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BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke )  
Energy Ohio for Approval of a Market )  
Rate Offer to Conduct a Competitive )  
Bidding Process for Standard Service ) Case No. 10-2586-EL-SSO  
Offer Electric Generation Supply, )  
Accounting Modifications, and Tariffs for )  
Generation Service. )

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VOLUME II

TESTIMONY

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Generation Service.     )

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**DIRECT TESTIMONY OF**

**JULIA S. JANSON**

**ON BEHALF OF**

**DUKE ENERGY OHIO, INC.**

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November 15, 2010

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## **I. INTRODUCTION**

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

2   A.   My name is Julia S. Janson, and my business address is 139 East Fourth Street,  
3       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 (DEBS), as President of  
6       Duke Energy Ohio, Inc. (Duke Energy Ohio or the Company) and its subsidiary,  
7       Duke Energy Kentucky, Inc. DEBS provides various administrative and other  
8       services to Duke Energy Ohio and other affiliated companies of Duke Energy  
9       Corporation (Duke Energy).

10  **Q.   PLEASE BRIEFLY DESCRIBE YOUR EDUCATION AND**  
11  **PROFESSIONAL EXPERIENCE.**

12  A.   I earned a Bachelor of Arts degree in American Studies from Georgetown College  
13       in Georgetown, Kentucky. I earned my Juris Doctor degree from the University  
14       of Cincinnati, College of Law. I am a member of the Ohio Bar and the Kentucky  
15       Bar. Prior to my current position, I served as Senior Vice President of Ethics and  
16       Compliance and Corporate Secretary for Duke Energy, where I directed Duke  
17       Energy's ethics and compliance program. Prior to that, I served as Corporate  
18       Secretary and Chief Compliance Officer for Cinergy Corp. (Cinergy), where I  
19       directed Cinergy's corporate compliance program. I was appointed Chief  
20       Compliance Officer in 2004 and Corporate Secretary in 2000. From 1998 to  
21       2004, I served as Senior Counsel, providing advice on executive compensation,  
22       benefits, transactions, corporate governance, securities, and general corporate

1 matters. From 1996 to 1998, I served as Counsel for Cinergy, providing research,  
2 advice and support for divestitures, mergers and acquisitions, and to numerous  
3 internal business clients including investor relations, shareholder services,  
4 corporate communications and government and regulatory affairs. I also served  
5 as corporate counsel to the international business unit. I was Manager of Investor  
6 Relations for Cinergy from 1995 to 1996. Prior to joining Cinergy, I began my  
7 corporate career in 1987 as a law clerk with The Cincinnati Gas & Electric  
8 Company (CG&E) and began full-time employment with CG&E as Supervisor of  
9 Securities Processing and Transfer Agent for CG&E common and preferred stock,  
10 after which I was named Corporate Attorney. In addition, I was a member of the  
11 legal team responsible for completing the merger of CG&E and PSI Energy, Inc.,  
12 which formed Cinergy in 1994. Before joining CG&E, I served as a law clerk  
13 with Adams, Brooking, Stepmeyer, Wolterman & Dusing in Covington, Kentucky.

14 **Q. PLEASE SUMMARIZE YOUR RESPONSIBILITIES AS PRESIDENT,**  
15 **DUKE ENERGY OHIO.**

16 **A.** As President of Duke Energy Ohio, I am responsible for ensuring that our  
17 customers continue to have access to safe, reliable, and reasonably priced natural  
18 gas and electric service and that these services are provided in accordance with  
19 applicable federal and state laws and regulations. I am also involved in external  
20 efforts relating to governmental and regulatory affairs, interacting with state and  
21 community leaders and regulators on matters relevant to Duke Energy Ohio's  
22 business and presence in Ohio. I am responsible for the Company's economic

1 development efforts and Duke Energy's charitable contributions in the Greater  
2 Cincinnati region.

3 **Q. ARE YOU CURRENTLY INVOLVED IN ANY PROFESSIONAL OR**  
4 **CHARITABLE ORGANIZATIONS?**

5 A. Yes. I currently serve on a variety of Boards of Directors for nonprofit  
6 organizations, including United Way of Greater Cincinnati, Northern Kentucky  
7 Tri-County Economic Development Corporation, Cincinnati City Center  
8 Development Corporation, Cincinnati USA Regional Chamber, Cincinnati USA  
9 Regional Chamber Partnership, Vision 2015 Regional Stewardship Council, and  
10 Kentucky Chamber of Commerce. In addition, served as the 2010 city-wide  
11 campaign chair for the City of Cincinnati Fine Arts Fund, and am a 2010-2011  
12 United Way Executive Committee member, the vice-chair (since 2009) of the  
13 United Way Regional Public Policy Council, a member since 2008 of the  
14 Cincinnati Business Committee, the co-chair since 2008 of the Cincinnati  
15 Business Committee Economic Development Task Force, a member of the  
16 Cincinnati USA Regional Chamber Executive Committee, a member of the  
17 Kentucky Chamber of commerce Executive Committee, a member of the Climate  
18 Protection Steering Committee, and a member of the Commercial Club of  
19 Cincinnati.

20 **Q. HAVE YOU EVER TESTIFIED BEFORE THE PUBLIC UTILITIES**  
21 **COMMISSION OF OHIO?**

22 A. No.

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

3 A. My testimony provides an overview of Duke Energy Ohio's corporate and  
4 business structure. I then describe the recent developments affecting Duke  
5 Energy Ohio since the approval of its first electric security plan (ESP) in 2008. I  
6 also provide an overview of the Company's market rate offer (MRO) proposal  
7 and the reasons supporting the filing. I also provide a summary of the Company's  
8 proposal to transfer its generating assets. Additionally, I discuss how the  
9 Company's MRO proposal is consistent with the policies of the state of Ohio as  
10 established in R.C. 4928.02.

