairman Jon Wellinghoff stated that “having MidAmerican join the Midwest ISO will strengthen the Midwestern energy markets,...[and that]...membership in organized regional power markets produces important benefits for consumers, such as by expanding electricity supply options through increased access to renewable energy resources and improving operating performance.” IEU-Ohio’s criticism of RTOs is thus sorely misplaced.

Without justification or citing specific examples, IEU-Ohio further claims that RTOs – the agents of regulation – have contributed to significant reliability failures.⁶ Duke Energy Ohio vehemently objects to this statement. The Midwest ISO has improved reliability in the region. In fact, the Midwest ISO’s tariff has been enhanced since the creation of Midwest ISO through the additions of the “Day 2” through “Day 4” markets. “Day 1” refers to the implementation of a single transmission provider and tariff administrator within the Midwest ISO footprint. “Day 2” reflects the implementation of the Midwest ISO energy market, also known as the security-constrained economic dispatch with a locational marginal pricing (LMP) clearing market. “Day 3” co-optimized energy and ancillary services markets with a single balancing authority. And “Day 4” refers to the implementation of a uniform resource adequacy requirement.

As reflected in its initial comments, Duke Energy Ohio believes that as each the above-referenced enhancements to the Midwest ISO tariff has occurred, reliability has been improved and economic benefits have been realized. The reliability benefits provided by the Midwest ISO include an improved coordination of multi-company

⁵ *Midwest Independent Transmission System Operator, Inc.*, 128 FERC ¶ 61,046 and 128 FERC ¶ 61,047, Orders Conditionally Accepting Proposed Tariff Revisions (July 16, 2009).

⁶ IEU-Ohio’s Initial Comments, pg. 3.

operations, which decreased transmission loading problems; a broader, more regional approach to security coordination; an improved ability to coordinate transmission and generator outages that might otherwise adversely affect the transmission system; and increased the options available to those operators that respond to system loading problems.⁷ The enhanced reliability in the Midwest ISO footprint is a benefit to Duke Energy Ohio's customers.

IEU-Ohio further alleges that RTOs have built commercial platforms that have permitted market participants to manipulate commerce for the purpose of transferring massive amounts of wealth from consumers to producers, including some producers that purportedly manufactured false information.⁸ Duke Energy Ohio strongly disagrees with such a position, for which IEU-Ohio fails to provide any corroboration or substantiation. Indeed, it is inconceivable that the Commission would allow for wealth transfers from regulated customers on a scale that IEU-Ohio contends.

IEU-Ohio states that without major reforms, it is not in the public's or customers' interest to continue to permit: (1) participation in RTOs as such participation may relate to "Day 2" market structures; and, (2) electric distribution utilities (EDUs) to pass on the cost of RTO participation to Ohio retail customers until they make an affirmative demonstration that the direct customer benefits of the RTO selections (made by the EDUs or their affiliates) exceed the costs.⁹ Duke Energy Ohio strongly disagrees with IEU-Ohio's position. Significantly, Senate Bill 3 effectively required Ohio transmission owners to join an RTO. Furthermore, both Midwest ISO's and PJM Interconnection, L.L.C.'s (PJM) tariffs include "Day Two" markets, which have been found to be just and

⁷ Duke Energy Ohio's Initial Comments, pp. 5-17.

⁸ IEU-Ohio's Initial Comments, pg. 3.

⁹ Id.

reasonable by the FERC. Both the FERC and this Commission have found Midwest ISO's costs to be just and reasonable and an approved component of the Midwest ISO rate structure.¹⁰

Contrary to IEU-Ohio's assertion, Duke Energy Ohio believes that it is in the public's and customer's interest to participate in the Midwest ISO. The Midwest ISO provides a number of benefits including, enhanced reliability in the region, customers obtaining greater access to a more diversified generation base from a wider region, and improved utilization of regional transmission assets and better management of transmission congestion. Recent changes to the Midwest ISO's Module E will improve regional reliability in that parties are required to meet a Midwest ISO established minimum reserve requirement and demonstrate they have procured the capacity to do so. Additionally, several Midwest ISO studies enumerate the benefits of the Midwest ISO market in the Midwest. For example, the Midwest ISO informational report prepared for the FERC, Informational Filing of Midwest Independent Transmission System Operator, Inc., Docket No. ER04-691, March 3, 2006, enumerates the various anticipated benefits of the Midwest ISO Ancillary Services Market. The Midwest ISO Independent Market Monitor (IMM) has also submitted reports to the FERC regarding the effectiveness of the ASM.¹¹ Thus, Ohio retail ratepayers are receiving benefits from Duke Energy Ohio's membership in the Midwest ISO.

