

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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

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PROCEEDINGS

before Ms. Katie Stenman and Ms. Christine M.T.
Pirik, Hearing Examiners, at the Public Utilities
Commission of Ohio, 180 East Broad Street, Room 11-A,
Columbus, Ohio, called at 9:00 a.m. on Wednesday,
January 18, 2011.

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VOLUME VI

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1 Wednesday Morning Session,
2 January 19, 2011.

3 - - -

4 EXAMINER STENMAN: Let's go on the
5 record.

6 Mr. Montgomery, do you want to go first?

7 MR. MONTGOMERY: Sure. Your Honors, the
8 parties have stated that they would be willing to
9 waive cross-examination of Ohio Advanced Energy's
10 witness, Kevin Helmich, and stipulate to the
11 admission of his testimony, prefiled testimony in
12 this case in his absence. So at this point I would
13 like to move to waive cross-examination of our
14 witness, Kevin Helmich.

15 EXAMINER STENMAN: Any objections?

16 (No response.)

17 EXAMINER STENMAN: Okay.

18 MR. MONTGOMERY: At this point I'd like
19 to mark Mr. Helmich's testimony as Ohio Advanced
20 Energy Exhibit 1.

21 EXAMINER STENMAN: It will be so marked.

22 (EXHIBIT MARKED FOR IDENTIFICATION.)

23 MR. MONTGOMERY: And would move for the
24 admission of his testimony for the record.

25 EXAMINER STENMAN: Any objections?

1 (No response.)

2 EXAMINER STENMAN: It will be admitted.

3 MR. MONTGOMERY: Thank you.

4 (EXHIBIT ADMITTED INTO EVIDENCE.)

5 EXAMINER STENMAN: Mr. Chamberlain.

6 MR. CHAMBERLAIN: Your Honor, Wal-Mart
7 and Sam's would call Mr. Steve Chriss.

8 EXAMINER STENMAN: Okay. Please raise
9 your right hand.

10 (Witness sworn.)

11 EXAMINER STENMAN: Thank you. Have a
12 seat.

13 - - -

14 STEVE W. CHRISS

15 being first duly sworn, as prescribed by law, was
16 examined and testified as follows:

17 DIRECT EXAMINATION

18 By Mr. Chamberlain:

19 Q. Would you state your name for the record,
20 please?

21 A. My name is Steve W. Chriss.

22 Q. And, Mr. Chriss, by whom are you employed
23 and in what capacity?

24 A. I'm the manager, State Rate Proceedings,
25 for Wal-Mart Stores, Incorporated.

1 MR. CHAMBERLAIN: Your Honor, just as a
2 procedural matter, Mr. Chriss's testimony would be
3 marked as Wal-Mart/Sam's Exhibit No. 1, I suppose.

4 EXAMINER STENMAN: It will be so marked.

5 MR. CHAMBERLAIN: All right.

6 (EXHIBIT MARKED FOR IDENTIFICATION.)

7 Q. Mr. Chriss, do you have a copy of your
8 prefiled testimony before you?

9 A. I do.

10 Q. And you understand that that's the
11 testimony that's been marked as Wal-Mart and Sam's
12 Exhibit No. 1.

13 A. Yes.

14 Q. Did you cause that testimony to be filed?

15 A. Yes.

16 Q. And if I were to ask you the same
17 questions set forth in your testimony today, would
18 your answers be substantially the same?

19 A. Yes.

20 Q. Any corrections or changes to your
21 testimony?

22 A. No.

23 Q. And do you adopt the direct prefiled
24 testimony as your direct testimony today?

25 A. Yes.

1 MR. CHAMBERLAIN: Your Honor, I believe
2 that's it and I'll tender the witness for cross.

3 EXAMINER STENMAN: Okay. Ms. Clark?

4 MS. CLARK: No questions, your Honor.

5 EXAMINER STENMAN: Mr. Garber?

6 MR. GARBER: No questions.

7 EXAMINER STENMAN: Ms. Hotz?

8 MS. HOTZ: No questions.

9 EXAMINER STENMAN: Mr. Yurick?

10 MR. YURICK: No questions, thank you,
11 your Honor.

12 EXAMINER STENMAN: Mr. Olikier.

13 MR. OLIKER: No questions, your Honor.

14 EXAMINER STENMAN: Mr. Montgomery?

15 MR. MONTGOMERY: No questions.

16 EXAMINER STENMAN: Mr. D'Ascenzo.

17 MR. D'ASCENZO: Yes, just a few, your
18 Honor.

19 - - -

20 CROSS-EXAMINATION

21 By Mr. D'Ascenzo:

22 Q. Good morning, Mr. Chriss.

23 A. Good morning.

24 Q. In your testimony you're not opposing the
25 market rate structure that Duke Energy-Ohio has

1 offered for approval, are you?