**II. OVERVIEW OF DUKE ENERGY OHIO'S**  
**CORPORATE AND BUSINESS STRUCTURE**

11 Q. PLEASE GIVE AN OVERVIEW OF DUKE ENERGY OHIO'S UTILITY  
12 DISTRIBUTION SYSTEM AND OPERATIONS.

13 A. Duke Energy Ohio's headquarters are in downtown Cincinnati, as they have been  
14 for over 170 years. From these local headquarters, Duke Energy Ohio directs the  
15 planning, construction, operation and maintenance of its electric transmission and  
16 distribution system. Duke Energy Ohio's distribution system currently provides a  
17 reliable supply of electricity to approximately 690,000 residential, commercial  
18 and industrial, and public authority customers in southwestern Ohio. Duke  
19 Energy Ohio owns approximately 1,550 circuit-miles of transmission lines and  
20 16,743 circuit-miles of distribution lines throughout its service territory. Although  
21 an increasing percentage of Duke Energy Ohio's customers are served via  
22 underground facilities, the vast majority of Duke Energy Ohio's service territory

1 continues to be served via overhead transmission and distribution lines. As  
2 further described by Company witness Charles R. Whitlock, Duke Energy Ohio  
3 also owns electric generating facilities that are functionally separated from the  
4 regulated operations of the Company.

5 In addition to electric utility operations, Duke Energy Ohio also provides  
6 natural gas distribution service to approximately 420,000 customers in Hamilton,  
7 Butler, Clermont, Warren, Brown, Adams, Clinton, Montgomery and Highland  
8 counties in southwestern Ohio. Duke Energy Ohio has more than 5,700 miles of  
9 gas mains on its natural gas distribution and transmission system.

10 **Q. PLEASE GIVE AN OVERVIEW OF DUKE ENERGY OHIO'S ELECTRIC**  
11 **TRANSMISSION SYSTEM AND OPERATIONS.**

12 A. In February 2002, Duke Energy Ohio, then known as CG&E, and Public Service  
13 Company of Indiana (PSI) transferred functional control of their transmission  
14 system to the Midwest Independent Transmission System Operator, Inc. (Midwest  
15 ISO), which provides for maximum reliability of the regional bulk power supply.  
16 The transmission system is operated in accordance with standards issued by the  
17 North American Electric Reliability Corporation (NERC) and ReliabilityFirst  
18 Corporation (RFC). RFC is a Regional Reliability Organization that is the  
19 successor organization to the East Central Area Reliability Council (ECAR).  
20 Duke Energy Ohio has also been a member of PJM Interconnection LLC (PJM),  
21 as a non-transmission owner member, since October 1, 2006, having replaced its  
22 predecessor that joined on June 27, 2001.



1           In June 2010, Duke Energy Ohio filed an application with the Federal  
2           Energy Regulatory Commission (FERC) under FERC Docket No. ER10-1562-  
3           000, requesting approval to move its legacy generation and load into PJM. The  
4           Company subsequently filed for approval of a Fixed Resource Requirement  
5           (FRR) plan under FERC Docket No. ER10-2254-000. On October 21, 2010, the  
6           FERC approved, subject to minor conditions, the first steps in the Company's  
7           realignment to PJM, including its FRR plan. The Company expects this  
8           realignment to be completed by January 1, 2012, which coincides with the  
9           beginning of Company's proposed MRO plan.

10   **Q.   HOW IS THE REALIGNMENT TO PJM RELEVANT, IF AT ALL, TO**  
11   **THE COMPANY'S PROPOSED MRO?**

12   A.   The MRO structure is predicated upon a competitive process through which Duke  
13           Energy Ohio acquires supply for its SSO load. Thus, those customers who choose  
14           not to shop for generation suppliers will benefit from SSO rates that are derived  
15           from competitive pressures. But the MRO structure does not limit customers'  
16           right to choose. This overall competitive format – whether through a competitive  
17           process for acquiring generation supply or through customer choice – will persist  
18           in Ohio. It is in this environment that Duke Energy Ohio determined the  
19           appropriate direction for its regional transmission organization (RTO)  
20           membership. Duke Energy Ohio witness Kenneth J. Jennings provides further  
21           detail on the benefits of this realignment.

22   **Q.   PLEASE BRIEFLY DESCRIBE DUKE ENERGY OHIO'S CURRENT**  
23   **STANDARD SERVICE OFFER.**

1 A. Duke Energy Ohio's current standard service offer (SSO) is in the form of an  
2 ESP. The ESP was established by a Stipulation and Recommendation approved  
3 by the Public Utilities Commission of Ohio (Commission) through its Opinion  
4 and Order dated December 17, 2008, in Case No. 08-920-EL-SSO, *et al.* The  
5 ESP was approved as a three-year price formula for generation service that went  
6 into effect on January 1, 2009, and continues through December 31, 2011. The  
7 ESP formula is essentially in two parts: a bypassable price-to-compare component  
8 and non-bypassable provider of last resort component. The price-to-compare  
9 includes a base generation rate along with several riders that are adjusted  
10 periodically to recover specific variable and incremental costs, including fuel,  
11 emission allowances, environmental compliance, purchased power, and costs for  
12 complying with renewable energy requirements. For certain qualifying  
13 customers, there are additional riders that can be bypassable, such as the rider that  
14 recovers for the cost to provide capacity necessary to achieve a required reserve  
15 margin.

**III. SIGNIFICANT RECENT DEVELOPMENTS**  
**AFFECTING DUKE ENERGY OHIO**

16 Q. WHAT MAJOR AND RELEVANT DEVELOPMENTS HAVE AFFECTED  
17 DUKE ENERGY OHIO'S BUSINESS SINCE THE APPROVAL AND  
18 IMPLEMENTATION OF ITS 2008 ESP?

19 A. As mentioned by Company witness James E. Rogers, since the implementation of  
20 Duke Energy Ohio's ESP on January 1, 2009, the market price of power has  
21 significantly dropped, resulting in aggressive customer switching among all  
22 customer classes. The number of competitive retail electric service (CRES)

1 providers approved by the Commission and registered to do business in Ohio has  
2 doubled in the last two years. On January 1, 2009, there were seven CRES  
3 providers registered to do business in Duke Energy Ohio's service territory, with  
4 five actively serving customers. As of the date of this Application, the number of  
5 registered CRES providers in Duke Energy Ohio's service territory has grown to  
6 fourteen, with thirteen actively serving customers.

