

1 BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

2 - - -

3 In the Matter of the :
4 Application of Duke :
5 Energy Ohio for Approval :
6 of a Market Rate Offer to :
7 Conduct a Competitive :
8 Bidding Process for : Case No. 10-2586-EL-SSO
9 Standard Service Offer :
10 Electric Generation :
11 Supply, Accounting :
12 Modifications, and Tariffs:
13 for Generation Service. :
14 - - -

10 PROCEEDINGS

11 before Ms. Katie Stenman and Ms. Christine M.T.
12 Pirik, Hearing Examiners, at the Public Utilities
13 Commission of Ohio, 180 East Broad Street, Room 11-A,
14 Columbus, Ohio, called at 9:00 a.m. on Thursday,
15 January 13, 2011.
16 - - -

17 VOLUME III - CONFIDENTIAL EXCERPT

18 - - -

22 ARMSTRONG & OKEY, INC.

23 222 East Town Street, 2nd Floor

24 Columbus, Ohio 43215

25 (614) 224-9481 - (800) 223-9481

Fax - (614) 224-5724

- - -

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1 APPEARANCES:

2 Ms. Amy B. Spiller
3 Associate General Counsel
4 Duke Energy Corporation
5 and Ms. Elizabeth H. Watts
6 Assistant General Counsel
7 Room 2500, ATII
8 139 East Fourth Street
9 Cincinnati, Ohio 45201-0960

10 Mr. Rocco O. D'Ascenzo
11 Senior Counsel
12 Duke Energy Business Services, Inc.
13 139 East Fourth Street
14 Cincinnati, Ohio 43201-0960

15 On behalf of Duke Energy-Ohio.

16 Kravitz, Brown & Dortch, LLC
17 By Mr. Michael D. Dortch
18 65 East State Street, Suite 200
19 Columbus, Ohio 43215

20 On behalf of Duke Energy Retail Services.
21 Vorys, Sater, Seymour & Pease, LLP
22 By Mr. M. Howard Petricoff
23 Mr. Stephen M. Howard
24 Ms. Lija Kaleps-Clark
25 52 East Gay Street
Columbus, Ohio 43216-1008

On behalf of Constellation NewEnergy,
Constellation Commodities Group, and the
Retail Energy Suppliers Association.

Mr. Mark A. Hayden
FirstEnergy
76 South Main Street
Akron, Ohio 44308
Jones Day
By Mr. Grant W. Garber
Mr. David A. Kutik
North Point
901 Lakeside Avenue
Cleveland, Ohio 44114

1 APPEARANCES (Continued):

2 McNees, Wallace & Nurick, LLC
3 By Mr. Samuel C. Randazzo
4 Mr. Joseph E. Olikier
5 Fifth Third Center, Suite 1700
6 21 East State Street
7 Columbus, Ohio 43215-4288

8 On behalf of Industrial Energy Users of
9 Ohio.

10 Janine L. Migden-Ostrander
11 Ohio Consumers' Counsel
12 By ms. Ann M. Hotz
13 Ms. Jody M. Kyler
14 Mr. Richard C. Reese
15 Assistant Consumers' Counsel
16 10 West Broad Street, Suite 1800
17 Columbus, Ohio 43215-3485

18 On behalf of the residential customers
19 of Duke Energy-Ohio.

20 Ms. Colleen L. Mooney
21 Mr. David C. Rinebolt
22 231 West Lima Street
23 Findlay, Ohio 45839-1793

24 On behalf of Ohio Partners for Affordable
25 Energy.

26 Chester, Willcox & Saxbe, LLP
27 By Mr. John W. Bentine
28 Mr. Mark S. Yurick
29 65 East State Street, Suite 1000
30 Columbus, Ohio 43215-4213

31 On behalf of Kroger Company.

32 Boehm, Kurtz & Lowry
33 By Mr. David F. Boehm
34 Mr. Michael Kurtz
35 36 East Seventh Street, Suite 1510
36 Cincinnati, Ohio 45202

