

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)	
Columbus Southern Power Company and	)	Case No. 11-346-EL-SSO
Ohio Power Company for Authority to	)	Case No. 11-348-EL-SSO
Establish a Standard Service Offer)	
Pursuant to §4928.143, Ohio Rev. Code,)	
in the Form of an Electric Security Plan.)	

In the Matter of the Application of)	
Columbus Southern Power Company and	)	Case No. 11-349-EL-AAM
Ohio Power Company for Approval of	)	Case No. 11-350-EL-AAM
Certain Accounting Authority.)	

**MOTION TO STRIKE PORTIONS OF OHIO POWER’S APPLICATION FOR
REHEARING AND MEMORANDUM CONTRA
BY
THE OFFICE OF THE OHIO CONSUMERS’ COUNSEL
AND
THE APPALACHIAN PEACE AND JUSTICE NETWORK**

The Office of the Ohio Consumers’ Counsel (“OCC”)¹ and the Appalachian Peace and Justice Network (“APJN”)² (together, “Movants”) jointly submit this Motion to Strike portions of Ohio Power’s (“AEP Ohio” or “Company”) Application for Rehearing (filed on September 7, 2012) and portions of its Memorandum Contra (filed on September 17, 2012). This Motion is filed to protect customers from AEP Ohio’s inappropriate use of prior settlements and rulings on settlements, as precedent to support higher rates for customers. The Stipulations that AEP Ohio relies on bar it from using them in this fashion.

¹ OCC represents Ohio Power Company’s (“Ohio Power” or “Company”) residential utility customers.

² APJN is a not for profit organization whose members include low-income customers in southeast Ohio.

The specific portions subject to this motion to strike include references to isolated provisions found in three Stipulations approved by the PUCO. The provisions referenced include the ROE approved as part of the Company's stipulated distribution case,³ the SEET threshold in two Duke SSO Stipulations,⁴ the corporate separation conditions agreed to in the recent Duke SSO Stipulation, and Duke's electric service stability charge. The grounds for this Motion to Strike are further explained in the following memorandum in support.

Respectfully submitted,

BRUCE J. WESTON
OHIO CONSUMERS' COUNSEL

/s/ Maureen R. Grady

Maureen R. Grady, Counsel of Record
Terry L. Etter
Joseph P. Serio
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel

10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485

(614) 466-9567 – Grady

(614) 466-7964 – Etter

(614) 466-9565 – Serio

grady@occ.state.oh.us

etter@occ.state.oh.us

serio@occ.state.oh.us

³ *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company, individually and, if Their Proposed Merger is Approved, as a Merged Company (collectively, AEP Ohio) for an Increase in Electric Distribution Rates*, Case No. 11-351-EL-AIR et al., Opinion and Order (Dec. 14, 2011) (“Distribution Case”).

⁴ *In the Matter of the Application of Duke Energy Ohio, Inc. of Authority to Establish a Standard Service offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan, Accounting Modifications, and Tariffs for Generation Service*, Case Nos. 11-3549-EL-SSO et al, Stipulation (Oct. 24, 2011) (“Duke ESP 2 case”); *In the Matter of the Application of Duke Energy Ohio for Approval of an Electric Security Plan*, Case No. 08-920-El-SSO et al., Stipulation (Oct. 27, 2008) (“Duke ESP 1 case”).

/s/ Michael R. Smalz

Michael R. Smalz

Joseph V. Maskovyak

Ohio Poverty Law Center

555 Buttrick Avenue

Columbus, Ohio 43215

Telephone: 614-221-7201

msmalz@ohiopoveritylaw.org

jmaskovyak@ohiopoveritylaw.org

TABLE OF CONTENTS FOR MEMORANDUM

	PAGE
I. INTRODUCTION	1
II. ARGUMENT	2
A. The Company Inappropriately Relies Upon The Provisions In Stipulations As Precedent, Which Violates The Express Terms Of The Stipulations.	2
1. The AEP Ohio Distribution Case Stipulation Prohibits Parties from Using Information or Data Stipulated to as Precedent in any Future Proceedings.	2
2. The Duke ESP Stipulations, Prohibit Parties from Using Information or Data Stipulated to as Precedent in any Future Proceedings.	4
a. Using the 15% SEET threshold as precedent is prohibited by the terms of the Stipulations.	6
b. Using the corporate separation terms as precedent is prohibited under the terms of the Duke ESP II Stipulation.	7
c. Using Duke’s ESSC charge as precedent is prohibited under the terms of the Duke ESP 2 stipulation.	9
B. Using Isolated Provisions In A Stipulation As Precedent Is Contrary To The Inherent Nature Of A Stipulation.	10
C. Stipulations Are Not Precedent.....	11
D. For Public Policy Reasons, The Commission Should Enforce The Stipulations, And Not Permit The Company To Violate These.	12
III. CONCLUSION.....	12

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)	
Columbus Southern Power Company and	)	Case No. 11-346-EL-SSO
Ohio Power Company for Authority to	)	Case No. 11-348-EL-SSO
Establish a Standard Service Offer)	
Pursuant to §4928.143, Ohio Rev. Code,)	
in the Form of an Electric Security Plan.)	