7 **Q. PLEASE DESCRIBE THE SWITCHING LEVELS AMONG THE**  
8 **CUSTOMER CLASSES.**

9 A. As of September 30, 2010, Duke Energy Ohio is serving less than 40% of the  
10 total megawatt-hours (MWhs) of load in its own service territory. That means  
11 that more than 60% of the Company's total load has switched to CRES providers  
12 for retail generation service. To put this into perspective by customer class, in  
13 terms of annual MWhs of load, the Company has experienced switching by  
14 approximately 89% of industrial load, 70% of commercial load, 29% of  
15 residential load, and 90% of Other Public Authority (OPA) load. If switching is  
16 viewed based on the number of switched accounts by customer class, the impact  
17 is that approximately 53% of industrial accounts, 35% of commercial accounts,  
18 26% of residential accounts, and 60% of OPA accounts have switched to CRES  
19 providers.

#### IV. THE MARKET RATE OFFER PROPOSAL

20 **Q. PLEASE EXPLAIN WHY DUKE ENERGY OHIO IS SEEKING**  
21 **APPROVAL OF AN MRO.**

1 A. As described in detail in our filing, the MRO option affords benefits to the  
2 Company as well as its customers, while furthering the goals of this state to  
3 develop a robust and competitive market for electric generation services.

4 **Q. HOW DOES THE MRO SIMULTANEOUSLY ADVANCE THE**  
5 **INTERESTS OF THE COMPANY AND ITS CUSTOMERS?**

6 A. The MRO is based upon an open, fair, and transparent competitive solicitation  
7 process through which the Company will acquire its SSO load. This competitive  
8 solicitation process will produce prices for customers that are more in line with  
9 the market. And the Company's competitive bidding process (CBP) plan, which  
10 incorporates staggered procurements, will mitigate price volatility, yielding stable  
11 and certain prices. The MRO preserves customers' rights to shop. Accordingly,  
12 the MRO proposed by Duke Energy Ohio encourages the competitive arena that  
13 the General Assembly intended years ago and reaffirmed in Amended Substitute  
14 Senate Bill 221 (S.B. 221). It is thus advantageous for customers.

15 The MRO also provides more clarity for Duke Energy Ohio's business.  
16 Under the current law, the Company is effectively quasi-regulated and exposed to  
17 the risk of customers switching without adequate cost recovery for standing ready  
18 to serve all customers in its territory. Under the MRO, the Company will procure  
19 supply through a competitive process that incorporates certain levels of protection  
20 for the reliable supply of that load. The MRO thus affords benefits to the  
21 Company, its shareholders, and its customers. The MRO also affords greater  
22 regulatory certainty; it is not a short-term plan. Rather, it is intended to last  
23 indefinitely.

1           The CBP plan detailed in the Company's filing recognizes ongoing  
2           competition for electric generation supply. Indeed, the CBP plan under the MRO  
3           provides suppliers with a fair opportunity to compete for the Company's load  
4           obligations. Thus, in addition to CRES providers, other competitors would have  
5           the opportunity under the MRO to become active in Duke Energy Ohio's service  
6           territory.

7   **Q.   PLEASE SUMMARIZE DUKE ENERGY OHIO'S MRO PROPOSAL.**

8   A.   I will provide a brief summary, as other Company witnesses provide the  
9           necessary level of detail through their testimony.

10           The CBP plan under the MRO incorporates a descending-price clock  
11           auction through which generation supply will be acquired for delivery beginning  
12           on January 1, 2012. The Company expects to conduct its first auction no sooner  
13           than June 2011. As explained by Company witness James S. Northrup, this first  
14           auction will encompass a seventeen-month service commitment, thereby allowing  
15           the Company's load auctions to align with the PJM auction calendar. Thereafter,  
16           the service commitments will vary between twelve, twenty-four, and thirty-six  
17           months of service.

18           The seventeen-month service commitment referenced above is predicated  
19           upon the Company's definition of year one of its MRO, which is the period  
20           between January 1, 2012, and May 31, 2013. As Mr. Northrup will discuss in  
21           greater detail, adopting the Company's definition is important to the overall CBP  
22           plan, providing various benefits to competition and encouraging a better outcome  
23           for all involved. Alignment with PJM timeline will provide important

1 information to bidders and will result in improved efficiency and transparency in  
2 the market.

3 **Q. IN ADDITION TO STRUCTURING ITS AUCTION TIMELINES TO**  
4 **TAKE ADVANTAGE OF THE COMPANY'S REALIGNMENT TO PJM,**  
5 **DOES THE COMPANY PROPOSE OTHER CONSTRUCTIVE**  
6 **CONDITIONS UNDER ITS MRO?**

7 **A.** Yes. R.C. 4928.142(D) authorizes Duke Energy Ohio to make adjustments to its  
8 most recent SSO price, which will be one component of the overall SSO price  
9 applicable during the MRO Blending Period. Specifically, the law allows the  
10 Company to make adjustments for fuel, purchased power, environmental  
11 compliance costs, and costs to comply with the alternative energy resource  
12 requirements. As I understand, the Commission's rules further provide that the  
13 Company can seek quarterly adjustments to customers' SSO price for any or all of  
14 the four categories of costs just described. As detailed by Company witness,  
15 William Don Wathen Jr., Duke Energy Ohio is willing to forego most adjustments  
16 to its most recent SSO (*i.e.*, ESP) price during the MRO Blending Period, on the  
17 condition that its full migration to market is accomplished by the beginning of  
18 year three of the MRO or June 1, 2014.

19 As a result of Duke Energy Ohio's proposal, the larger portion of the SSO  
20 price under the MRO will not be adjusted for the twenty-nine months between  
21 January 1, 2012, and May 31, 2014. SSO customers are thus assured of stability,  
22 certainty, and transparency with regard to that portion of the SSO price under the  
23 MRO that is derived from the Company's current ESP price.

1           Once the MRO Blending Period expires in year three, customers will  
2           continue to benefit from the stabilized and transparent prices that are derived from  
3           competitive bids, as envisioned by the General Assembly.