IEU-Ohio recommends the Commission consider two options. The first option proposed by IEU-Ohio would result in Ohio utilities migrating back to "Day 1" RTO status, in which an ISO would assume responsibility for reliability and scheduling

¹⁰ See e.g., *In the Matter of the Application of Duke Energy Ohio, Inc. for Approval of an Electric Security Plan*, Case No. 08-920-EL-SSO, Opinion and Order, pg. 40 (December 17, 2008).

¹¹ Duke Energy Ohio's Initial Comments, pp. 2-21.

functions, but not operate a centrally-cleared energy and ancillaries market. The second option suggested by IEU-Ohio would look at the creation of an Ohio-only RTO limited to assuming responsibility for reliability and scheduling functions.¹² Duke Energy Ohio questions the legitimacy and efficacy of either of these options.

An Ohio-only RTO would roll back key fundamental and realized goals of the Midwest ISO's energy market; namely internalization of loop flows and implementation of a common system of market-based congestion management across the single market that is the Midwest.

As stated above, Senate Bill 3 effectively required Ohio transmission owners to join an RTO. And again, the FERC has deemed both the Midwest ISO's and PJM's tariffs, which include "Day Two" markets, to be just and reasonable by FERC. Duke Energy Ohio also submits that the characteristics of Order 2000 preclude an Ohio-only RTO. An Ohio-only RTO would make it extremely difficult for Midwest ISO and PJM to efficiently dispatch generation and provide accurate monetary signals for congestion management. Today, the Midwest ISO and PJM have years of experience functioning under their Joint Operating Agreement. This agreement requires economic redispatch for congestion management between these tightly integrated energy markets for the benefit of their customers. This benefit would be given up if IEU-Ohio's plan was implemented. There is nothing that suggests that an Ohio-only RTO would be able to manage or resolve constraints arising from large transfers of energy between the East and Midwest markets. Without such capabilities, Ohio customers could suffer from irresolvable congestion within Ohio.

¹² IEU-Ohio's Initial Comments, pg. 8.

Duke Energy Ohio reminds the Commission that some of the state's electric utilities have jurisdictional facilities that span multiple states. Therefore, Duke Energy Ohio believes that intra-company and intra-regional inefficiencies would result from the forced-fragmentation of the transmission operations. A bigger, broader footprint brings an economy of scale that lowers transmission costs, energy costs, and capacity costs that are then spread over a much larger load. Smaller RTOs, such as an Ohio-only one, would raise hurdle rates (access to markets) and isolate Ohio from the broader Midwest market. Moreover, the smaller RTO would internalize fewer constraints and provide fewer resources to address constraint resolution.

Also, in its Executive Summary, IEU-Ohio submits that RTOs are causing rate shock for customers rather than providing lower prices, better service, and enhanced infrastructure.¹³ Duke Energy Ohio disagrees and, in doing so, reiterates here its comments demonstrating the enhanced benefits occasioned by RTOs. The Midwest ISO has provided independent oversight of transmission services, improved reliability, managed a more cost-effective dispatch of energy and ancillary services, lowered the planning reserve requirements for its members through regionalization, and provided another view of the region's competitiveness for consideration by federal and state commissions through the IMM.

Customers are receiving economic benefits from RTO participation. A Midwest ISO-commissioned study found the "Day Two" energy market provides benefits of approximately \$139 million annually.¹⁴ In addition, the Midwest ISO projected this year's implementation of the Ancillary Services Market (ASM), along with the

¹³ IEU-Ohio's Initial Comments, pg. 7.