2 A. We are not opposing it.

3 Q. And you are not disputing that Duke
4 Energy-Ohio's proposed competitive bid process
5 results in an open, fair, and transparent competitive
6 bidding process, correct?

7 A. I'm sorry, could you repeat the question?

8 Q. Sure. You are not disputing that Duke
9 Energy-Ohio's proposed competitive bidding process
10 results in an open, fair, and transparent competitive
11 bidding process.

12 A. We don't address the bidding process
13 directly, but don't oppose it as proposed.

14 Q. Thank you.

15 And you are not offering testimony that
16 disputes that the Midwest ISO is an independent FERC
17 approved regional transmission organization, correct?

18 A. My testimony does not address MISO.

19 Q. And you're also not disputing that PJM
20 Interconnection is an independent FERC approved
21 regional transmission organization, correct?

22 A. My testimony doesn't address PJM, either.

23 Q. And you are not disputing that PJM
24 Interconnection has an independent market monitor.

25 A. My testimony doesn't address that.

1 Q. And you are also not disputing that
2 Midwest ISO has an independent market monitor.

3 A. Again, my testimony does not address
4 that.

5 Q. Thank you.

6 You're also not opposed to Duke
7 Energy-Ohio's Rider GEN as it has been proposed in
8 this proceeding, correct?

9 A. I didn't have a specific recommendation
10 on that, however, if approved, it should be approved
11 as bypassable.

12 Q. And the company has proposed it as being
13 bypassable, correct?

14 A. Yes.

15 Q. Same with Rider FPP, you're not opposed
16 to that rider providing it's bypassable, correct?

17 A. Correct.

18 Q. On page 7 of your testimony, and I'll
19 give you a moment to get there. Are you there?

20 A. I am.

21 Q. You discuss the proposed Rider EIR and
22 you state that the company's application is unclear
23 whether Rider EIR will be bypassable; is that
24 correct?

25 A. That is correct.

1 Q. And are you aware that Duke Energy-Ohio
2 has since clarified for the record through discovery
3 and in direct testimony by its witness James
4 Zoilkowski that Rider EIR is, indeed, bypassable?

5 A. That's my understanding.

6 Q. So with that clarification you are not
7 opposed to the creation of Rider EIR, correct?

8 A. Correct.

9 Q. And for clarification of the record, you
10 are not opposed to Duke Energy-Ohio Rider MRO as
11 proposed in this proceeding as a bypassable charge,
12 correct?

13 A. Correct.

14 Q. And similarly, you are not opposed to
15 Duke Energy-Ohio's Rider RECON providing it is fully
16 bypassable; is that correct?

17 A. If the Commission does approve Rider
18 RECON, we would like for it to be bypassable. That's
19 recommendation No. 3 in my testimony.

20 Q. If you would please turn to page 11 of
21 your testimony. On page 11 you discuss the proposed
22 Rider SCR, correct?

23 A. Correct.

24 Q. And beginning in the middle of the page
25 there you state that if the Commission determines

1 that the rider is not bypassable -- I'm sorry, yeah,
2 if the rider is nonbypassable, the Commission should
3 determine the costs associated with conducting,
4 administering, and implementing the competitive
5 bidding plan as well as costs for the independent
6 auction consultants should not be collected through
7 Rider SCR. Is that a fair characterization of your
8 testimony?

9 A. Yes.

10 Q. The company's MRO proposed in this case
11 will be Duke Energy-Ohio's standard service offer
12 available to all customers, correct?

13 A. That's my understanding.

14 Q. So that price will be available to any
15 switched customer who either chooses to return to
16 Duke Energy-Ohio's service or for whatever reason the
17 competitive supplier is no longer able to serve that
18 customer, correct?

19 A. I'm not familiar with the specific terms,
20 but that's my general understanding.

21 Q. Thank you.

22 So the market rate offer will essentially
23 be the price to compare for customers, correct?

24 A. I think that's a fair characterization.

25 Q. And are you familiar with Ohio Revised

1 Code 4928.142?

2 A. Not off the top of my head.

3 Q. Do you know whether Ohio Revised Code
4 4928.142 allows the company to recover costs
5 associated with the competitive bidding process?