4   **Q.   CAN YOU PLEASE ELABORATE ON THE BLENDING REQUIREMENT**  
5   **IMPOSED UNDER AN MRO?**

6   A.   The blending provision in S.B. 221 was enacted by the Ohio legislature without  
7           regard to how a utility's most recent SSO price compared to market prices at the  
8           time of the application for an MRO. That is, the General Assembly did not limit  
9           the requirement to blend to only those circumstances when the current SSO price  
10          is below market bid prices. It is noteworthy that such a provision would have  
11          served only to benefit customers. Similarly, R.C. 4928.142(D) also does not  
12          impose the blending requirement only in those circumstances where the current  
13          SSO price is above market – an action that would have served only to benefit the  
14          utility company. Based on these observations, it thus appears that the legislature  
15          was deliberately striking a balance that would mitigate, although not eliminate,  
16          extreme price volatility for customers while, at the same time, allowing the utility  
17          company to recover its costs to serve within a competitive environment.  
18          Certainly, the legislature could have mandated a particular blending period, but  
19          did not. It specifically chose to allow the Commission latitude to consider  
20          specific circumstances with regard to no earlier than year three. Such latitude  
21          cannot be interpreted as something that the legislature would have thought to  
22          benefit one entity to the exclusion of the other. Thus, it is my belief that the

1 legislature intended the Commission to continue its long-standing effort to  
2 balance the needs of the customer with the needs of the utility company.

3 **Q. WHAT BLENDING REQUIREMENT IS THE COMPANY PROPOSING**  
4 **RELATIVE TO ITS MRO?**

5 A. Again, as the law mandates a blending requirement, the Commission has  
6 discretion to alter the percentages of the load that are subject to the competitive  
7 bid process with regard to no earlier than the third year of the MRO. Specifically,  
8 beginning in year two, the Commission has the ability to alter the percentages  
9 prospectively; that is, with regard to year three and beyond. And as will be  
10 confirmed by other Company witnesses, the prices blended during the transition  
11 to market are expected to converge in year three of the Company's MRO. At that  
12 point, the intent of the statute will have been realized and the blending should  
13 terminate. Accordingly, Duke Energy Ohio respectfully requests that the  
14 Commission approve a CBP plan that includes having 10% of the Company's  
15 SSO load acquired through a competitive auction beginning in year one of the  
16 MRO, 20% in year two, and that the Commission exercise its discretion to  
17 approve 100% in year three of the MRO and every year thereafter.

18 **Q. WILL YOU PLEASE ELABORATE ON HOW A FASTER MIGRATION**  
19 **AWAY FROM THIS BLENDING PERIOD IS CONSISTENT WITH S.B.**  
20 **221?**

21 A. Certainly. If the competitive market functions as it should, and as the legislature  
22 intended it to, the MRO will result in customers having the benefit of the best  
23 possible market cost for generation services. At the time the auction is conducted,



1 competitive market forces should drive the price down to its lowest possible  
2 point. By staggering the auction products, we enable customers to benefit from  
3 this expectation repeatedly.

4 The blend during the first two years of the MRO, as required by statute,  
5 will allow the customers to obtain an increasing fraction of the commodity at  
6 market prices, while still protecting the Company's economic viability and the  
7 CRES providers' ability to compete against the SSO price. Once the historic SSO  
8 price has reached the level of the market prices, or near that level, the goal of the  
9 legislature to move the SSO price toward market along a defined glide path will  
10 have been fulfilled. The market, under the legislature's view, will then provide  
11 transparency to all parties. Thus, any comparison between an ESP-based price and  
12 an auction-based price is, after market has been reached, contrary to legislative  
13 intent.

14 **Q. DOES THE LAW PROVIDE SPECIFICATIONS FOR HOW A CBP MUST**  
15 **BE DESIGNED?**

16 A. Yes, it does. Division (A)(1)(a) of R.C. 4928.142 requires that a CBP must  
17 provide for an "open, fair, and transparent competitive solicitation." In other  
18 words, the solicitation of bids must be open, must be fair, and must be transparent.

19 **Q. IS THE CBP PROPOSED IN THE COMPANY'S APPLICATION OPEN,**  
20 **FAIR, AND TRANSPARENT TO THE BIDDERS WHO CONSIDER**  
21 **PARTICIPATING IN THE CBP?**

22 A. Yes. As described by Company witness Robert J. Lee, the CBP being proposed  
23 by the Company is open, fair, and competitive. It mirrors similar CBP plans

1 proposed by FirstEnergy's Ohio electric distribution companies and as approved  
2 to procure generation supply under their ESPs.

**V. TRANSFER OF GENERATION ASSETS**

3 **Q. IS DUKE ENERGY OHIO REQUESTING COMMISSION APPROVAL**  
4 **TO TRANSFER OWNERSHIP OF ITS LEGACY GENERATING ASSETS**  
5 **AS PART OF THIS FILING?**

6 A. Not at this time. The Company will make a separate filing to request the transfer  
7 of its legacy generation assets. Duke Energy Ohio advises the Commission here  
8 of that intent.

9 **Q. WHY IS THE COMPANY CONSIDERING A TRANSFER OF ITS**  
10 **LEGACY GENERATION ASSETS?**

11 A. The MRO is a process through which the Company's SSO load obligation is  
12 competitively bid. And, after the migration to market is complete, all of the  
13 Company's SSO load will be acquired through this process. As explained by  
14 Duke Energy Ohio Witness Charles R. Whitlock, the nexus between Duke Energy  
15 Ohio's ownership of generation assets and the dedication of those generation  
16 assets to serve its SSO load no longer exists, most notably due to switching. As  
17 such, Duke Energy Ohio is also proposing to transfer its legacy generation assets  
18 to an affiliate on or before the time at which 100% of its SSO load is  
19 competitively bid under the MRO.

20 **Q. WHY DID DUKE ENERGY OHIO CHOOSE NOT TO REQUEST**  
21 **APPROVAL OF THE TRANSFER OF ITS LEGACY GENERATION**  
22 **ASSETS IN THIS FILING?**

1 A. The principal reason is the timing required to effect the transfer. Given the  
2 ninety-day timeline for Commission approval of the Company's MRO, timing is a  
3 critical element. The transfer of these assets could not be completed that quickly  
4 for several reasons. First, the Company must file an application with the FERC  
5 and receive its approval. Second, Duke Energy Ohio must modify certain  
6 agreements and obtain the consent of the co-owners of jointly owned generating  
7 stations. Finally, during the statutorily mandated migration to market, Duke  
8 Energy Ohio is obligated to procure the supply for a portion of its SSO load. It  
9 can accomplish this requirement in the near term, prior to the necessary regulatory  
10 approvals, through continued ownership of the generation assets.