¹⁴ *Independent Assessment of Midwest ISO Operational Benefits, Addendum*, May 1, 2007, submitted by ICF International, at pg. 9.

consolidation of control area functions, would achieve the additional annual gross benefit ranging from \$88 to \$183 million.¹⁵ Duke Energy Ohio agrees with ICF International's assessment that when the Midwest ISO ended pancaked rates within its footprint, it provided an overall reduction in transmission costs within the Midwest ISO region. In addition to eliminating the pancaked rates between Midwest ISO Transmission Owners, pancaked rates have also been eliminated for transactions between the Midwest ISO and PJM. Duke Energy Ohio notes that the IMM continues to express satisfaction with the operation of the Midwest ISO's ASM. As with all prior ASM Monthly reports, the IMM notes the markets "continue to operate as expected with no significant issues."¹⁶

Duke Energy Ohio believes the Midwest ISO's role as the single regional transmission provider responsible for administering its tariff and coordinating transmission scheduling and settlements provides benefits to Ohio's transmission customers. The Midwest ISO, acting as the transmission provider across the systems of multiple transmission owners, provides a more effective and efficient approach to grid management since one entity has information regarding both the footprint's transmission system as well as information for the systems beyond the borders of the Midwest ISO. Duke Energy Ohio believes the long-term transmission planning function of the Midwest ISO is working as designed as indicated by the Midwest ISO Midwest Transmission Expansion Project (MTEP) results. The Midwest ISO's regional transmission planning process has resulted in 475 transmission expansion projects in the 2008 MTEP, totaling

¹⁵ See, <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=11454165>.

¹⁶ IMM Monthly Market Metrics Report June 2009, presented to the MISO Board of Directors Markets Committee on July 15, 2009(http://www.midwestmarket.org/publish/Document/1d44c3_11e1d03fcc5_-7cdf0a48324a/Meeting%20Materials.zip?action=download&_property=Attachment).

\$4.2 billion. Additionally, there are \$1.6 billion in new projects that are still under consideration, but not yet approved for regional sharing.¹⁷

IEU-Ohio suggests that, instead of an organization that yields standardization and scale or scope economies within the logical physical and commercial markets, “seams” have been established and maintained to encumber physical commerce, degrade reliability and add upward pressure to prices.¹⁸ Duke Energy Ohio would argue to the contrary.

In Duke Energy Ohio’s opinion, the movement to an RTO has reduced the seams between the previous transmission providers and allowed a more streamlined transmission service and scheduling process through the Midwest ISO energy market. The major seams issues between Midwest ISO and adjoining systems have been addressed through seams operating agreements.

2. The Office of the Ohio Consumers’ Counsel

The OCC claims that the cost allocation mechanism for transmission expansion should be reviewed and at least partially allocated to generators since they benefit substantially from transmission upgrades.¹⁹ But Duke Energy Ohio reminds this Commission that the FERC has approved the Midwest ISO’s cost allocation methods for transmission upgrades for reliability and economic projects (RECB I & II). Thus, the proper forum in which the OCC would need to address these issues is at the FERC.

¹⁷ *Midwest ISO Transmission Expansion Plan 2008*, at pg. 1 of Executive Summary.

¹⁸ IEU-Ohio’s Initial Comments, pg. 49.

¹⁹ *In the Matter of the Commission’s Investigation into the Value of Continued Participation in Regional Transmission Organizations*, Case No. 09-90-EL-CO1, Comments of the Office of the Ohio Consumer’s Counsel, pg. 3 (May 26, 2009) (hereinafter referred to as, OCC’s Initial Comments).

The OCC mistakenly suggests that day-ahead LMP markets are fundamentally flawed in that they base long-term price signals on short-term market conditions.²⁰ But Duke Energy Ohio notes that day-ahead and real-time LMPs are short-term prices that provide imbalance market pricing. And over a long period, they provide an input to longer-term pricing. It is Duke Energy Ohio's belief that the lack of significant demand response capabilities makes it unwise to pursue an energy-only market structure where scarcity pricing solely provides the impetus for longer-term contracting.

