

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

In the Matter of the Regulation)
of the Purchased Gas Adjustment Clause) Case No. 09-218-GA-GCR
Contained Within the Rate Schedules of)
Duke Energy Ohio, Inc. and Related Matters)

DIRECT TESTIMONY OF**JAMES P. HENNING****ON BEHALF OF****DUKE ENERGY OHIO**

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I. INTRODUCTION AND PURPOSE

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

2 A. My name is James P. Henning. My business address is 139 East Fourth
3 Street, Cincinnati, Ohio 45202.

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

5 A. I am employed by Duke Energy Business Services, LLC, an affiliate service
6 company of Duke Energy Ohio, Inc. (Duke Energy Ohio or Company). I am the
7 General Manager of Gas Commercial Operations within the Gas Operations
8 Department of Duke Energy Corp. ("Duke Energy") and its subsidiaries, which
9 include Duke Energy Ohio, Inc. ("Duke Energy Ohio").

10 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND.**

11 A. I received a Bachelor of Science in Business Administration from Wright State
12 University in 1988, and a Master's of Business Administration from the
13 University of South Florida in 1990. I have attended numerous other industry and
14 company sponsored programs and courses.

15 **Q. PLEASE SUMMARIZE YOUR BUSINESS EXPERIENCE.**

16 A. I have worked in the natural gas industry for approximately 20 years. From 1990-
17 1999, I was employed at Dayton Power & Light Co. (DP&L) as a Gas Analyst in
18 the Gas Supply Planning Department. My responsibilities as a Gas Analyst
19 included gas and interstate pipeline procurement, system load forecasting, and
20 daily load dispatching. From 1993-1996 I worked for DP&L's non-regulated
21 natural gas sales company, MVR, as a Manager of Natural Gas Sales and

1 Marketing. In 1996, I joined Cinergy Corp.'s non-regulated natural gas sales
2 company, Cinergy Resources, Inc., as the Manager of Energy Sales and Services
3 and worked in this capacity until 2000. As Manager of Energy Sales and
4 Services, my responsibilities included the coordination of all retail sales,
5 marketing and customer service activities in the Indiana, Ohio and Kentucky
6 markets. Between 2000-2001, I worked for various departments within Cinergy
7 Corp. I then became a General Manager with the Gas Operations Department in
8 October 2001.

9 Q. HAVE YOU EVER TESTIFIED BEFORE THE PUBLIC UTILITIES
10 COMMISSION OF OHIO?

11 A. Yes.

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

14 A. The purpose of my testimony is to identify and discuss those recommendations of
15 NorthStar Consulting Group as set forth in its report with which the Company
16 does not agree.

17 **II. DISCUSSION OF AUDIT FINDINGS**

18 Q. DOES DUKE ENERGY OHIO AGREE WITH ALL OF THE
19 RECOMMENDATIONS SET FORTH IN THE "FINAL REPORT -
20 MANAGEMENT/PERFORMANCE AUDIT OF GAS PURCHASE
21 PRACTICES AND POLICIES OF DUKE ENERGY OHIO"
22 (HEREINAFTER FINAL REPORT) FILED WITH THE PUBLIC
23 UTILITIES COMMISSION OF OHIO ON NOVEMBER 19, 2009?

1 A. No.

2 Q. PLEASE IDENTIFY THE RECOMMENDATIONS WITH WHICH DUKE
3 ENERGY OHIO DOES NOT AGREE AND THE BASIS FOR SUCH
4 DISAGREEMENT.

5 A. The Executive Summary of the Final Report sets forth the fourteen
6 recommendations. (See Final Report, Executive Summary, Exhibit I-3, pg. I-12.) I
7 will address recommendations with which Duke Energy Ohio does not agree
8 consistent with the order set forth in this Executive Summary.

9 With respect to Chapter III – Gas Procurement, Final Report, the auditor
10 recommends that Duke Energy Ohio “explore the value of instituting at least one
11 IT curtailment each winter to confirm the ability of IT customers to comply, test
12 the volumes available from curtailment, and validate the logistics of
13 implementing a curtailment.” For the reasons that follow, Duke Energy Ohio does
14 not agree with this recommendation.