37 On behalf of Ohio Energy Group, Inc.

1 APPEARANCES (Continued):

2 Mike DeWine, Ohio Attorney General
Public Utilities Section

3 By Mr. John H. Jones

Mr. Steven Logan Beeler

4 Assistant Attorneys General

180 East Broad Street, 6th Floor

5 Columbus, Ohio 43215-3793

6 On behalf of the staff of the Public
Utilities Commission of Ohio.

7 Bricker & Eckler, LLP

8 By Mr. Christopher M. Montgomery

Mr. Terrence O'Donnell

9 100 South Third Street

Columbus, Ohio 43215-4291

10 On behalf of Ohio Advanced Energy.

11 Bricker & Eckler, LLP

12 By Mr. Thomas J. O'Brien

100 South Third Street

13 Columbus, Ohio 43215

14 On behalf of the City of Cincinnati.

15 Bricker & Eckler, LLP

By Mr. Matthew W. Warnock

16 100 South Third Street

Columbus, Ohio 43215-4291

17 Mr. Kevin Schmidt

18 33 North High Street

Columbus, Ohio 43215

19 On behalf of Ohio Manufacturers
20 Association.

21 Law Office of Douglas E. Hart

By Mr. Douglas E. Hart

22 441 Vine Street, Suite 4192

Cincinnati, Ohio 45202

23 On behalf of the Greater Cincinnati
24 Health Council and Eagle Energy, LLC.
25

1 APPEARANCES (continued):

2 Mr. Will Reisinger
3 Mr. Nolan Moser
4 1207 Grandview Avenue, Suite 201
5 Columbus, Ohio 43212

6 On behalf of the Ohio Environmental
7 Council.

8 Behrens, Taylor, Wheeler & Chamberlain
9 By Mr. Rick D. Chamberlain
10 Six Northeast 63rd Street, Suite 400
11 Santa Fe North Building
12 Oklahoma City, Oklahoma 73105
13 Roetzel & Andress
14 By Mr. Kevin J. Osterkamp
15 155 East Broad Street, 12th Floor
16 Columbus, Ohio 43215

17 On behalf of Wal-Mart Stores East, LP and
18 Sam's East, Inc.

19 Bell & Royer Co., LPA
20 By Mr. Barth E. Royer
21 33 South Grant Avenue
22 Columbus, Ohio 43215-3900

23 On behalf of Dominion Retail, Inc.

24 Ms. Anne M. Vogel
American Electric Power
1 Riverside Plaza
Columbus, Ohio 43215

On behalf of AEP Retail Energy Partners,
LLC.

Ms. Erin C. Miller
Mr. Matthew J. Satterwhite
American Electric Power
1 Riverside Plaza
Columbus, Ohio 43215

On behalf of Ohio Power Company and
Columbus Southern Power Company.

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(CONFIDENTIAL PORTION.)

EXAMINER PIRIK: Are there any questions
from any other individuals with regard to -- I'm
going to turn to Mr. Olikar. If I go around the
table until I get to Mr. Olikar, I'm assuming no one
has any questions on the closed record.
Mr. Olikar.

- - -

FURTHER RECROSS-EXAMINATION

By Mr. Olikar:

Q. Mr. Jennings.

A. Yes, sir.

Q. Have you been directly involved in the evaluation of whether Duke Energy-Ohio should exit the Midwest ISO since this question arose?

A. What question are you referring to?

Q. The decision to exit the Midwest ISO and join PJM.

A. I'm still not sure, what is the question that --

Q. Were you involved?

A. Was I involved in the process of --

Q. Yes.

A. -- evaluation?

Yes, I was involved in the process of evaluation.

Q. Could you look at the exhibit marked as IEU-Ohio Exhibit 9, the PowerPoint slides.

A. What page of the exhibit?

Q. Just the exhibit in general. Are you familiar with that document?

A. Yes.

1 Q. Did you prepare this document or have it
2 prepared at your request?

3 A. This is essentially draft material.

4 Q. But did you prepare the document,
5 Mr. Jennings?

6 A. Yes.

7 Q. Does numbered page 2 of 4 of the
8 document, it's marked as IEU-Ohio Exhibit 9,
9 illustrate estimates of capacity prices in PJM with
10 and without Duke Energy-Ohio as a member?

11 A. These were preliminary estimates.

12 Q. But is that what the document contains,
13 "yes" or "no"?

14 A. Yes.

15 Q. Are estimated capacity prices in PJM
16 higher or lower with Duke Energy-Ohio as a member?

17 A. I'm not sure. I have no confidence in
18 that.

19 Q. What does the document say?

20 A. I can't tell because the document's not
21 in color.

22 Q. Would you prefer to look at an electronic
23 version of the document?

24 A. If I could.

25 MR. OLIKER: One moment, please. Do you

1 have a computer we can use or would you prefer that
2 we get our own out?