The OCC recommends that RTO boards be independent and contain at least two slots on the board that are filled by someone representing retail consumer interests – one of which has experience advocating for retail consumers. It suggests that the RTO mission statement include language on cost effectiveness as well as state that it exists for the benefit of retail consumers (consistent with Order 719) and that transmission planning and expansion processes should include explicit evaluation of non-transmission alternatives for reliability and economic enhancements.²¹

Duke Energy Ohio disagrees with this proposal. As Duke Energy Ohio notes, a current member of the Midwest ISO's board of directors has served on a state commission. Duke Energy Ohio believes that mandating the make-up of the board of directors, as the OCC suggests, could result in only two representatives having the recommended experience. Duke Energy Ohio believes it is the duty of utilities to advocate for their customers' interests, and as such, the Midwest ISO board of directors has several members with experience representing the needs of retail customers.

²⁰ Id., at 3.

²¹ Id., at 14.

3. American Municipal Power

AMP encourages the Commission to consider, and follow, the Electric Market Reform Initiative (EMRI) studies in 2008 and 2009.²² In contrast, Duke Energy Ohio would encourage AMP, along with others having concerns over the existing market designs, to participate in the RTO open stakeholder process to offer comments on market design improvements.

B. Reply Comments to the Comments Offered in Response to Specific Questions Raised by the Public Utilities Commission of Ohio (Part I).

As noted in its introduction, Duke Energy Ohio is not replying to every comment offered by each interested person. Rather, it replies here to those comments of specific interest or concern to it. In so responding, Duke Energy Ohio has organized this Section B and the subsequent Section C to correspond with individual questions posed by this Commission in its March 4, 2009, Entry.

1. Are FERC's Order 2000 goals and objectives being realized to promote efficiency in wholesale electric markets and to ensure that electric consumers pay the lowest price possible for reliable service?

IEU-Ohio opines that RTOs are not fulfilling the primary goals and objectives identified in Order 2000 of ensuring that electricity consumers pay the lowest price possible for reliable service. Duke Energy Ohio disagrees.

As explained in its initial comments and above, Duke Energy Ohio generally believes the FERC's goals are being achieved through the tariffs, practices, and procedures of the Midwest ISO. Indeed, the Midwest ISO has provided independent

²² *In the Matter of the Commission's Investigation into the Value of Continued Participation in Regional Transmission Organizations*, Case No. 09-90-EL-COI, Comments of American Municipal Power, Inc., pg. 10 (May 26, 2009) (hereinafter referred to as, AMP's Initial Comments).

oversight of transmission services, improved reliability, managed a more cost-effective dispatch of energy and ancillary services, lowered the planning reserve requirements for its members through regionalization, and provided another view of the region's competitiveness for consideration by federal and state commissions through the IMM.²³ And the annual benefits of the “Day Two” energy market are undeniable – approximately \$139 million.²⁴

2. Are RTOs providing value to Ohio's customers through more effective management and use of the grid?

IEU-Ohio suggests that RTOs have reduced the ability of vertically integrated utilities to discriminate in regard to use of their transmission assets and helped with reliability.²⁵ Although IEO-Ohio observes that RTOs serving Ohio have nominally eliminated pancaked rates, it states that it is not clear if this has provided value to consumers. In fact, IEU-Ohio believes that the elimination of pancake rates has resulted in an increased cost for some consumers.²⁶ Again, Duke Energy Ohio disagrees with the comments of IEU-Ohio.

Duke Energy Ohio instead concurs with ICF's assessment that when the Midwest ISO ended pancaked rates within its footprint, it provided an overall reduction in transmission costs within the Midwest ISO region. In addition to eliminating the pancaked rates between Midwest ISO Transmission Owners, pancaked rates have also been eliminated for transactions between the Midwest ISO and PJM.

²³ See, footnote 4, *infra*.

²⁴ See, footnote 5, *infra*.

²⁵ IEU-Ohio's Initial Comments, pg. 54.