6 MR. CHAMBERLAIN: Objection; calling for
7 a legal conclusion.

8 MR. D'ASCENZO: I was merely asking if he
9 knows.

10 EXAMINER STENMAN: He can answer.

11 A. I don't have it in front of me so I can't
12 speak specifically to it at this time.

13 MR. D'ASCENZO: No further questions.

14 EXAMINER STENMAN: Anything from staff?

15 MR. JONES: No questions, your Honor.

16 EXAMINER STENMAN: Redirect?

17 MR. CHAMBERLAIN: Just briefly.

18 - - -

19 REDIRECT EXAMINATION

20 By Mr. Chamberlain:

21 Q. Mr. Chriss, you were asked about a
22 portion of your testimony at page 11, do you have
23 that in front of you?

24 A. I do.

25 Q. And you were asked specifically about the

1 comment beginning at line 13 through 18. Do you see
2 that?

3 A. Yes.

4 Q. And I guess my question is a simple one.
5 Why is that your recommendation?

6 A. That's my recommendation because those
7 are costs that are specifically associated with
8 procuring the generation for Duke's SSO.

9 MR. CHAMBERLAIN: Thank you. That's all
10 I have.

11 EXAMINER STENMAN: Any recross?

12 MR. D'ASCENZO: No.

13 EXAMINER STENMAN: All right. Thank you,
14 Mr. Chriss.

15 THE WITNESS: Thank you.

16 MR. CHAMBERLAIN: Your Honor, I would ask
17 for the admission of Wal-Mart and Sam's Exhibit
18 No. 1.

19 EXAMINER STENMAN: Any objections?

20 (No response.)

21 EXAMINER STENMAN: It will be admitted.

22 (EXHIBIT ADMITTED INTO EVIDENCE.)

23 EXAMINER STENMAN: I believe this
24 concludes the presentation of witnesses. The last
25 item on our agenda will be the confidential

1 transcripts which we'll deal with in a minute.

2 Just to reiterate what we talked about
3 yesterday, briefs are due January 27th and reply
4 briefs are due February 3rd. Please effect e-mail
5 service on all of the parties and the examiners.

6 Let's go off the record.

7 (Discussion off the record.)

8 EXAMINER STENMAN: Let's go back on the
9 record. Let's start with Volume II of the
10 confidential transcripts. We just had some questions
11 regarding why some of the information is to be
12 considered confidential on page 331.

13 Let's go back to 330. Can the company
14 explain why that's confidential?

15 MR. D'ASCENZO: Well, I think, your
16 Honor, it speaks to what is included in one of the
17 confidential documents and what the IEU's
18 interpretation of that information means. It's
19 giving insight into what is contained in the document
20 and, you know, as I said, one interpretation of what
21 that is. So that was what the concern there is, is
22 that it's talking about what was in the documents.

23 EXAMINER STENMAN: And although I don't
24 disagree with you, I guess the Bench's concern at
25 this point is that it's really just IEU's

1 interpretation of what's in the document and it
2 doesn't give away any confidential numbers, any real
3 confidential information, so I guess that's where the
4 difficulty here is coming from is that it's just
5 IEU's interpretation.

6 MR. D'ASCENZO: But it's also, we would
7 argue, an incorrect interpretation of what is there
8 as it was explained by witnesses, so, you know, that
9 was the issue.

10 EXAMINER STENMAN: The fact that it's an
11 incorrect interpretation really doesn't influence
12 whether or not it should or should not be on the
13 record. I think at this point that needs to be in
14 the open record.

15 Turning to page 331 with respect to the
16 definitions, you can correct me if I'm wrong but it
17 seems to me that the ATDCF and EBITDA are pretty
18 standard accounting definitions and that can
19 probably --

20 MR. D'ASCENZO: Yeah, that's fair.

21 EXAMINER STENMAN: So that can be in the
22 open record?

23 MR. D'ASCENZO: Yeah, line 13, line 17
24 and 18, and line 23.

25 EXAMINER STENMAN: Okay.

1 MR. D'ASCENZO: I believe that lines 8
2 through 10 that actually talk about the numbers
3 should remain.

4 EXAMINER STENMAN: Yes. Lines 1 and 2 on
5 page 332, I'm assuming you will agree that can be in
6 the open record?

7 MR. D'ASCENZO: Yes.

8 EXAMINER STENMAN: And then line 9 on
9 that page, we're having a little difficulty with
10 that.

11 MR. D'ASCENZO: The question asks
12 specifically what the analysis includes, and while we
13 thought that the question itself may not be
14 confidential, the response that confirms what the
15 analysis concludes would be.