15 There is no justification for exploring the implementation of an unnecessary IT
16 curtailment. Indeed, in advancing this recommendation, the auditor did not set
17 forth any facts from which it could be concluded that IT customers would benefit
18 from an unneeded curtailment. Rather, the auditor concluded only that “*some*
19 *customers may not be fully aware of the...reduction or...impact*” of a curtailment.
20 (See Final Report, pg. III-14. Emphasis added.) This speculation does not support
21 the disruption to all IT customers and does not support Duke Energy Ohio
22 diverting time, expense, and resources to exploring an activity that has not been
23 shown to be beneficial. Furthermore, the auditor acknowledged that Duke Energy

1 Ohio appropriately contacts all IT customers to discuss the potential for
2 curtailment. Accordingly, each IT customer has the opportunity to discuss any
3 concerns that they may have without a corresponding system interruption. Thus,
4 there is no legitimate business reason upon which the auditor can rely in
5 advancing this recommendation.

6 Also in Chapter III – Gas Procurement, Final Report, the auditor recommends that
7 Duke Energy Ohio develop a formal, written procedure that discusses intervention
8 in matters pending before the Federal Energy Regulatory Commission (FERC).
9 (See Final Report, Executive Summary, Exhibit I-3, pg. I-12.) In advancing this
10 recommendation, the auditor suggests that the Company should include specific
11 detail concerning the persons who will be involved and the factors to be
12 considered in the decision-making process. Thus, the auditor is suggesting that the
13 Company outline, with specificity, all factors to be considered in deciding
14 whether and when it will intervene in FERC matters. For the reasons that follow,
15 Duke Energy Ohio disagrees with the level of detail suggested in the Final Report.
16 The decision of whether to intervene in a formal proceeding undeniably requires
17 the advice and counsel of Duke Energy Ohio's attorneys. And the considerations
18 relevant to counsel are, as I understand, generally privileged from disclosure. As
19 such, the Company is reluctant to formally document all factors that will be
20 considered in this process when doing so necessarily requires the disclosure of
21 otherwise privileged information. Furthermore, it is not practical to articulate a
22 list of considerations that would be uniformly applied in respect of every FERC
23 matter. The circumstances unique to each matter will influence the Company's

1 decision regarding intervention. Similarly, the personnel involved in this decision
2 may change, again depending on the facts and circumstances relevant to a
3 particular case. Thus, it is impractical – if not impossible – to formally document
4 who will be involved in each decision. Duke Energy Ohio is amenable to
5 developing some form of written documentation that generally discusses the
6 monitoring of FERC proceedings. But it objects to documentation that is intended
7 to specifically detail all considerations to be made in deciding whether Duke
8 Energy Ohio will, through counsel, seek to intervene in a FERC proceeding.

9 In Chapter II – Load Forecasting, Final Report, the auditor recommends that the
10 Company review day-ahead forecasts in certain circumstances. (See Final Report,
11 Executive Summary, Exhibit I-3, pg. I-12.) The auditor further suggests that, as
12 part of this review, Duke Energy Ohio should “determine the causes of the
13 variance and adjust models as necessary.” (*Id.*) As discussed below, Duke Energy
14 Ohio does not completely agree with this recommendation.

15 The Company agrees to review day-ahead forecasts in those limited
16 circumstances identified by the auditor. But the Company disagrees with the
17 recommendation that it *determine* the cause of any such variance that exceeds 5%.
18 Rather, Duke Energy Ohio proposes that it *evaluate* the cause of any variance that
19 is greater than 5%. Although these functions appear similar, determining the
20 cause of a variance implies that a conclusion be made whereas evaluating the
21 cause allows for a thorough review without a definitive result. The latter appears
22 more practical and efficient where, as here, the auditor admitted that Duke Energy

1 Ohio's "forecasting methodologies are generally accurate." (See Final Report, pg.
2 II-8.)

3 Also in Chapter II – Load Forecasting, Final Report, the auditor recommends that
4 Duke Energy Ohio "research the underlying causes of annual nomination
5 imbalances and develop procedures for minimizing imbalances." (See Final
6 Report, Executive Summary, Exhibit I-3, pg. I-12.) The auditor further
7 recommends that the Company "analyze market impacts as a result of the
8 imbalances." (Id.) As discussed below, Duke Energy Ohio objects to the
9 recommendation as stated. But it would accept a modification to this
10 recommendation.

