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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke)
Energy Ohio, Inc. to Establish its Fuel) Case No. 09-974-EL-FAC
and Economy Purchased Power)
Component of its Market-Based Standard)
Service Offer for 2009.)

In the Matter of the Application of Duke)
Energy Ohio, Inc. to Establish its System) Case No. 09-975-EL-RDR
Reliability Tracker of its Market-Based)
Standard Service Offer for 2009.)

PUCO

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MOTION FOR
SUBPOENA DUCES TECUM

Now comes the Office of the Ohio Consumers' Counsel ("OCC") and, pursuant to Ohio Adm. Code 4901-1-25, hereby respectfully moves the Public Utilities Commission of Ohio ("Commission" or "PUCO"), any commissioner, the legal director, the deputy legal director, or the attorney examiner assigned to this case to issue a subpoena *duces tecum* compelling Joseph A. Miller, Jr., an employee of Duke Energy Ohio or one of its affiliated operations (collectively, "Duke") to provide testimony, upon cross-examination, at the hearing presently scheduled for September 7, 2010 at the offices of the Public Utilities Commission of Ohio ("PUCO" or "Commission") located at 180 E. Broad Street, 18th Floor, Columbus, Ohio 43215) at 10:00 a.m. The OCC asks that Mr. Miller be required to attend from day to day, until his testimony is completed, in order to provide testimony regarding the treatment of repairs at the Zimmer Station and associated replacement power costs.

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.

Technician

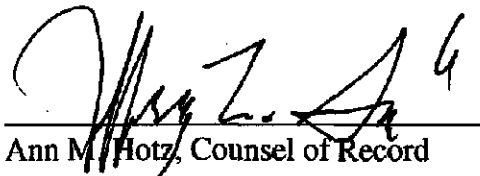
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The documents the witness should bring with him have an important bearing on the above-captioned cases that deal with replacement power costs that were incurred by Duke as the result of outages at the Zimmer Station. Mr. Miller has been relied upon by Duke in its responses to the OCC's discovery regarding the Zimmer Station.

Grounds for this Motion are set forth in the accompanying Memorandum in Support.

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER
CONSUMERS' COUNSEL

A handwritten signature in black ink, appearing to read "Ann M. Hotz", is written over a horizontal line.

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

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Energy Ohio, Inc. to Establish its Fuel)	Case No. 09-974-EL-FAC
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Standard Service Offer for 2009.)	

MEMORANDUM IN SUPPORT

The OCC requests a subpoena, pursuant to Ohio Adm. Code 4901-1-25, to command Joseph A. Miller, Jr., an employee of Duke Energy Ohio or one of its affiliated operations (collectively, "Duke"), to provide testimony at the hearing presently scheduled on September 7, 2010 at the offices of the Public Utilities Commission of Ohio ("PUCO" or "Commission") located at 180 E. Broad Street, 18th Floor, Columbus, Ohio 43215 at 10:00 a.m. The OCC asks that Mr. Miller be required to attend from day to day, until his testimony is completed, in order to provide testimony regarding the treatment of outages at the Zimmer Station, including the actual repairs and the replacement power that was required as the result of outages at the Zimmer Station.

The above-captioned cases all involve Duke's Fuel and Purchased Power ("FPP") rider as part of standard service charges. Charges connected with the operation of the Zimmer Station, including replacement power resulting from outages at the Zimmer Station, are part of FPP mechanism for charging customers. As an example of this connection

between the operation of the Zimmer Station and FPP charges as part of the instant cases, the docketed *Management/Performance and Financial Audits of the Fuel and Purchased Power as Well as the System Reliability Tracker Riders of Duke Energy Ohio, Inc.*