²⁶ *Id.*

3. Are the RTOs' locational marginal pricing (LMP) policies providing value to Ohio's consumers?

IEU-Ohio notes the economic dispatch performed by RTOs reflects the use of LMP to provide an operational tool to physically balance generation and demand in real time. IEU-Ohio continues that dispatching performed by RTOs requires regional knowledge of actual real-time transmission grid conditions and this has translated into a better ability to manage transmission congestion with other tools, such as NERC's transmission loading relief (TLR). In IEU-Ohio's opinion, regional economic dispatch is not a new phenomenon; nor does it require the use of LMP.²⁷

Duke Energy Ohio does not believe IEU-Ohio has addressed how an RTO could revert to using the NERC TLR process exclusively and provide the same effective congestion management process as demonstrated through the use of the LMP dispatch model. Duke Energy Ohio comments that Midwest ISO's LMP-based energy market provides transparent economic signals to guide short- and long-run decisions made by Duke Energy Ohio and other participants, in coordination with their regulators. Although these benefits are the most difficult to quantify, they may be among the largest benefits because they accumulate over time as better investment and retirement decisions are made by participants in response to these price signals.

9. Are the RTOs' transmission cost allocation methodologies and policies resulting in value for Ohio's consumers?

IEU-Ohio comments that the FERC's current transmission cost allocation methodologies may place a disproportionate burden on Ohio customers.²⁸ But Duke Energy Ohio believes that the existing transmission cost allocation methodologies have

²⁷ Id., at 58.

²⁸ Id., at 61.

provided value for Ohio customers. Indeed, Duke Energy Ohio submits that these methodologies have resulted in a reasonable cost allocation that promotes the construction of transmission facilities necessary to maintain reliability within the region. Additionally, the cost allocation methodologies approved within the Midwest ISO footprint are consistent with the Organization of MISO States' principle that parties causing and benefiting from an upgrade should fund the project.

11. Are the RTOs' demand response programs, policies toward behind-the-meter generation, and other Load Modifying Resources effective and providing value to Ohio's consumers over and above state sponsored programs?

The OCC urges this Commission to direct Ohio utilities to actively pursue development of demand resources and to work with RTOs to ensure they are fully integrated in the energy and capacity markets. The OCC further suggests that the Commission should require Ohio utilities to incorporate demand resources into their markets as well as commission a study to assess barriers to demand resource participation in Ohio.²⁹

Duke Energy Ohio observes that the FERC has ordered RTOs to do the same thing at the wholesale level.³⁰ Thus, if the Commission finds value in a duplicative inquiry, it should concentrate on retail issues and barriers at the retail level. Duke Energy Ohio believes that another study of overall barriers to participation or barriers at the wholesale level is neither necessary nor economical.

²⁹ OCC's Initial Comments, pg. 34.

³⁰ *Wholesale Competition in Regions with Organized Markets*, Order No. 719, FERC Stats & Regs 31,281 (2008), Order on reh'g. Order No. 719-A, 128 FERC ¶61,059 (July 16, 2009).

16. Are the RTOs' administrative expenses and corresponding assessments to member companies reasonable and resulting in value to Ohio's consumers?

IEU-Ohio claims that subjecting Ohio retail customers to market-based pricing under either an electric security plan (ESP) or market rate option and requiring them to pay RTO administrative costs adds insult to injury. IEU-Ohio offers that the Commission should find the incurrence of RTO administrative costs to be imprudent unless lower generation prices for retail customers can be demonstrated.³¹

The Midwest ISO's administrative costs have been found to be just and reasonable by the FERC.³² Additionally, this Commission approved Duke Energy Ohio's ESP, which includes RTO administrative costs.³³ Thus, IEU-Ohio's comments are misplaced and untimely.

C. Reply Comments to the Comments Offered in Response to Specific Questions Raised by the Public Utilities Commission of Ohio (Part II).

1. Are there viable, cost-effective alternatives to the existing RTO memberships of Ohio utilities or to Ohio utility participation in RTO managed functions (e.g. renewable tracking, reserve sharing groups, etc.)?

IEU-Ohio submits that there are viable alternatives such as to withdrawal from the RTO and contract with a third party for scheduling and reliability functions, such as Louisville Gas & Electric (LG&E) has done.³⁴ Duke Energy Ohio disagrees with such an ill-conceived proposal. LG&E's withdrawal caused LG&E to incur approximately a \$28 million exit fee, which was likely passed on to LG&E customers. Additionally, Senate Bill 3 effectively requires Ohio's electric utilities to join a RTO. As stated earlier, even

³¹ IEU-Ohio's Initial Comments, pg. 66.