3 EXAMINER PIRIK: You might as well use
4 yours.

5 MR. OLIKER: Okay.

6 This document was provided to us
7 electronically, so it might take a minute, sorry.

8 EXAMINER PIRIK: That's okay.

9 MR. BOEHM: Your Honor, I wonder, it
10 seems to me that somebody should be able to stipulate
11 which line is which on this document, you know.

12 EXAMINER PIRIK: I understand. It sounds
13 like the witness would like to look at it, though,
14 for his own edification, so that's fine. And then
15 once he looks at it he can clarify for all of us.

16 MR. OLIKER: Would it be okay if I gave
17 him my --

18 EXAMINER PIRIK: Yes.

19 MR. D'ASCENZO: Your Honor, may I
20 approach also?

21 EXAMINER PIRIK: Yes.

22 Q. (By Mr. Oliker) Mr. Jennings.

23 A. I did prepare the slides, but I didn't
24 prepare the estimates. And it's my understanding
25 that these are preliminary estimates that are no

1 longer --

2 Q. Mr. Jennings, that wasn't the question.

3 A. Okay.

4 EXAMINER PIRIK: We just need to know
5 which line goes with which one. Is the top line in
6 the chart, the "W/DEO" or is it the "WO DEO."

7 A. The [REDACTED].

8 Q. And what does that stand for?

9 A. [REDACTED].

10 Q. So I'll ask the question again. Are
11 capacity prices in PJM higher or lower with Duke
12 Energy-Ohio as a member?

13 A. I don't know. I don't know because
14 estimates have been done and they are not --

15 Q. According --

16 A. -- they are not considered reliable at
17 the time. These estimates are nearly two years old
18 and, furthermore, these estimates aren't even --
19 everything about the market has changed since then.
20 So they're no longer accurate.

21 Not only that, but Duke's position to the
22 market has changed, as Mr. Whitlock spoke of
23 yesterday, Duke Energy-Ohio is [REDACTED]

24 [REDACTED]

25 [REDACTED].

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED], so my expectation when Duke Energy-Ohio
5 moves to PJM is, [REDACTED].

6 MR. OLIKER: I would move to strike the
7 response, it exceeded the question.

8 EXAMINER PIRIK: Motion granted.

9 Would you like to reiterate the question?

10 MR. OLIKER: I'll move on. I think we
11 have what we need. And I can probably take the
12 computer back now.

13 Q. Mr. Jennings --

14 A. Yes.

15 Q. -- were individuals under your
16 supervision responsible for performing economic
17 analyses to support the business decision to withdraw
18 from the Midwest ISO and join PJM?

19 A. No.

20 Q. Did you perform any analyses regarding
21 the withdrawal from the Midwest ISO to join PJM?

22 A. Yes.

23 Q. Could you please look at IEU-Ohio Exhibit
24 8, the Excel spreadsheet. Are you familiar with this
25 document?

1 A. Yes.

2 Q. Did you prepare this document?

3 A. Yes.

4 Q. Is this document an example of the types
5 of economic studies that were performed to evaluate
6 the plan to withdraw from Midwest ISO?

7 A. Well, you probably know this already, but
8 as part of the discovery that we provided to the
9 IEU -- IE-Ohio, there were, I don't know, possibly a
10 hundred different scenarios and a hundred different
11 spreadsheets with as much as 15 different
12 sensitivities under each scenario, I don't know which
13 of these you selected from. They're obviously
14 preliminary. But this is consistent with or it
15 appears to be one view of probably hundreds of
16 scenarios.

17 Q. But this is an example of the type of
18 study.

19 A. It's one of hundreds.

20 Q. What assumptions were made in performing
21 these studies?

22 A. I'm not sure what you mean.

23 Q. What was, for example, included as an
24 initial cost?

25 A. Okay. [REDACTED]

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED] So one of the
5 things that we talked about earlier today was the
6 [REDACTED]
7 [REDACTED]
8 [REDACTED].

9 [REDACTED]
10 is associated with [REDACTED]
11 [REDACTED]. I think there's another [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED].

17 [REDACTED]
18 [REDACTED].