In the Matter of the Application of)	
Columbus Southern Power Company and	)	Case No. 11-349-EL-AAM
Ohio Power Company for Approval of	)	Case No. 11-350-EL-AAM
Certain Accounting Authority.)	

MEMORANDUM IN SUPPORT

I. INTRODUCTION

On September 7, 2012 interested parties, including Ohio Power, filed applications for rehearing of the Commission's August 8, 2012 Opinion and Order. On September 17, 2012, Ohio Power and others filed Memoranda Contra Applications for Rehearing. In its Application for Rehearing and Memorandum Contra, the Company relies upon three different Stipulations and PUCO Orders adopting the Stipulations to bolster its claims on three of its assignments of error on rehearing.⁵

⁵AEP Ohio Assignment of Error II.A : It was unreasonable for the Commission to use 9% as a target ROE in establishing the RSR revenue target ; AEP Ohio Assignment of Error VI: The Commission's imposition of a SEET threshold was unreasonable and unlawful; and AEP Ohio Assignment of Error VIII: The Commission should have approved the corporate separation application at the same time that it issued the Order or made the ESP Plan contingent based on approval of the pending corporate separation case, since many of the obligations and commitments under the ESP are dependent upon completion of corporate separation. The corporate separation issue that was addressed concerning the Pollution Control Bonds should be clarified and/or reconsidered and modified.

These three assignments of error on rehearing should be rejected for the reasons set forth in OCC/APJN's Memorandum Contra, filed on September 17, 2012. But the Commission should also strike portions of the arguments because AEP Ohio inappropriately relied upon past Stipulations as precedent, as explained in detail below.

II. ARGUMENT

A. The Company Inappropriately Relies Upon The Provisions In Stipulations As Precedent, Which Violates The Express Terms Of The Stipulations.

1. The AEP Ohio Distribution Case Stipulation Prohibits Parties from Using Information or Data Stipulated to as Precedent in any Future Proceedings.⁶

The Distribution Case Stipulation resolved all the issues raised by parties in respect to AEP Ohio's application to increase its distribution rates. The Signatory Parties to the Stipulation clearly viewed the Stipulation as a package deal. Provisions of the stipulation declare that the Stipulation represents "a package that, taken as a whole, is acceptable for the purposes of resolving all contested issues without resorting to litigation."⁷ Additionally, the Signatory Parties agreed that "no specific element or item contained in or supporting this Stipulation shall be construed or applied to attribute the results set forth in this Stipulation as the results that any Signatory Party might support or seek, but for this Stipulation***."⁸ The Stipulation "contains a combination of outcomes that reflects an overall compromise involving a balance of competing positions,

⁶ Attachment 1.

⁷ Distribution Case Stipulation at 15.

⁸ Id. at 14.

and it does not necessarily reflect the position that one or more of the Signatory Parties would have taken on an individual issue.”⁹

In that same provision in the Stipulation there is language that limits the use of the Stipulation in subsequent proceedings and prohibits the Stipulation from serving as precedent before the PUCO. The Stipulation establishes that “except for enforcement purposes or to establish that the terms of the Stipulation are lawful, neither this Stipulation nor the information or data contained herein or attached hereto shall be cited as precedent in any future proceeding for or against any Signatory Party, or the Commission itself if the Commission approves the Stipulation. Nor shall the acceptance of any provision within this settlement agreement be cited by any party or the Commission in any forum so as to imply or state that any signatory party agrees with any specific provision of the settlement.”¹⁰

The Stipulation was approved by the PUCO December 14, 2011.¹¹ The Stipulation approved, inter alia, a return on equity of 10.0 percent for CSP and 10.3 percent for OP. But, in its Application for Rehearing, AEP Ohio refers to the Distribution Case Stipulation and PUCO Order approving it to bolster its claim for using a higher return on equity in calculating the Retail Stability Rider.¹² Although the Commission used a 9% ROE in this proceeding, the Company argues that 9%, as a target

⁹ Id. at 15.