16 EXAMINER STENMAN: But it doesn't offer
17 any conclusions, it only states an analysis that Duke
18 performed.

19 MR. D'ASCENZO: Well, it concludes that
20 what the question is asking is correct, which is what
21 is in the confidential analysis, your Honor.

22 EXAMINER STENMAN: That's fair. We'll
23 allow that to remain confidential.

24 Did you have an explanation for page 335?

25 MR. D'ASCENZO: The same explanation as

1 before, your Honor, it's IEU's interpretation of
2 what's in the documents and it's an incorrect
3 interpretation and assertion, as was evidenced by
4 testimony that witnesses offered that is in the
5 confidential part of the record, I believe.

6 It's discussing IEU's interpretation of
7 what the analysis was the company performed.

8 EXAMINER STENMAN: That will remain
9 confidential.

10 Lines 24 and 25 on page 36 will remain
11 confidential.

12 Lines 4, 5, and 6, the redacted portions
13 on 337 will remain confidential.

14 Let's look at lines 23 and 24 on page
15 337. A little unclear there.

16 MR. D'ASCENZO: It's the response to the
17 question on page 336, your Honor, the question about
18 the assumption.

19 EXAMINER STENMAN: Okay.

20 MR. D'ASCENZO: Apparently it took a
21 while to get there.

22 EXAMINER STENMAN: I guess my thought is
23 with respect to the assumption, and I do agree that
24 the assumption on 336 is confidential, but the
25 information on lines 23 and 24 of 337 doesn't really

1 say anything, and especially without the assumption
2 it's kind of meaningless so I'm not sure why it needs
3 to remain confidential.

4 MR. D'ASCENZO: That's fair, your Honor.
5 Providing the assumption in the question remains
6 confidential, I would agree that the response there,
7 then, could be unredacted.

8 EXAMINER STENMAN: All right. Moving on
9 to page 338, lines 11, 12, and 13, and lines 18, 19,
10 and 20, the redacted portions will remain
11 confidential.

12 On page 341 on lines 6 and 7, does the
13 company have an explanation?

14 MR. D'ASCENZO: Your Honor, that goes
15 back to the question, this is the redirect
16 examination referring back to the question posed by
17 IEU on 336 regarding assumptions for cost recovery.

18 EXAMINER STENMAN: That makes sense, that
19 will remain confidential.

20 Lines 16, 17, and 20, the redacted
21 portions on 342 will remain confidential.

22 On page 409, line 3, we didn't have any
23 questions with regard to the rest of the page, just
24 the single word on line 3.

25 MR. D'ASCENZO: Providing everything else

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1 on 409 that is proposed to be redacted is agreeable,
2 I would say that the word "pseudo-tie" could be
3 unredacted in that line.

4 EXAMINER STENMAN: It will be unredacted
5 and the remainder of the redacted information will
6 remain confidential on 409.

7 On 410, line 4, 10, 12, 13, and 14 will
8 all remain confidential.

9 On page 411, lines 4, 5, 9, 14, 20
10 through 25 will remain confidential.

11 On 412, lines 11, 13, 14, and 17 through
12 22 will remain confidential.

13 On page 413, information contained on
14 lines 1, 2, 5, 6, 8, 10 through 12, 14 through 22
15 will remain confidential.

16 On page 414, information contained on
17 lines 1, 10, and 11 will remain confidential.

18 Does the company agree that the
19 definition information on lines 13 through 18 can be
20 put on the open record?

21 MR. D'ASCENZO: Yes.

22 EXAMINER STENMAN: Thank you.

23 On page 415, the information contained on
24 lines 13 through 16 and 19 through 21 will remain
25 confidential.

1 On page 416, does the company have a
2 rationale behind that proposed redaction?

3 MR. D'ASCENZO: Your Honor, this goes to
4 the assumptions that were made or not made in our
5 analysis. It's talking about impacts to the market
6 and what the company's view of those impacts might be
7 under various scenarios proposed by IEU, so for that
8 reason we believe that it should remain confidential
9 because it's the company's view of what market
10 impacts could occur.