11 In the event that the asset transfer is completed prior to the end of the  
12 blending period, Duke Energy Ohio will obtain, as part of the FERC approval, a  
13 Purchase Power Agreement (PPA) giving Duke Energy Ohio a guaranteed source  
14 of generation through the remainder of the blending period. Once the blending  
15 period is complete and the CBP extends to 100% of the load, the PPA will be  
16 unnecessary and will terminate.

#### **VI. CONSISTENCY WITH STATE POLICY**

17 **Q. ARE YOU FAMILIAR WITH THE POLICIES OF THE STATE OF OHIO,**  
18 **AS SET FORTH IN SENATE BILL 221, WHICH WAS PASSED IN 2008?**

19 A. I am familiar with these state policies articulated in R.C. 4928.02. The statute  
20 contains a list of policy statements relating to retail electric service in the state of  
21 Ohio and places emphasis on developing choices for customers and encouraging

1 energy efficiency, demand side management, renewable alternatives, and reliable  
2 electric service.

3 **Q. DO YOU BELIEVE THAT DUKE ENERGY OHIO'S PROPOSED MRO IS**  
4 **CONSISTENT WITH STATE POLICIES?**

5 A. Yes.

6 **Q. PLEASE EXPLAIN HOW THE COMPANY'S PROPOSED MRO IS**  
7 **CONSISTENT WITH THE STATE POLICY TO ENSURE THE**  
8 **AVAILABILITY TO CONSUMERS OF ADEQUATE, RELIABLE, SAFE,**  
9 **EFFICIENT, NONDISCRIMINATORY, AND REASONABLY PRICED**  
10 **RETAIL ELECTRIC SERVICE.**

11 A. Duke Energy Ohio will remain the distribution company for customers under the  
12 MRO. Therefore, Duke Energy Ohio will continue to ensure that customers will  
13 be provided adequate, reliable, safe, and nondiscriminatory service. The  
14 Company's distribution services for electricity will be unaffected by the MRO.  
15 Under the proposed MRO, Duke Energy Ohio will have the same obligations  
16 regarding adequate capacity, reliable service, safety, and nondiscrimination that it  
17 has now, with the MRO only impacting the pricing of the generation services it  
18 provides. Thus, it will comply with state policy regarding adequacy, reliability,  
19 safety, and nondiscrimination in supply of generation.

20 With regard to pricing, the prices under the proposed MRO will be  
21 nondiscriminatory and reasonable. The MRO is a pricing option made available  
22 by the General Assembly. Duke Energy Ohio's proposal follows the MRO  
23 statute, R.C. 4928.142, and the Commission's rules, as promulgated. Duke

1 Energy Ohio's MRO proposal includes a CBP plan with a transition from the  
2 Company's current ESP price to full market rates through a blending period as  
3 required under Ohio law. The MRO price will be Duke Energy Ohio's SSO price  
4 and will be available to customers on a nondiscriminatory basis. The CBP plan  
5 incorporates a descending-price clock auction whereby the lowest bidders will  
6 win a portion of the unswitched load. The CBP plan will be a transparent process  
7 administered by an independent third party. The results of the CBP will then be  
8 subject to approval by the Commission. As the prices under the MRO will be  
9 based upon competitive bids in the marketplace, the Company believes that the  
10 resultant rates will be reasonable. As they will be applied to customers in a  
11 nondiscriminatory fashion, state policy with regard to nondiscrimination will also  
12 be met.

13 **Q. PLEASE EXPLAIN HOW THE COMPANY'S PROPOSED MRO IS**  
14 **CONSISTENT WITH THE STATE POLICY TO ENSURE THE**  
15 **AVAILABILITY OF UNBUNDLED AND COMPARABLE RETAIL**  
16 **ELECTRIC SERVICE THAT PROVIDES CONSUMERS WITH THE**  
17 **SUPPLIER, PRICE, TERMS, CONDITIONS, AND QUALITY OPTIONS**  
18 **THEY ELECT TO MEET THEIR RESPECTIVE NEEDS.**

19 **A.** The state of Ohio has determined that competition in the supply of retail  
20 generation service is important. In order to effectuate customer choice, the State  
21 required the unbundling of the three basic aspects of electric service. Once  
22 generation was unbundled in 2001, customers were able to compare offers of  
23 generation service from various suppliers. Generation service from Duke Energy

1 Ohio remains unbundled, allowing customer choice. Thus, customers are now  
2 and will continue to be free to negotiate for generation service with CRES  
3 providers to find alternative pricing terms, conditions and quality options. Under  
4 the Company's MRO proposal, all unbundled generation rates, in the form of the  
5 SSO price, will be unconditionally avoidable (except for a reconciliation rider  
6 that, under certain circumstances, can become unavoidable) to all customers. This  
7 adds significant clarity for customers in terms of comparing Duke Energy Ohio's  
8 SSO offer to alternative offers from CRES providers. Similarly, customers can  
9 consider and choose among other terms and conditions, or quality options, that  
10 may be offered by other suppliers, whether from Duke Energy Ohio or from  
11 CRES providers.

12 **Q. PLEASE EXPLAIN HOW THE COMPANY'S PROPOSED MRO IS**  
13 **CONSISTENT WITH THE STATE POLICY TO ENSURE DIVERSITY**  
14 **OF ELECTRIC SUPPLIES AND SUPPLIERS AND BY ENCOURAGING**  
15 **DEVELOPMENT OF DISTRIBUTED AND SMALL GENERATION**  
16 **FACILITIES.**

17 **A.** As I discussed above, customers will continue to have the opportunity to switch to  
18 a CRES provider. Duke Energy Ohio currently has thirteen active CRES  
19 providers in its service territory and anticipates that, under the MRO, there will be  
20 no diminution in the CRES providers' ability to operate in the Duke Energy Ohio  
21 territory. Diversity in supplies and suppliers, currently present in our territory,  
22 will continue to exist.