¹⁰ Id. at 14.

¹¹ *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company, individually and, if Their Proposed Merger is Approved, as a Merged Company (collectively, AEP Ohio) for an Increase in Electric Distribution Rates*, Case No. 11-351-EL-AIR et al., Opinion and Order (Dec. 14, 2011).

¹² See AEP Ohio Assignment of Error II.A : It was unreasonable for the Commission to use 9% as a target ROE in establishing the RSR revenue target.

ROE in establishing the RSR revenue target, is unreasonable. Specifically, its

Application for Rehearing at Page 21 reads as follows:

First, the understatement of the ROE value is demonstrated by the fact that just 8 months ago, in AEP Ohio's distribution rate case, *the parties stipulated, and the Commission approved*, ROEs for the distribution service business of OPCo and Columbus Southern Power Company (CSP) of 10.0 and 10.3 percent. *Case Nos. 11-351 and 11-352. Opinion and Order at 5 (December 14, 2011)*. Those very recently approved ROEs for the two companies (which subsequently merged) demonstrate that a 9 percent ROE for the combined companies is too low. In addition, because the distribution operations of AEP Ohio face risks that are lower than those faced by the generation service business, it is beyond contradiction that the appropriate ROE for the combined operations of AEP Ohio, including generation, transmission, and distribution, is higher than the 10.0/10.3 percent values approved for the pre-merger companies in the distribution rate cases." (Emphasis added).

These words should be struck.

AEP Ohio is unabashedly defying the expressed intentions of parties (including OCC and APJN) to not have their settlements used against them as precedent. AEP's use of the Distribution Case Stipulation provisions on ROE is inappropriate and contrary to the very terms of the stipulation. This portion of the Application for Rehearing should be struck.

2. The Duke ESP Stipulations,¹³ Prohibit Parties from Using Information or Data Stipulated to as Precedent in any Future Proceedings.

The two Duke Stipulations relied upon by AEP in its pleadings resolved all the issues raised by the parties in respect to Duke Ohio's applications for approval of its electric security plan. The Duke ESP 2 Stipulation also resolved Duke's application to

¹³ Duke ESP 1 (Attachment 2); Duke ESP 2 (Attachment 3).

amend its corporate separation plan, which was consolidated with Case No. 11-3549-EL-SSO.¹⁴

The Stipulations were clearly agreement to a package of provisions, rather than agreement to each of the individual provisions included in the Stipulation.¹⁵ Additionally, the Stipulations contained language declaring that “the Signatory Parties’ agreement to the Stipulation, should not be interpreted as agreement to only isolated provisions.”¹⁶ The Signatory Parties agreed to limit the use of the Stipulations in subsequent proceedings and expressly prohibited the Stipulations from serving as precedent before the PUCO.¹⁷ The Stipulations were approved by the PUCO on December 17, 2008 and November 22, 2011.¹⁸

¹⁴ See Duke ESP 2 Stipulation and Recommendation at 1 (Oct. 25, 2011), Case No. 11-3549-EL-SSO et al.

¹⁵ See Duke ESP 1, Attachment 2 at 4 (Stipulation “resolves all issues” (p.1)), Stipulation reflects “an overall reasonable resolution of all such issues (p. 4). See Duke ESP 2, Attachment 3 at 2.

¹⁶ Duke ESP 1, Attachment 2 at 4 (Stipulation is not intended to reflect the views or proposals which any individual party may have advanced acting unilaterally.); Duke ESP 2, Attachment 3 at 2.

¹⁷ Duke ESP 1, Attachment 2 at 2 (“Except for dispute resolution purposes, neither this Stipulation, nor the information or data contained therein or attached, shall be cited as precedent in any future proceeding for or against any Party, or the Commission itself.”); Duke ESP 2, Attachment 3 at 41-42 (Stipulation was “submitted for purposes of these proceedings only and neither this Stipulation nor any Commission order considering this Stipulation shall be deemed binding in any other proceeding nor shall this Stipulation or any such Order be offered or relied upon by any Party in any proceedings except as necessary to enforce the terms of this Stipulation.”).

¹⁸ *In the Matter of the Application of Duke Energy Ohio, Inc. of Authority to Establish a Standard Service offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan, Accounting Modifications, and Tariffs for Generation Service*, Case Nos. 11-3549-EL-SSO et al, Opinion and Order (Nov. 22, 2011); *In the Matter of the Application of Duke Energy Ohio for Approval of an Electric Security Plan*, Case No. 08-920-EL-SSO et al., Opinion and Order (Dec. 17, 2008).

a. Using the 15% SEET threshold as precedent is prohibited by the terms of the Stipulations.