11 EXAMINER STENMAN: That will remain
12 confidential.

13 On page 417, the information on lines 8
14 and 9 will remain confidential.

15 Let's turn to page 418. We have some
16 questions about lines 10 through 17.

17 MR. D'ASCENZO: The discussion that is
18 occurring there is about how Duke Energy Retail
19 manages its business and how it conducts hedging
20 activities, and the allegation there that's being
21 made is that Duke Energy-Ohio is subsidizing, for
22 lack of a better term, and the discussion of how Duke
23 Energy Retail may or may not run its business is
24 confidential to Duke Energy Retail.

25 EXAMINER STENMAN: Is Mr. Dortch here?

1 He's not, is he?

2 MR. D'ASCENZO: He's not here today.

3 EXAMINER STENMAN: The Bench is just
4 having real difficulty with this information because
5 it, again, it's a characterization by Mr. Hart of
6 what he believes is going on, but, I mean, there's no
7 proprietary information here, it's just a
8 characterization by one of the parties.

9 I think this information on page 418,
10 lines 10 through 17 needs to remain in the open
11 record.

12 On page 421, lines 14, 20 through 21, and
13 24 through 25 will remain confidential.

14 On page 422, I'm a little unclear as to
15 why this needs to be in the confidential portion of
16 the transcript.

17 MR. D'ASCENZO: The entirety of 422, your
18 Honor?

19 EXAMINER STENMAN: Parts of 422. Let's
20 just talk about it in its entirety.

21 MR. D'ASCENZO: Well, this is, again,
22 it's going to contracts that may or may not exist
23 between Duke Energy Retail and Duke Energy-Ohio and
24 what those contracts may or may not entail. You
25 know, Duke Energy-Ohio's contracts are not in issue

1 in this proceeding.

2 Similarly, given that Duke Energy Retail
3 is a competitive marketer operating in not only Duke
4 Energy-Ohio's service territory but other service
5 territories throughout Ohio, it has a right to keep
6 its business information trade secret. There are,
7 for instance -- there are other parties to this
8 proceeding itself that Duke Energy Retail directly
9 competes against, and so any insight that a
10 competitor has into the operations of Duke Energy
11 Retail is putting Duke Energy Retail at a competitive
12 disadvantage.

13 And I would submit, your Honor, that the
14 same goes for any other competitive supplier who had
15 potential contracts at issue in any proceeding, that
16 they would seek to keep that information
17 confidential. The parties to this case do have
18 confidentiality agreements with Duke Energy Ohio and
19 these are contracts that are being discussed between
20 Duke Energy Retail and Duke Energy-Ohio.

21 EXAMINER STENMAN: Let's go off the
22 record.

23 (Discussion off the record.)

24 EXAMINER STENMAN: Let's go back on the
25 record.

1 All of the proposed redaction information
2 through page 424 will remain confidential.

3 Let's look at page 425 through 426.
4 What's the company's rationale behind that?

5 MR. D'ASCENZO: Based upon what we agreed
6 to previously, your Honor -- let me find that -- I
7 believe we could agree to line 23 -- or, I'm sorry,
8 line 3, the word "pseudo-tying." I'm looking to see
9 how we treated the original question.

10 Going back to 409, this is the redirect
11 of what was discussed on 409 regarding the use of the
12 market and assumptions under hypotheticals, so for
13 the same reason that 409 was treated as confidential
14 we would submit that line 4 through 5 should be, as
15 well as line 8, and similarly line 10 through 13, 15
16 through 19, line 21, and 23 through 25 on 425.

17 Again, that's the company's view of the
18 market and what impacts to the market could occur
19 under certain conditions that were asked about during
20 cross-examination.

21 Your Honor, that would continue on to the
22 top of 426 and, again, the bottom of 426, line 24
23 through 25.

24 EXAMINER STENMAN: Line 3 will remain in
25 the open record. The remainder of the redactions on

1 425 will remain redacted, as well the redaction at
2 the top of page 426 and the bottom of page 426.

3 The top of page 427 will remain redacted,
4 as well as line 6 on page 427.

5 Let's talk about line 9 on page 427.

6 MR. D'ASCENZO: Line 9 is just talking
7 about what was built into that assumption and what
8 wasn't, more specifically.

9 EXAMINER STENMAN: Given that the actual
10 number for the assumption isn't being released, do
11 you think we can release line 9, that information?