19 Q. And what was included as a reoccurring
20 increased cost?

21 A. [REDACTED]
22 [REDACTED], that was most of it, [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

1 [REDACTED]
2 [REDACTED].
3 Q. What are the sources of increased
4 revenue?
5 A. [REDACTED]
6 [REDACTED].
7 Q. Who provided the assumptions?
8 A. Which assumptions are we talking about?
9 Q. All of the assumptions.
10 A. I'm not sure which ones you mean. There
11 was a variety of assumptions made and there were a
12 variety of people that provided input to them.
13 Q. The ones you just described, those
14 figures.
15 A. I don't recall. I mean, I was a part of
16 that. I was a part of the analysis, but I wasn't the
17 only one that worked on it.
18 Q. So they were given to you?
19 A. No, I wouldn't say that. I would say
20 that I worked on them with -- well, let me think. I
21 worked on them with Scott Henry, that was -- I guess
22 that was primarily who we worked on with it.
23 Q. With respect to the Midwest ISO exit fees
24 and Midwest ISO and PJM transmission expansion costs,
25 what assumptions were made regarding the cost

1 recovery?

2 A. I'm not sure about that because I didn't
3 work on cost recovery. You can probably ask Don
4 Wathen about that.

5 Q. Aren't they reflected in the spreadsheet?

6 MR. D'ASCENZO: I'm going to object, your
7 Honor, on the grounds of relevancy.

8 EXAMINER PIRIK: Mr. Olikar.

9 MR. OLIKER: We're just trying to figure
10 out what facts were relied upon in the spreadsheet.

11 EXAMINER PIRIK: I'll overrule the
12 objection. Go ahead.

13 A. I think that the -- can you tell me what,
14 repeat the question, please, I want to make sure I
15 understand what charge we're talking about.

16 (Record read.)

17 A. [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 Q. In this chart?

24 A. In this chart?

25 Q. This exhibit.

1 A. Tell me which one you want me to talk
2 about.

3 Q. In all of them I guess.

4 A. They're all different. The ones that you
5 gave me, they're all different.

6 Q. How about the first one, we'll start with
7 that.

8 A. All right. So now ask your question
9 again about the first one, please.

10 Q. Page 1 of 5.

11 A. Yeah, I know, but what is your question?

12 I don't understand it. [REDACTED]

13 [REDACTED]

14 [REDACTED].

15 Q. [REDACTED]?

16 A. [REDACTED]

17 [REDACTED]

18 [REDACTED].

19 Q. What were the various scenarios; what did
20 you assume?

21 A. [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED].

25 That's pretty much -- that's the scope of it.

1 Q. Could you please identify what "EBTIDA"
2 means?

3 A. Excuse me?

4 Q. At IEU-Ohio Exhibit 8 on the bottom of
5 page 1 of 5.

6 A. On the bottom of page 1 of 5. What is
7 the question?

8 Q. What does "EBITDA" mean?

9 A. Oh, earnings before income tax,
10 depreciation, and amortization.

11 Q. Mr. Jennings, in performing your economic
12 studies did you evaluate a scenario in which [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED] "Yes" or "no," Mr. Jennings?

17 A. Well, I don't think it's a "yes" or "no"
18 answer.

19 Q. I'm just asking if you evaluated the
20 scenario.

21 A. I'm not saying that I didn't, but I'm not
22 saying that I did. I mean, it depends on how you
23 consider the modeling that we did. I told you that
24 we did several sensitivities and so a number of those
25 sensitivities could be translated into something

1 similar to what you're asking about.

2 Q. That specific scenario, did you evaluate
3 that?

4 A. Well, I don't think it was considered
5 because it's not even a possibility to do that.
6 Mr. Whitlock testified to that yesterday.

7 Q. So the answer is "no"?

8 A. I didn't answer no because I told you
9 there was a sensitivity that would include that.

10 MR. OLIKER: Your Honor, could you please
11 direct him to answer the question.

12 EXAMINER PIRIK: Please answer the
13 question.

14 THE WITNESS: I thought I did answer the
15 question.

16 EXAMINER PIRIK: Could you reread the
17 question for us, Maria?

18 (Record read.)

19 A. And my answer was that there was a
20 sensitivity that would translate into that. [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 But I would say if you looked at a
25 sensitivity that says that you [REDACTED]

1 [REDACTED]

2 [REDACTED]

3 [REDACTED].

4 Q. Mr. Jennings, if you [REDACTED]

5 [REDACTED] what would that do to
6 capacity prices in PJM?