In the Duke ESP 1 case, the PUCO approved, inter alia, a SEET threshold ROE of 15 percent,¹⁹ as recommended in the Stipulation.²⁰ In the Duke ESP 2 case, the PUCO again approved a SEET threshold ROE of 15 percent, as recommended in the Stipulation.²¹

But AEP Ohio relies upon the Duke ESP 1 Stipulation and the subsequent Duke ESP 2 Stipulation to make its claim that the Commission's SEET threshold of 12% is unreasonable.²² Specifically, it asserts in its Application for Rehearing at page 33:

Duke and other parties agreed, as part of the settlement agreement that resolved its first ESP proceeding, which covered the 2009, 2010, and 2011 annual periods and the Commission approved for Duke, a SEET threshold ROE of 15 percent. Case No. 08-920-EL-SSO, Opinion and Order at 21 (Dec. 17, 2008). In its subsequent proceeding, which governs the January 2012 through May 2015 period, Duke agreed again, as part of another settlement agreement approved by the Commission, to a SEET threshold ROE of 15 percent, applicable to each annual period with ESP. Case No. 11-3549-EL-SS), Opinion and Order, at 35 (November 22, 2011). There is simply no credible basis for imposing upon AEP Ohio a SEET threshold of 12 percent covering a period during which the Commission has simultaneously approved a 15 percent ROE threshold for another Ohio electric utility. (Emphasis added).

These offending words should be struck.

¹⁹ Duke ESP 1, Attachment 2 at 35, ¶28.

²⁰ Id. The Parties expressly agreed that “[t]his paragraph does not create a precedent for the computation of DE-Ohio’s return on common equity or the applicability of the significantly excessive earnings test set forth in R.C. 4928.143 regarding any SSO that DE-Ohio may implement subsequent to December 21, 2011.”

²¹ *In the Matter of the Application of Duke Energy Ohio, Inc. of Authority to Establish a Standard Service offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan, Accounting Modifications, and Tariffs for Generation Service*, Case Nos. 11-3549-EL-SSO et al, Opinion and Order (Nov. 22, 2011); Duke ESP 2, Attachment 3 at 35.

²² AEP Ohio Assignment of Error VI, AEP Ohio Application for Rehearing at 31-34: The Commission’s imposition of a SEET threshold was unreasonable and unlawful.

AEP Ohio's use of the Duke settlement agreements is very inappropriate. The Commission should strike the passage because it directly violates not just one, but two stipulations.

b. Using the corporate separation terms as precedent is prohibited under the terms of the Duke ESP II Stipulation.

Under the Duke SSO Stipulation, full corporate separation was approved, along with the transfer of generating assets at net book value.²³ The Commission found the corporate separation plan complied with R.C. 4928.17 and the applicable provisions of the Ohio Administrative Code.²⁴ According to the PUCO, the provisions of the stipulation provided “the necessary safeguards to ensure that the statutory mandates pertaining to Duke’s sale of generation assets and corporate separation are adhered to and the policy of the state carried out.”²⁵

The Company on rehearing uses the Duke ESP 2 Stipulation to strengthen its application for rehearing on corporate separation issues. The Company petitioned the PUCO to modify its Opinion and Order in one of two ways. It requested that the Commission direct AEP Ohio to retain the pollution control revenue bonds (“PCRBs”) and not transfer the bonds. Alternatively, it requested that AEP Ohio be authorized to transfer the bonds to AEP Genco. Under that scenario AEP would retain the PCRBs until their respective tender dates. AEP would then “synthetically”²⁶ transfer liabilities to AEP Genco with inter-company notes during the period after corporate separation and before the bonds’ respective tender dates.

²³ Duke ESP 2, Attachment 3 at 26.

²⁴ Duke ESP 2 Case, Opinion and Order at 46.

²⁵ Id.

²⁶ It is unclear what a “synthetic” transfer entails.