(“Audit Report,” docketed May 14, 2010) addresses the outages at the Zimmer Station and associated replacement power costs.¹ Mr. Miller has been relied upon by Duke in response to the OCC’s discovery requests regarding outages at the Zimmer Station, and he should be able to provide information regarding these matters in a manner not addressed by the Audit Report. The full participation of Mr. Miller will facilitate a full and complete development of these cases before the PUCO, including the ultimate record upon which the Commission will base its decision

Additionally, the OCC requests the PUCO to command Mr. Miller to bring with him on said day and at said place all documents in his possession and control, and in the possession or control of Duke (all forms of documents, including hard copies of information stored on electronic media), that provide the analysis relied upon by Mr. Miller and Duke to determine the amount of replacement power obtained as the result of outages at the Zimmer Station as well as the causes and manner of repair to the Zimmer Station during 2009. The documents should include those reports, analyses, and documentation provided by Duke in response to the OCC’s requests for production by Duke.

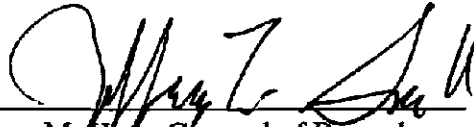
The indicated information is important to understanding and addressing the issues related to Duke’s proposed fuel and purchased power expenses, part of Duke’s standard

¹ See, e.g., Audit Report at 71-72.

service charges, and will more fully illuminate the statements contained in the Audit Report on this same topic.

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER
CONSUMERS' COUNSEL

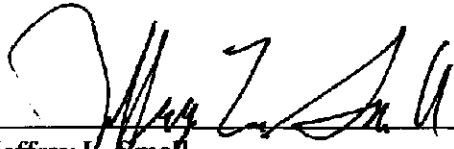
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Ann M. Hotz, Counsel of Record
Jeffrey L. Small
Assistant Consumers' Counsel

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing Motion for Subpoena *Duces Tecum*, was served by regular U.S. Mail, postage prepaid, this 23rd day of August 2010.



Jeffrey L. Small
Assistant Consumers' Counsel

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PUBLIC UTILITIES COMMISSION
180 EAST BROAD STREET
COLUMBUS, OHIO 43266-0573**

**Ted Strickland
GOVERNOR**



**THE PUBLIC UTILITIES COMMISSION OF OHIO
SUBPOENA DUCES TECUM**

**TO: Joseph A. Miller, Jr.
c/o Elizabeth Watts (as agreed)
Duke Energy Ohio, Inc.
155 East Broad Street, 21st Floor
Columbus, Ohio 43215**

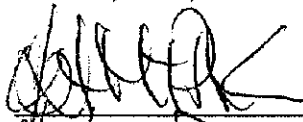
Upon application of Counsel for the Office of the Ohio Consumers' Counsel ("OCC"), Mr. Joseph A. Miller, Jr. (an employee of a Duke Energy affiliated company) is hereby required to appear and give testimony at the hearing scheduled for September 7, 2010 at the offices of the Public Utilities Commission of Ohio ("PUCO" or "Commission") located at 180 E. Broad Street, 18th Floor, Columbus, Ohio 43215 at 10:00 a.m. Mr. Miller is required to attend the hearing until his testimony is completed, upon cross-examination, regarding the treatment of repairs during 2009 for outages at the Zimmer Station and arrangement for replacement power that resulted from the outages.

Mr. Miller shall attend from day to day until the hearing is completed to provide testimony and information concerning the Zimmer Station outages. In addition, Mr. Miller is required to bring with him all documents in his possession or control, and in the possession or control of Duke (all forms of documents, including hard copies of information stored on electronic media), that provide the analysis relied upon by Mr.

Miller and Duke to determine the amount of replacement power obtained as the result of outages at the Zimmer Station as well as the causes and manner of repair to the Zimmer Station during 2009. The documents shall include those reports, analyses, and documentation provided by Duke in response to the OCC's requests for production of documents (e.g. RPD-10).

Dated at Columbus, Ohio, this 23rd day of August 2010.

By:



Title:

Chief Gas Process Engineer PUCO/O&B