7 A. It would [REDACTED]

8 [REDACTED]

9 MR. OLIKER: I have no further questions.

10 EXAMINER PIRIK: Mr. Hart?

11 MR. HART: No.

12 EXAMINER PIRIK: Mr. Montgomery?

13 MR. MONTGOMERY: No.

14 EXAMINER PIRIK: Mr. Jones?

15 MR. JONES: Nothing, your Honor.

16 EXAMINER PIRIK: Redirect?

17 MR. D'ASCENZO: Could we take a short
18 break, your Honor?

19 EXAMINER PIRIK: Just a couple minutes.

20 MR. D'ASCENZO: That will be fine.

21 EXAMINER PIRIK: We'll stay right here.

22 MR. D'ASCENZO: That's fine. Thank you.

23 (Recess taken.)

24 EXAMINER PIRIK: We'll go back on the

25 record.

1 Redirect?

2 MR. D'ASCENZO: Yes, your Honor, just a
3 few questions.

4 - - -

5 FURTHER REDIRECT EXAMINATION

6 By Mr. D'Ascenzo:

7 Q. Mr. Jennings, I'd like to direct your
8 attention to what was marked as IEU Exhibit 9,
9 please. Specifically page 2 of 4, that was the
10 PowerPoint presentation.

11 A. Okay.

12 Q. Mr. Jennings, do you know approximately
13 when this analysis was performed?

14 A. Well, there were several scenarios, but
15 I'm going to guess that this was probably around the
16 end of 2009, possibly January 2010.

17 Q. And would you describe this as a
18 preliminary analysis?

19 A. Extremely preliminary.

20 Q. Were there any assumptions associated
21 with this analysis?

22 A. Yeah. [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 Q. [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 A. [REDACTED]

10 [REDACTED]

11 Q. [REDACTED]

12 [REDACTED]

13 A. [REDACTED]

14 Q. Mr. Jennings, do you recall counsel for

15 IEU-Ohio asking you about [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 A. Yes.

19 Q. And you said that that would have [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 A. I did.

23 Q. Do you know if there would be a

24 [REDACTED]

25 [REDACTED]

1 [REDACTED]

2 [REDACTED]

3 A. [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 Q. [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 A. [REDACTED]

14 Q. [REDACTED]

15 [REDACTED]

16 [REDACTED] Can

17 you explain why?

18 A. Well, [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED] And so it just seems bizarre

22 that you would [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 Q. Now, I want to clarify something you just

1 said. You said leaving all of your [REDACTED]

2 [REDACTED]

3 A. Yes.

4 Q. What do you mean by [REDACTED]

5 [REDACTED]

6 A. Well, [REDACTED]

7 [REDACTED]

8 Q. So when you said [REDACTED]

9 you were referring to the [REDACTED]?

10 A. I'm referring to [REDACTED].

11 Q. If, as Mr. Olikar, counsel for IEU

12 suggested, [REDACTED]

13 [REDACTED]

14 [REDACTED], do you know if there are any other

15 increased costs that Duke Energy-Ohio's [REDACTED]

16 [REDACTED]?

17 A. Yeah, I think you would realize -- you

18 would end up having [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED].

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]

9 Q. And in that instance is it reasonable to
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]?

14 A. Can you repeat that question, please?

15 Q. Sure. Is it reasonable to [REDACTED]
16 [REDACTED]?

17 A. That seems reasonable.

18 MR. D'ASCENZO: No further questions,
19 your Honor.

20 EXAMINER PIRIK: Thank you.

21 Recross?

22 - - -

23 FURTHER RECROSS-EXAMINATION

24 By Mr. Olikar:

25 Q. Mr. Jennings --

1 A. Yes.

2 Q. -- when you pseudo-tie a generating
3 asset, does it physically involve moving it?

4 A. Well, you don't pick up the generator and
5 tow it across state lines, right?

6 MR. OLIKER: No further questions.

7 EXAMINER PIRIK: Thank you. Anything
8 else?

9 (No response.)

10 EXAMINER PIRIK: Hearing none, this
11 concludes the confidential portion of the transcript.

12 (OPEN RECORD.)

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1 CERTIFICATE

2 I do hereby certify that the foregoing is a
3 true and correct excerpt of the transcript of the
4 proceedings taken by me in this matter one Thursday,
5 January 13, 2011, and carefully compared with my
6 original stenographic notes.

7 _____
8 Maria DiPaolo Jones, Registered
9 Diplomat Reporter and CRR and
10 Notary Public in and for the
11 State of Ohio.

12 My commission expires June 19, 2011.

13 (MDJ-3776)

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