The Company alleges that these modifications it seeks are “essentially identical” to the conditions accepted by the PUCO in the Duke ESP II Stipulation. The passages from the Application for rehearing are:

- Application for Rehearing, Page 44: “These provisions are essentially identical to the *condition accepted by the Commission in Section VIII.B of the Duke Stipulation*, which states ‘that contractual obligations arising before the signing of the Stipulation shall be permitted to remain with Duke Energy Ohio without Commission approval; for the remaining period of the contract but only to the extent that assuming or transferring such obligations is prohibited by the terms of the contract or would result in substantially increased liabilities for Duke Energy Ohio if Duke Energy Ohio were to transfer such obligations to its subsidiary or affiliate.’” (Emphasis added).
- Application for Rehearing, Page 44: the clause contained in the last portion of the final sentence of the first paragraph “*including as reflected in Section VII.B of the Duke Stipulation.*” (Emphasis added).
- Application for Rehearing, Page 44: the clause “*(b) adopt the same approach taken in the Duke order ****” (Emphasis added).

These offending words should be struck.

In its Memorandum Contra, the Company tries to refute IEU Ohio’s proposal that the asset transfer should reflect a market book value by relying on the Duke Stipulation as well. It emphasizes that in the Duke stipulation parties agreed, and the Commission approved, transfer of assets at net book value. Specifically, in its Memorandum Contra at pages 77-79, the Company argues:

Furthermore, IEU’s opposition to a net book value transfer should be rejected ***and it should be equitably estopped because *IEU lobbied (successfully) for Duke Ohio to be permitted to transfer its assets at net book value. (Stipulation and Recommendation in Case Nos. 11-3549-EL-SSO, et al., at page 3 and 25-26).* The Commission determined based on similar information that it was in

the public interest to waive Rule 4901:1-37-09(C)(4) and allow Duke Ohio to transfer its generation assets at net book value. If that treatment was in the public interest for Duke Ohio, it is also in the public interest to grant AEP Ohio's similar waiver request.***Granting Duke Ohio's affiliate full and final approval for generation divestiture up front and waiving the filing and process rules***serves to provide Duke Ohio with an undue preference and advantage in violation of this statute. The better approach is to grant AEP Ohio the same relief afforded to Duke Ohio. ***If Duke Ohio is able to transfer its generation assets at net book value and AEP Ohio is subject to greater scrutiny and a different valuation methodology, then Duke Ohio would be receiving an unfair benefit from the truncated process***. If Duke Ohio were able to transfer those assets at net book value to its competitive generation affiliate, but AEP Ohio was required to transfer its assets to AEP Genco at a potentially greater cost, over a greater period of time, and in some cases to even transfer the same assets under a different methodology, the Duke's competitive generation company would be receiving a competitive advantage over AEP Genco.” (Emphasis added).

These offending words should be struck.

This reliance on the Duke stipulations is contrary to the terms of the Stipulation and inappropriate. The Commission should not allow the Company to violate the Stipulation.

c. Using Duke's ESSC charge as precedent is prohibited under the terms of the Duke ESP 2 stipulation.

In its Memorandum Contra the Company utilizes the Stipulations and PUCO Orders adopting the Stipulations to respond to various parties' applications for rehearing. For instance, in response to “a few”²⁷ intervenors objections, the Company attempts to rebut the unlawfulness of the RSR by citing to the Duke Electric Service Stability Charge (ESSC). The ESSC charge was part of the Duke ESP 2 Stipulation in Case No. 11-3549-

²⁷ All of the intervenors who filed applications for rehearing objected to the RSR—Ormet, OMA, OHA, FES, Schools, OEG, IEU, Kroger, APJN and OCC.

EL-SSO, and the terms of the Stipulation preclude it from being used as precedent. But despite this, the following passages from the Company's pleading show that the Company has inappropriately relied upon the Stipulation to refute arguments against the RSR :

- Memorandum Contra Application for Rehearing, Page 7:
“Indeed, the *Commission has already adopted a similar charge* for Duke Energy Ohio; though Duke's financial stability *charge was part of a Stipulation*, the Commission would not have been able to adopt it if it were unlawful.” (Emphasis added).
- Memorandum Contra Application for Rehearing, Page 19:
“Notwithstanding rehearing objections by a few of the intervenors concerning the RSR, *the Commission has already adopted a similar charge* for Duke Energy Ohio in its recent SSO case. See *Case Nos. 11-3549-EL-SSO et al.*, November 22, 2011 *Opinion and Order (adopting a non-bypassable Electric Service Stability Charge (ESSC) that conveys \$330 million to Duke Energy Ohio)*. ***Although Duke's financial stability charge was part of a Stipulation, the Commission may only approve lawful mechanisms even when part of a stipulation.” (Emphasis added).

These offending words should be struck.