1           Also, under the MRO, Duke Energy Ohio will begin using the competitive  
2 market to obtain the resources needed to serve the SSO load via an independent  
3 CBP. This provides competitive generation suppliers a new opportunity to sell  
4 their output.

5           Duke Energy Ohio will continue to offer services to small distributed  
6 generation facilities. Duke Energy Ohio has offered customer generators a net  
7 metering and interconnection tariff for several years, which it amended and filed  
8 subsequent to the enactment of S.B. 221, as required by the Commission. This  
9 tariff is one of the tools that the Company uses to encourage the development of  
10 distributed and small generation facilities. Likewise, Duke Energy Ohio has a  
11 tariff for residential customers who wish to sell renewable energy credits arising  
12 from the installation of solar thermal energy facilities on residential properties.  
13 Duke Energy Ohio will continue to offer these services as it is required to do  
14 under Ohio law, although it reserves its right to propose modifications to the  
15 tariffs, subject to the Commission's approval.

16 **Q. PLEASE EXPLAIN HOW THE COMPANY'S PROPOSED MRO IS**  
17 **CONSISTENT WITH THE STATE POLICY TO ENCOURAGE**  
18 **INNOVATION AND MARKET ACCESS FOR COST-EFFECTIVE**  
19 **SUPPLY- AND DEMAND-SIDE RETAIL ELECTRIC SERVICE,**  
20 **INCLUDING, BUT NOT LIMITED TO, DEMAND-SIDE MANAGEMENT,**  
21 **TIME-DIFFERENTIATED PRICING, AND IMPLEMENTATION OF**  
22 **ADVANCED METERING INFRASTRUCTURE.**

1     A.     Duke Energy Ohio's proposed MRO will not affect its obligations to meet energy  
2           efficiency and demand-side management standards required under Ohio law.  
3           Duke Energy Ohio will continue to explore all cost-effective energy efficiency  
4           offerings to meet the statutory thresholds established under Ohio law. As part of  
5           the Company's ESP approved in 2008, Duke Energy Ohio received approval to  
6           deploy its SmartGrid advanced energy infrastructure. This deployment will  
7           continue. Duke Energy Ohio's SmartGrid deployment plan provides the  
8           necessary infrastructure, including advanced metering, to support time-  
9           differentiated pricing for customers, as well as laying the groundwork for  
10          innovative energy efficiency and demand-side management service offerings.

11                 As part of a collaborative process, working with Commission Staff and a  
12          number of other stakeholders, Duke Energy Ohio has developed several pilot  
13          tariffs for time-differentiated pricing enabled, in part, by the SmartGrid  
14          deployment. These tariffs are available to SSO customers now and these tariffs  
15          are included in the proposed tariffs to be effective beginning January 1, 2012.

16     **Q.     PLEASE EXPLAIN HOW THE COMPANY'S PROPOSED MRO IS**  
17           **CONSISTENT WITH THE STATE POLICY TO ENCOURAGE COST-**  
18           **EFFECTIVE AND EFFICIENT ACCESS TO INFORMATION**  
19           **REGARDING THE OPERATION OF THE TRANSMISSION AND**  
20           **DISTRIBUTION SYSTEMS OF ELECTRIC UTILITIES IN ORDER TO**  
21           **PROMOTE BOTH EFFECTIVE CUSTOMER CHOICE OF RETAIL**  
22           **ELECTRIC SERVICE AND THE DEVELOPMENT OF PERFORMANCE**  
23           **STANDARDS AND TARGETS FOR SERVICE QUALITY FOR ALL**



1       **CONSUMERS, INCLUDING ANNUAL ACHIEVEMENT REPORTS**  
2       **WRITTEN IN PLAIN LANGUAGE.**

3       A.     The state of Ohio has determined that cost-effective and efficient access to  
4       information regarding transmission and distribution system operation is vital to  
5       effective customer choice and the development of appropriate performance  
6       standards and targets for service quality, with annual reports to be in plain  
7       language. Duke Energy Ohio provides free information concerning its delivery  
8       services, available both on paper and electronically, thereby supplying consumers  
9       with information that they might need in order to make effective and appropriate  
10      choices. Duke Energy Ohio has also complied with all Commission requirements  
11      regarding performance standards and service quality targets and commits to  
12      preparing annual achievement reports in plain language. As adoption of the MRO  
13      would not impact these issues, Duke Energy Ohio can only commit in this  
14      Application that it will continue to meet these state policies.

15     **Q.     PLEASE EXPLAIN HOW THE COMPANY'S PROPOSED MRO IS**  
16     **CONSISTENT WITH THE STATE POLICY TO ENSURE THAT AN**  
17     **ELECTRIC UTILITY'S TRANSMISSION AND DISTRIBUTION**  
18     **SYSTEMS ARE AVAILABLE TO A CUSTOMER-GENERATOR OR**  
19     **OWNER OF DISTRIBUTED GENERATION, SO THAT THE**  
20     **CUSTOMER-GENERATOR OR OWNER CAN MARKET AND DELIVER**  
21     **THE ELECTRICITY IT PRODUCES.**

22     A.     As I previously stated, Duke Energy Ohio's MRO plan will not cause the  
23     Company's tariffs for interconnections or net metering to be withdrawn.

1 Customer generators will still have access to Duke Energy Ohio's system. This  
2 state policy will continue to be met under the MRO plan.

3 **Q. PLEASE EXPLAIN HOW THE COMPANY'S PROPOSED MRO IS**  
4 **CONSISTENT WITH THE STATE POLICY TO RECOGNIZE THE**  
5 **CONTINUING EMERGENCE OF COMPETITIVE ELECTRICITY**  
6 **MARKETS THROUGH THE DEVELOPMENT AND**  
7 **IMPLEMENTATION OF FLEXIBLE REGULATORY TREATMENT.**

8 A. The Company's MRO proposal is precisely what the Ohio General Assembly had  
9 in mind when it directed Ohio to start down the path of deregulation and it is the  
10 natural conclusion of a process that began more than 10 years ago. Until 2008,  
11 there was considerable uncertainty as to whether customers, utilities, and other  
12 stakeholders would truly embrace the virtues of competition in the generation  
13 business. Since January 1, 2009, when the Company's ESP was implemented, it  
14 has been abundantly clear that customers have discovered the virtues of a fully  
15 competitive generation market. As I mentioned earlier, customer switching has  
16 increased from a very small percentage before January 1, 2009, to more than half  
17 of the Company's load now. Once implemented and when the statutory blending  
18 period is complete, Duke Energy Ohio's price will be fully determined by a CBP  
19 which almost by definition makes the Company's SSO price a competitive market  
20 price. Duke Energy Ohio, the regulated utility, will no longer own generation that  
21 is tied to its load. Approval of the Company's MRO Application is, in fact, the  
22 regulatory flexibility the Commission must exercise to ensure that the state policy  
23 goal of full market competition is finally achieved.