³² Midwest ISO Tariff Schedules 10, 16, and 17 assess administrative costs to market participants.

³³ See footnote 10, *infra*.

³⁴ IEU-Ohio's Initial Comments, pg. 67.

though Senate Bill 3 required Duke Energy Ohio to join a RTO, there are many benefits associated with RTO membership.

Indeed, as discussed under Section II. A. 1, *infra*, participation in an RTO has led to tangible benefits such as improved reliability, better management of transmission congestion, and access to a more diversified generation base. And it is Duke Energy Ohio's opinion that each enhancement to the MISO tariff resulted in increased benefits. IEU-Ohio believes that Ohio utilities can withdraw from an RTO but still participate in the current reserve sharing group.³⁵ Duke Energy Ohio submits this is not likely as the existing reserve sharing group agreement will be terminating at the end of 2009.

Finally, IEU-Ohio identifies RTO reform as another option because it is supported by several industrial customers in PJM.³⁶ In Duke Energy Ohio's opinion, there are no cost effective RTO alternatives given the current structure of the Midwest region. Moreover, given that RTOs are regulated by the FERC any such reform would need to be handled by FERC and potentially Congress.

2. Would it be reasonable, cost effective, and viable for the Ohio Commission to pursue the construct of an Ohio-only RTO?

According to the IEU-Ohio, the Commission should consider an Ohio-only RTO, along with Ohio utilities contracting with a third party to administer scheduling and reliability functions.³⁷ Duke Energy Ohio disagrees.

Duke Energy Ohio notes that the characteristics of Order 2000 preclude an Ohio-only RTO. Some of the companies have jurisdictional facilities that span multiple states. Therefore, inefficiencies would be induced solely from the forced-fragmentation of the

³⁵ IEU-Ohio's Initial Comments, pg. 67.

³⁶ *Id.*

³⁷ *Id.* at 69.

transmission operations. A bigger, broader footprint brings an economy of scale that lowers transmission costs, energy costs, and capacity costs that are then spread over a much larger load. A footprint that is much larger than the ill-conceived Ohio-RTO.

Smaller RTOs would raise hurdle rates (access to markets) and isolate Ohio from the broader Midwest market and remove many of the positive aspects that IEU-Ohio states are working in the RTO. The smaller RTO would internalize fewer constraints and provide fewer resources to address constraint resolution.

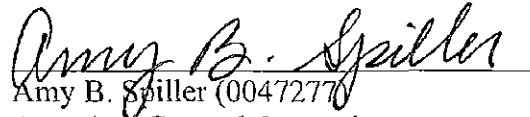
The OCC recommends a study to ascertain whether all Ohio utilities should join Midwest ISO or PJM.³⁸ Duke Energy Ohio objects to such a study on the grounds that it would be both unnecessary and extremely costly. This objection is further supported by the OCC's failure to address the significant exit fees that would be incurred and the treatment of utility assets in other states, (such as Kentucky) with respect to an Ohio-only RTO. If such assets are contemplated for inclusion in an Ohio-RTO of less scope and scale, opposition to that transfer is inevitable.

III. CONCLUSION

Duke Energy Ohio, Inc. appreciates the opportunity to provide reply comments on the Public Utilities Commission of Ohio's deliberate investigation into the value of regional transmission organizations.

³⁸ OCC's Initial Comments, pg. 43.

Respectfully submitted,

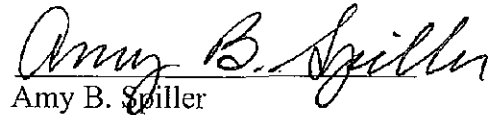
A handwritten signature in cursive script that reads "Amy B. Spiller". The signature is written in black ink and is positioned above a horizontal line.

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing motion to dismiss was delivered via first-class mail delivery, postage prepaid or overnight delivery on this the 23 day of July 2009 to the following:


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