When the Company makes these arguments it is explicitly presenting specific terms of past stipulations as precedent. This violates the terms of the stipulations and is contrary to the inherent nature of the stipulation as a package of compromises, as explained below. The Commission should not permit the Company to blatantly and repeatedly violate the terms of the Stipulations. The Motion to Strike should be granted.

B. Using Isolated Provisions In A Stipulation As Precedent Is Contrary To The Inherent Nature Of A Stipulation.

A Stipulation represents a resolution of a number of issues in a proceeding or multiple proceedings. A Stipulation is a package composed of many different

provisions—provisions which may not be acceptable on a stand-alone basis, but when put together with other terms constitute an acceptable compromise. Indeed, as the Duke Ohio ESP 2 Stipulation stated, “[t]his stipulation represents an agreement by all Parties to a package of provisions rather than an agreement to each of the individual provisions included within the Stipulation.”²⁸ It simply does not represent the positions that parties would have taken outside the context of a package agreement. To extricate distinct provisions of a Stipulation and attempt to apply those to a different company, under a different set of facts,²⁹ perverts the entire stipulation process.

C. Stipulations Are Not Precedent.

Moreover, approval of one stipulation does not compel the Commission to rule a particular way in any other case. The Commission itself recognizes this concept and in fact specifically ordered in the Duke ESP 2 case that “nothing in this opinion and order shall be binding upon the Commission in any future proceeding or investigation involving the justness or reasonableness of any rate, charge, rule, or regulation.”³⁰ And while the Commission has noted that it *may* find the provisions of one stipulation applicable, reasonable and just, and may impose similar provisions in another matter,³¹ it

²⁸ Duke ESP 2 Stipulation at 2. Such language is standard in stipulations for the very purpose of trying to prevent the very conduct and problem presented in this Motion to Strike.

²⁹ The Company in responding to OCC arguments that the Commission wrongly construed the more favorable in the aggregate test, , claims that the AEP ESP is “sui generis” —no prior price test is controlling for this proceeding. See Memorandum Contra at 88. Yet, with respect to the ROE and SEET threshold it abandons the claim that an individual, case-by-case analysis is necessary. Instead it seeks the very same treatment as was afforded a different company, at a different time, under different circumstances. Additionally, it seeks to apply the PUCO’s holding on ROE, reached in its distribution case, governed by a different chapter of the Revised Code altogether. The Company cannot have it both ways.

³⁰ *In the Matter of the Application of Duke Energy Ohio, Inc. of Authority to Establish a Standard Service offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan, Accounting Modifications, and Tariffs for Generation Service*, Case Nos. 11-3549-EL-SSO et al., Opinion and Order at 51 (Nov. 22, 2011).

³¹ See e.g. *In the Matter of the Application of Ohio Power Company for Approval of an Amendment to its Corporate Separation Plan*, Case No. 11-5333-EL-UNC, Finding and Order at ¶32 (Jan. 23, 2012).

need not. Here, the Commission acted within its discretion and determined that the provisions of the stipulations are not applicable, nor are they reasonable and just to impose in this proceeding, for this utility. There is no error or unreasonableness in the Commission's decision.

D. For Public Policy Reasons, The Commission Should Enforce The Stipulations, And Not Permit The Company To Violate These.

As explained, the Company has pervasively misused the Stipulations and the Commission Orders approving the Stipulations in its pleadings. Allowing a PUCO-adopted Stipulation and a PUCO Order adopting the Stipulation to be used in violation of the terms expressly agreed upon by all of the signatory parties will have a chilling effect on the willingness of parties to enter into future negotiations. If the Commission wishes to encourage future settlements and encourage respect for terms of past settlements, it must treat a breach of the settlement as a serious matter. It should strike those portions of the Application for Rehearing and Memo Contra from the record and not rely upon them to determine whether rehearing is appropriate.

Sound regulation should not discourage dispute-resolution through settlements. Settlement agreements provide the potential for cost savings and regulatory certainty. If, however, parties to a settlement are not assured that the terms of the settlement agreement, agreed to and eventually approved by the PUCO, will be held inviolate, parties will be disinclined to sign onto settlements.

III. CONCLUSION

Accepting and relying upon the stipulated material to determine whether rehearing should be granted would be unjust and unreasonable. Doing so violates the

very specific terms of the stipulation. Focusing in on one term of the Stipulation, and using it in isolation of the other terms of the Stipulation, ignores the reality that the Stipulation represents a package deal and not necessarily agreement by every signatory party on every single provision. Moreover, stipulations are not precedent.