11 The recommendation would require an unnecessary diversion of time and
12 resources to an issue that does not appear critical. Indeed, the auditor concedes
13 that, annually, "the total amount of natural gas to balance is negligible." (See
14 Final Report, pg. II-12.) In addition, the auditor bases the recommendation on the
15 fact that the imbalances for individual marketers "vary drastically", however the
16 three marketers listed in Exhibit II-5 with the highest percentage imbalances all
17 manage relatively small pools ("Marketer 1" serves a total of 6
18 commercial/industrial customers). But in the spirit of compromise, Duke Energy
19 Ohio agrees, effective on or about June 2010, to monitor annual imbalances using
20 its Gas Transportation Management System and to thereafter evaluate any such
21 annual nomination imbalances.

22 In Chapter V – Operational Issues, Final Report, the auditor recommends that
23 Duke Energy Ohio "convert the flexible rate negotiation process provided to

1 NorthStar into formal written guidelines or memorandum from management to
2 *ensure* universal application of the procedures." (See Final Report, Executive
3 Summary, Exhibit I-3, pg. I-13. Emphasis added.) With minor revision, Duke
4 Energy Ohio accepts this recommendation.

5 Duke Energy Ohio proposes that this recommendation be revised such that the
6 written documentation *enable* the universal application of the procedures.
7 *Ensuring* identical application of procedures in each and every instance imposes
8 upon the Company an absolute obligation that, based upon the auditor's review,
9 appears unduly burdensome and unnecessary. Indeed, the auditor observed that
10 Duke Energy Ohio currently has a process for responding to inquiries regarding
11 flexible rates. And this process already includes "sufficient controls to assure that
12 flexible rates are not implemented without proper documentation...or without
13 appropriate approvals from senior management." (See Final Report, pg. V-4.) The
14 primary criticism of the auditor is that these existing – and appropriate –
15 procedures were not documented in a formal, written procedure book. Thus, the
16 recommendation, as revised by Duke Energy Ohio, sufficiently addresses the
17 auditor's concerns while removing the imposition of an unnecessarily strict
18 obligation upon the Company.

19 Also in Chapter V – Operational Issues, Final Report, the auditor recommends
20 that Duke Energy Ohio "adopt a policy of reviewing the eligibility and economics
21 of flexible rate agreements prior to renewal. (See Final Report, Executive
22 Summary, Exhibit I-3, pg. I-13.) The auditor further recommends that this policy
23 be made a part of existing flexible agreements, if possible, such that it is effective

1 with an amendment to such existing agreement. (Id.) For the reasons noted below,
2 Duke Energy Ohio partially agrees to this recommendation.
3 The Company agrees to review the eligibility and economics of flexible rate
4 agreements prior to their renewal and it will adopt a policy to do so. However, it
5 is reluctant to seek contract amendments that significantly alter the existing terms
6 and conditions of a contract and thus objects to any recommendation that could be
7 inferred as requiring such an outcome. Generally speaking, contract amendments
8 cannot be accomplished without renegotiating the existing terms. And a material
9 term that is often the subject of renegotiation is price. Although Duke Energy
10 Ohio will review existing contracts prior to their renewal, it will not
11 systematically agree to contract amendments that are not financially appropriate.
12 Again, therefore, to the extent this recommendation may be interpreted as
13 implying that the Company should elicit contract amendments for the purpose of
14 adding certain terms and conditions without regard to price, rates, or cost, it is
15 reluctant to do so.

16 **III. CONCLUSION**

17 **Q. DOES DUKE ENERGY OHIO HAVE ANY OTHER OBJECTIONS TO**
18 **THE RECOMMENDATIONS SET FORTH IN THE FINAL REPORT?**

19 **A. Not at this time.**

20 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

21 **A. Yes.**