12 MR. D'ASCENZO: Yes, your Honor. We can
13 do that.

14 EXAMINER STENMAN: Okay. And with regard
15 to line 12, can that be released, the single word?

16 MR. D'ASCENZO: Yes, your Honor.

17 EXAMINER STENMAN: Lines 13 through 20
18 should remain confidential.

19 With regards to line 24 and 25, is that
20 not a known fact?

21 MR. D'ASCENZO: Your Honor, we would
22 agree to unredact line 24, 25, to the top of page
23 28 -- or, 428, excuse me, line 1.

24 EXAMINER STENMAN: Okay. Thank you.

25 And then the proposed redactions on 429,

1 430, and 431 will remain redacted.

2 Let's move on to Volume III. On page 530
3 I'm a little unclear why that needs to be redacted.
4 It doesn't really say anything.

5 MR. D'ASCENZO: It's referring to the
6 document that's been inquired into and what that
7 document contains, and the answer confirms that and
8 it gives the witness's impression of that
9 information.

10 EXAMINER STENMAN: Which I understand,
11 but when you look at the document as filed, the
12 redacted version, you can still gain all that
13 information just from looking at the document, so on
14 page 530 I'm just a little unsure why that
15 information really gives us anything that the
16 document itself doesn't at this point.

17 MR. D'ASCENZO: Okay, your Honor, we can
18 unredact that.

19 EXAMINER STENMAN: There will be no
20 redacted information on page 530.

21 531, I kind of see that as the same
22 argument. There will be no redacted information on
23 531.

24 On 532, I understand the value in
25 redacting line 7, but other than that, just talking

1 about the top half of the page above line 12, I don't
2 see any rationale for redacting that information.

3 Does the company have any arguments to the contrary?

4 MR. D'ASCENZO: The issue, your Honor, is
5 the question and answer are asking specifically what
6 the chart shows under two different scenarios, and
7 releasing that information would give insight into
8 the company's view of the market under the two
9 scenarios posed.

10 EXAMINER STENMAN: All right. Line 1
11 will be in the open record. Lines 5 and 6 will be in
12 the open record. Lines 7 and 9 will remain
13 confidential. And lines 13 and 14 will be in the
14 open record. Lines 21 through 25 will remain --
15 excuse me, lines 23 through 25 will remain
16 confidential.

17 Does the company have a position
18 regarding lines 16 through 22?

19 MR. D'ASCENZO: If we could go back so I
20 can make sure I followed all of that.

21 EXAMINER STENMAN: Sure.

22 MR. D'ASCENZO: That happened pretty
23 quickly. So if I could check, line 1 will be public.

24 EXAMINER STENMAN: Yes.

25 MR. D'ASCENZO: Lines 5 and 6 will be

1 public?

2 EXAMINER STENMAN: Yes.

3 MR. D'ASCENZO: Lines 7 --

4 EXAMINER STENMAN: And 9 will remain
5 redacted.

6 MR. D'ASCENZO: And 9. Okay. And line
7 13 and 14, public?

8 EXAMINER STENMAN: Yes.

9 MR. D'ASCENZO: Okay. And line 21 and
10 22 --

11 EXAMINER STENMAN: We haven't talked
12 about that yet, 23 and 25, though, will remain
13 redacted.

14 MR. D'ASCENZO: Okay.

15 EXAMINER STENMAN: And we need to talk
16 about 16 through 22.

17 MR. D'ASCENZO: Just for clarification,
18 lines 7 and 9 are redacted, correct?

19 EXAMINER STENMAN: Yes.

20 MR. D'ASCENZO: Okay. And so, your
21 Honor, you've asked about lines 16 through --

22 EXAMINER STENMAN: 22.

23 MR. D'ASCENZO: -- 22, okay.

24 Your Honor, the company would agree that
25 lines 16 through 20 could be unredacted.

1 EXAMINER STENMAN: Okay.

2 MR. D'ASCENZO: However, lines 21 through
3 22 is giving the company's view of the company in the
4 market and how it's evaluating itself, so that we
5 would respectfully request remain confidential.

6 EXAMINER STENMAN: I'm a little unclear,
7 though, without lines 23 through 25, what information
8 that brings to the table, and moreover I'm unclear as
9 to what Mr. Whitlock spoke of there that brought on
10 that information.

11 MR. D'ASCENZO: Well, your Honor, it's
12 leading into all of the assumptions that Mr. Jennings
13 articulates through the rest of his response there,
14 that it's talking about the company's view of its
15 business now versus what it viewed in the past when
16 it originally did its analysis.