Allowing parties like the Company to violate the terms of the stipulation is bad policy that will have a chilling effect on parties' willingness to enter into a settlement agreement. For all these reasons, the Commission should strike those portions of the Company's Application for Rehearing and Memo Contra Applications identified in this Motion to Strike.

Respectfully submitted,

BRUCE J. WESTON
OHIO CONSUMERS' COUNSEL

/s/ Maureen R. Grady
Maureen R. Grady, Counsel of Record
Terry L. Etter
Joseph P. Serio
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
(614) 466-9567 – Grady
(614) 466-7964 – Etter
(614) 466-9565 – Serio
grady@occ.state.oh.us
etter@occ.state.oh.us
serio@occ.state.oh.us

/s/ Michael R. Smalz

Michael R. Smalz

Joseph V. Maskovyak

Ohio Poverty Law Center

555 Buttles Avenue

Columbus, Ohio 43215

Telephone: 614-221-7201

msmalz@ohiopoveritylaw.org

jmaskovyak@ohiopoveritylaw.org

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion to Strike has been served electronically upon those persons listed below this 28th day of September, 2012.

/s/ Maureen R. Grady
Maureen R. Grady
Assistant Consumers' Counsel

PARTIES SERVED

Werner.margard@puc.state.oh.us	jejadwin@aep.com
John.jones@puc.state.oh.us	mhpetricoff@vorys.com
lmcalister@bricker.com	smhoward@vorys.com
tsiwo@bricker.com	mjsettineri@vorys.com
MWarnock@bricker.com	wmassey@cov.com
stnourse@aep.com	henryeckhart@aol.com
mjsatterwhite@aep.com	jesse.rodriguez@exeloncorp.com
tobrien@bricker.com	sandy.grace@exeloncorp.com
fdarr@mwncmh.com	kpkreider@kmklaw.com
joliker@mwncmh.com	dmeyer@kmklaw.com
ghummel@mwncmh.com	BarthRoyer@aol.com
ricks@ohanet.org	Gary.A.Jeffries@dom.com
msmalz@ohiopoveritylaw.org	gthomas@gtpowergroup.com
jmaskovyak@ohiopoveritylaw.org	laurac@chappelleconsulting.net
Philip.sineneng@thompsonhine.com	Christopher.miller@icemiller.com
Dorothy.corbett@duke-energy.com	Gregory.dunn@icemiller.com
Elizabeth.watts@duke-energy.com	Asim.Haque@icemiller.com
myurick@taftlaw.com	sjsmith@szd.com
dconway@porterwright.com	tsantarelli@elpc.org
cmoore@porterwright.com	nolan@theoec.org
haydenm@firstenergycorp.com	trent@theoec.org
mkurtz@BKLlawfirm.com	cathy@theoec.org
dboehm@BKLlawfirm.com	ned.ford@fuse.net
emma.hand@snrdenton.com	gpoulos@enernoc.com
doug.bonner@snrdenton.com	sfisk@nrdc.org
dan.barnowski@snrdenton.com	zkavitz@taftlaw.com
JLang@Calfee.com	aehaedt@jonesday.com
lmcbride@calfee.com	dakutik@jonesday.com
talexander@calfee.com	callwein@wamenergylaw.com
ssolberg@eimerstahl.com	Terrance.Mebane@ThompsonHine.com
aaragona@eimerstahl.com	bpbarger@bcslawyers.com
dstahl@eimerstahl.com	cendsley@ofbf.org
whitt@whitt-sturtevant.com	dane.stinson@baileycavalieri.com
mwhite@igsenergy.com	joseph.clark@directenergy.com
	sbruce@oada.com

kaelber@buckleyking.com
walter@buckleyking.com
judi.sobecki@dplinc.com
randall.griffin@dplinc.com
Stephanie.Chmiel@ThompsonHine.com
rjhart@hahnlaw.com
rremington@hahnlaw.com
djmichalski@hahnlaw.com
jhummer@uaoh.net
tlindsey@uaoh.net
ssalamido@cloppertlaw.com
arthur.beeman@snrdenton.com
yalami@aep.com

rsugarman@keglerbrown.com
matt@matthewcoxlaw.com
mchristensen@columbuslaw.org
toddm@wamenergylaw.com
rburke@cpv.com
bkelly@cpv.com
eisenstatl@dicksteinshapiro.com
lehfeldtr@dicksteinshapiro.com
kinderr@dicksteinshapiro.com
kwatson@cloppertlaw.com
Thomas.millar@snrdenton.com
James.rubin@snrdenton.com