1 Q. PLEASE EXPLAIN HOW THE COMPANY'S PROPOSED MRO IS  
2 CONSISTENT WITH THE STATE POLICY TO ENSURE EFFECTIVE  
3 COMPETITION IN THE PROVISION OF RETAIL ELECTRIC SERVICE  
4 BY AVOIDING ANTICOMPETITIVE SUBSIDIES FLOWING FROM A  
5 NONCOMPETITIVE RETAIL ELECTRIC SERVICE TO A  
6 COMPETITIVE RETAIL ELECTRIC SERVICE OR TO A PRODUCT OR  
7 SERVICE OTHER THAN RETAIL ELECTRIC SERVICE, AND VICE  
8 VERSA, INCLUDING BY PROHIBITING THE RECOVERY OF ANY  
9 GENERATION-RELATED COSTS THROUGH DISTRIBUTION OR  
10 TRANSMISSION RATES.

11 A. Duke Energy Ohio will continue to operate under its corporate separation plan  
12 even after the MRO is approved. Under that plan and under the law,  
13 anticompetitive subsidies may not flow between Duke Energy Ohio's distribution  
14 service and any affiliate's competitive retail electric service or product or service  
15 other than retail electric service. Not only does Duke Energy Ohio comply with  
16 its corporate separation plan in this regard, but it also ensures, in its rate structure,  
17 that no generation-related costs will be recovered through distribution or  
18 transmission rates. The change from ESP-based generation rates to MRO rates  
19 that are determined through the CBP will not impact this in any regard.

20 Q. PLEASE EXPLAIN HOW THE COMPANY'S PROPOSED MRO IS  
21 CONSISTENT WITH THE STATE POLICY TO ENSURE RETAIL  
22 ELECTRIC SERVICE CONSUMERS PROTECTION AGAINST

1           **UNREASONABLE SALES PRACTICES, MARKET DEFICIENCIES, AND**  
2           **MARKET POWER.**

3       A.     The Commission already has adequate consumer protection rules that guard  
4           against unreasonable sales practices. There are specific rules that are applicable  
5           to utilities and CRES providers. Duke Energy Ohio will continue to comply with  
6           those rules that are applicable to it. As I previously discussed, Duke Energy Ohio  
7           is currently a member of the Midwest ISO and is realigning its RTO membership  
8           with PJM. Both entities are FERC-approved RTOs and have independent market  
9           monitors whose primary responsibility is to ensure there is no market power, and  
10          take actions to mitigate the development of any such market power. Duke Energy  
11          Ohio will continue to be subject to the Commission's jurisdiction and will  
12          continue to be a member of a FERC-approved RTO after the MRO is approved.

13   **Q.     PLEASE EXPLAIN HOW THE COMPANY'S PROPOSED MRO IS**  
14           **CONSISTENT WITH THE STATE POLICY TO PROVIDE COHERENT,**  
15           **TRANSPARENT MEANS OF GIVING APPROPRIATE INCENTIVES TO**  
16           **TECHNOLOGIES THAT CAN ADAPT SUCCESSFULLY TO**  
17           **POTENTIAL ENVIRONMENTAL MANDATES.**

18   A.     The Company's MRO is based upon a CBP plan through which generation supply  
19           is procured in the competitive market. And this market is designed to function  
20           such that market pressures set commodity prices based upon their economic  
21           value. Stated another way, the costs incurred by a generator that operates in a  
22           competitive market to comply with environmental mandates should be recovered  
23           through those market prices. Because Duke Energy Ohio's CBP plan will involve

1 the Commission selecting the least-cost bidder(s) as suppliers for the Company's  
2 load, those bidders will have to have made economic decisions with regard to  
3 environmental compliance costs. Duke Energy Ohio's MRO thus provides a  
4 motivation for prospective suppliers to implement or adopt those technologies that  
5 enable them to effectively participate (*i.e.*, compete) in the Company's  
6 competitive solicitations.

7 I also want to address the Company's continued ownership of generation  
8 assets for some or all of its proposed blending period under the MRO. During that  
9 time, Duke Energy Ohio will remain subject to all of the environmental mandates  
10 that currently apply to it. The MRO will only impact that portion of the  
11 Company's SSO load that is supplied by Duke Energy Ohio. The balance of the  
12 Company's generation supply will be subject to the same competitive pressures  
13 described above. With regard to first two years of the MRO, I reiterate that,  
14 assuming the Commission approves the Company's proposed blend to market, the  
15 Company has committed to foregoing nearly all of the adjustments to its most  
16 recent SSO, or ESP, price for, among other things, environmental compliance  
17 costs. Thus, to the extent Duke Energy continues to own generation assets and to  
18 use those assets to supply its load, it will have to be efficient, economical, and  
19 prudent with its environmental investments.

20 **Q. PLEASE EXPLAIN HOW THE COMPANY'S PROPOSED MRO IS**  
21 **CONSISTENT WITH THE STATE POLICY TO ENCOURAGE**  
22 **IMPLEMENTATION OF DISTRIBUTED GENERATION ACROSS**  
23 **CUSTOMER CLASSES THROUGH REGULAR REVIEW AND**

1       **UPDATING OF ADMINISTRATIVE RULES GOVERNING CRITICAL**  
2       **ISSUES SUCH AS, BUT NOT LIMITED TO, INTERCONNECTION**  
3       **STANDARDS, STANDBY CHARGES, AND NET METERING.**

4    A.   This policy relates to the need for review and updating of administrative rules  
5       relating to interconnection standards, standby charges, and net metering. Thus, it  
6       is not impacted by the MRO proposal; however, Duke Energy Ohio will continue  
7       to participate in the Commission's rule review proceedings.