17 So what this is indicating is that they
18 may or may not be the same.

19 EXAMINER STENMAN: Given our ruling with
20 respect to lines 23 and 25 and the ruling that we'll
21 make now that all proposed redactions on page 533
22 will remain confidential, lines 21 and 22 on page 532
23 will be in the open record.

24 MR. D'ASCENZO: Okay, your Honor.

25 EXAMINER STENMAN: Let's turn to page

1 534. Again, I'm not sure the proposed redaction on
2 this page gives away any information. Maybe prior to
3 the company making an argument I should state that we
4 do intend to keep the information on page 535 and 536
5 confidential, therefore, I'm not sure why the
6 information on lines 9 through 16 and line 19 really
7 give anything away.

8 MR. D'ASCENZO: So lines 9 through 16
9 would be unredacted?

10 EXAMINER STENMAN: Yes.

11 MR. D'ASCENZO: Okay.

12 EXAMINER STENMAN: As will line 19. The
13 remainder of 534, 535, and 536 will remain
14 confidential.

15 MR. D'ASCENZO: Okay.

16 EXAMINER STENMAN: The proposed
17 redactions will remain confidential.

18 MR. D'ASCENZO: Thank you.

19 EXAMINER STENMAN: On 537, lines 17
20 through 22, what's the company's position there?

21 MR. D'ASCENZO: It's discussing the
22 modeling that was done and what was included as a
23 cost. It specifically states one item that was
24 considered a cost throughout and then discusses other
25 items that were variables.

1 And just for clarification, the
2 discussion of how the company viewed the cost was
3 different than as if it were a cost that actually --
4 there's a discussion about how costs were considered
5 as part of the analysis in total.

6 EXAMINER STENMAN: Do you have the same
7 argument for the information on page 538?

8 MR. D'ASCENZO: Yes, your Honor. It goes
9 into assumptions regarding recoverability and other
10 assumptions the company made.

11 EXAMINER STENMAN: Okay. The
12 information, the proposed redactions on 537 and 538
13 will remain confidential.

14 On page 539, again, we go over the
15 definitions on lines 1, 8, 9, and 10, I'm assuming
16 those can be in the open record as we previously
17 discussed?

18 MR. D'ASCENZO: Yes, your Honor.

19 EXAMINER STENMAN: On lines 12 through
20 16, that will remain confidential.

21 On page 540, lines 20 through 25, the
22 proposed redactions will remain confidential.

23 On 541 the proposed redactions on lines 1
24 through 8 will remain confidential.

25 On 542, what's the company's position

1 with regard to this information?

2 MR. D'ASCENZO: Your Honor, with respect
3 to lines 16, 17, 18, and 19, we would agree that that
4 could be released.

5 Beginning on line 22, however, that is
6 talking specifically about assumptions that were made
7 in the analysis carrying on over into 543. And
8 again, that was Duke Energy-Ohio's initial
9 assumptions and view at the time the analysis was
10 made.

11 EXAMINER STENMAN: The proposed
12 redactions on page 542, lines 22 through 25, will
13 remain confidential, as will the proposed redactions
14 on page 543, and page 544, 545, and 546.

15 I think we're done. Will Duke still be
16 able to file a redacted copy of the confidential
17 transcript today?

18 MS. SPILLER: Sure.

19 MR. D'ASCENZO: Yes, your Honor.

20 EXAMINER STENMAN: Thank you.

21 Is there anything else to come before us
22 before we conclude this hearing?

23 MR. OLIKER: Your Honor, I just have some
24 questions, I don't know if they should be on the
25 record or off the record, regarding how the

1 transcript's going to work when they redact it or
2 unredact certain portions, how they're going to be
3 distributed to the parties.

4 EXAMINER STENMAN: Let's go off the
5 record.

6 (Discussion off the record.)

7 EXAMINER STENMAN: Let's go back on the
8 record.

9 Is there anything else to come before us?

10 MS. SPILLER: No, your Honor.

11 EXAMINER STENMAN: Thank you, we're
12 adjourned.

13 (Thereupon, the hearing concluded at
14 10:02 a.m.)

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CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Wednesday, January 18, 2011, and carefully compared with my original stenographic notes.

Maria DiPaolo Jones, Registered
Diplomate Reporter and CRR and
Notary Public in and for the
State of Ohio.

My commission expires June 19, 2011.

(MDJ-3779)

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