8    Q.   **PLEASE EXPLAIN HOW THE COMPANY'S PROPOSED MRO IS**  
9       **CONSISTENT WITH THE STATE POLICY TO PROTECT AT-RISK**  
10       **POPULATIONS, INCLUDING, BUT NOT LIMITED TO, WHEN**  
11       **CONSIDERING THE IMPLEMENTATION OF ANY NEW ADVANCED**  
12       **ENERGY OR RENEWABLE ENERGY RESOURCE.**

13   A.   Duke Energy Ohio's MRO proposal makes no change to how the Company will  
14       work with at-risk populations, whether through the percentage of income payment  
15       plan program, the annual winter reconnect order, or otherwise. The MRO only  
16       addresses the manner in which prices for generation service from the electric  
17       utility are set. Under S.B. 221, the legislature must have approved the current  
18       two-part approach to setting those rates – either through auction or through a  
19       Commission-approved ESP – as meeting this policy.

20   Q.   **PLEASE EXPLAIN HOW THE COMPANY'S PROPOSED MRO IS**  
21       **CONSISTENT WITH THE STATE POLICY TO ENCOURAGE THE**  
22       **EDUCATION OF SMALL BUSINESS OWNERS IN THIS STATE**  
23       **REGARDING THE USE OF, AND ENCOURAGE THE USE OF, ENERGY**

1       **EFFICIENCY PROGRAMS AND ALTERNATIVE ENERGY**  
2       **RESOURCES IN THEIR BUSINESSES.**

3    A.    S.B. 221 included requirements for energy efficiency and alternative energy  
4       resources. To my knowledge, these requirements are independent of whether a  
5       utility operates under an MRO or an ESP. Nevertheless, Duke Energy Ohio has  
6       been, and continues to be, subject to those requirements. Under the MRO, Duke  
7       Energy Ohio will continue to work with small business owners regarding energy  
8       efficiency programs and alternative energy resources as it has in the past,  
9       unaffected by the change in how its rates are developed. Duke Energy Ohio has  
10       implemented a successful energy efficiency cost recovery model with a robust  
11       portfolio of programs available to both residential and non-residential customers.  
12       This model and portfolio of programs is essential to allowing Duke Energy Ohio  
13       to continue to meet its energy efficiency requirements under S.B. 221.

14   Q.    **PLEASE EXPLAIN HOW THE COMPANY'S PROPOSED MRO IS**  
15       **CONSISTENT WITH THE STATE POLICY TO FACILITATE THE**  
16       **STATE'S EFFECTIVENESS IN THE GLOBAL ECONOMY AND WITH**  
17       **THE REQUIREMENT THAT, IN CARRYING OUT THIS POLICY, THE**  
18       **COMMISSION MUST CONSIDER RULES AS THEY APPLY TO THE**  
19       **COSTS OF ELECTRIC DISTRIBUTION INFRASTRUCTURE,**  
20       **INCLUDING, BUT NOT LIMITED TO, LINE EXTENSIONS, FOR THE**  
21       **PURPOSE OF DEVELOPMENT IN THIS STATE.**

22   A.    This state policy requires the Commission to take certain actions with regard to  
23       administrative rules that it has promulgated. In addition, it explains that it is a

1 state policy to facilitate its own effectiveness in the global economy. Global  
2 effectiveness is fostered by many factors, one of which is reasonable power  
3 prices. Thus, a pricing plan that will result in a reasonable, stabilized, and  
4 transparent price structure will result in positive changes in global effectiveness.  
5 Duke Energy Ohio has implemented its SmartGrid distribution modernization  
6 program. This program was approved through 2014 and is subject to an annual  
7 review and true-up for costs spent to modernize the distribution delivery system in  
8 the Company's service territory. SmartGrid is a key initiative to developing the  
9 electric delivery infrastructure and providing new service and pricing  
10 opportunities for customers through advanced metering technology. Duke Energy  
11 Ohio is not seeking to amend or change its SmartGrid initiative in this filing.

12 The Commission has enacted a uniform regulation regarding creation of  
13 uniform line extension policies among the electric distribution utilities throughout  
14 the state. Duke Energy Ohio has a line extension tariff that was approved by the  
15 Commission and is consistent with that policy. The Company is not seeking to  
16 change or amend that policy.

## **VII. SCHEDULES SPONSORED BY WITNESS**

17 **Q. PLEASE DESCRIBE SCHEDULE A OF THE APPLICATION.**

18 A. Schedule A of the Application is a list of the filing requirements for the MRO as  
19 set forth in Ohio Administrative Code 4901:1-35(B)(1) and confirmation of how  
20 the Company has met and satisfied those requirements as part of this Application.

21 **Q. PLEASE DESCRIBE SCHEDULE H OF THE APPLICATION.**



1 A. Schedule H of the Application is a copy of the notice of the Application that Duke  
2 Energy Ohio has provided, concurrently with the filing of the Application, to each  
3 party in its most recent SSO proceeding. Attached to that notice is the service list,  
4 showing all parties upon whom the notice was served. There are no waiver  
5 requests. The notice states that a copy of the Application is available through the  
6 Duke Energy Ohio website and the Commission's website, at Duke Energy  
7 Ohio's main office, and at the Commission's offices.

8 **Q. PLEASE DESCRIBE SCHEDULE I OF THE APPLICATION.**

9 A. Schedule I of the Application is a copy of a proposed notice for newspaper  
10 publication. The proposed notice fully discloses the substance of the application,  
11 including projected rate impacts, and prominently states that any person may  
12 request to become a party to the proceeding.

#### **VIII. CONCLUSION**

13 **Q. IS THE INFORMATION YOU SPONSORED IN SCHEDULES A, H, AND**  
14 **I ACCURATE TO THE BEST OF YOUR KNOWLEDGE AND BELIEF?**

15 A. Yes.

16 **Q. DOES THIS CONCLUDE YOUR PRE-FILED DIRECT TESTIMONY?**

17 A. Yes.