AEs:

greta.see@puc.state.oh.us
Jonathan.tauber@puc.state.oh.us



Legal Department

American Electric Power
1 Riverside Plaza
Columbus, OH 43215-2373
AEP.com

November 23, 2011

Honorable Greg Price
Attorney Examiner
Public Utilities Commission of Ohio
180 East Broad Street
Columbus Ohio 43215-3793

Matthew J. Satterwhite
Senior Counsel –
(614) 716-1915 (P)
(614) 716-2014 (F)
mjsatterwhite@aep.com

RE: Settlement Agreement 11-351-EL-AIR, 11-352-EL-AIR, 11-353-EL-ATA,
11-354-EL-ATA, 11-356-EL-AAM, 11-358-EL-AAM

Dear Ms. McCauley:

A number of parties involved in the AEP Ohio distribution base rate cases have reached a settlement agreement to resolve the cases filed. The parties signing the Stipulation include: Staff of the Public Utilities Commission, the Office of the Ohio Consumers' Counsel, Ohio Partners for Affordable Energy, Appalachian Peace and Justice Network, Ohio Energy Group, OMA Energy Group, The Kroger Co., Ormet Primary Aluminium Corporation, Ohio Cable Telecommunications Association, the Ohio Department of Development, Ohio Hospital Association, Sierra Club, Natural Resources Defense Counsel, Columbus Southern Power and Ohio Power. The Industrial Energy Users-Ohio and FirstEnergy Solutions did not sign the Stipulation but were included in the negotiations and it is the Signatory Parties understanding that those parties will not be opposing the settlement.

Attached please find the settlement agreement reached between the Signatory Parties. The effort will be to have testimony ready for filing on Monday November 28, 2011, but we will touch base with the Attorney Examiner on Monday if further time is needed, to make that request.

Thank you for your attention to this matter. Please contact me with any questions.

Cordially,

//ss// Matthew J. Satterwhite
Matthew J. Satterwhite
Senior Counsel

Cc: Parties of Record

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)	
Columbus Southern Power Company and)	
Ohio Power Company, Individually and, if	)	Case No. 11-351-EL-AIR
Their Proposed Merger is Approved, as a	)	Case No. 11-352-EL-AIR
Merged Company (collectively, AEP Ohio))	
for an Increase in Electric Distribution Rates)	
In the Matter of the Application of)	
Columbus Southern Power Company and)	
Ohio Power Company, Individually and, if	)	Case No. 11-353-EL-ATA
Their Proposed Merger is Approved, as a	)	Case No. 11-354-EL-ATA
Merged Company (collectively AEP Ohio))	
for Tariff Approval)	
In the Matter of the Application of)	
Columbus Southern Power Company and)	
Ohio Power Company, Individually and, if	)	Case No. 11-356-EL-AAM
Their Proposed Merger is Approved, as a	)	Case No. 11-358-EL-AAM
Merged Company (collectively AEP Ohio))	
for Approval to Change Accounting Methods)	

JOINT STIPULATION AND RECOMMENDATION

I. Introduction

Rule 4901-1-30, Ohio Administrative Code (OAC) provides that any two or more parties to a proceeding may enter into a written stipulation covering the issues presented in such a proceeding. This document sets forth the understanding and agreement of the parties who have signed below (Signatory Parties) and jointly recommend that the Public Utilities Commission of Ohio (Commission) approve and adopt this Joint Stipulation and Recommendation (Stipulation) without modification, in order to resolve all of the issues raised in these proceedings through the applications filed by Columbus Southern Power Company (CSP) and Ohio Power Company (OPCo) (collectively "AEP Ohio" or the "Companies")

This Stipulation is a product of lengthy, serious, arm's-length bargaining among the Signatory Parties and other parties who chose not to sign the Stipulation (all of whom are capable, knowledgeable parties), which negotiations were undertaken by the Signatory Parties to settle this proceeding. All intervenors were invited to discuss and negotiate this Stipulation and it was openly negotiated among those stakeholders who responded and chose to participate. This Stipulation is supported by adequate data and information; as a package, the Stipulation benefits customers and the public interest; provides direct benefits to residential and low income customers; and represents a just and reasonable resolution of all issues in this proceeding; violates no regulatory principle or practice; and complies with and promotes the policies and requirements of Title 49 of the Ohio Revised Code. This Stipulation represents an accommodation of the diverse interests represented by the Signatory Parties and, though not binding, is entitled to careful consideration by the Commission. For purposes of resolving the issues raised by these proceedings, the Signatory Parties stipulate, agree and recommend as set forth below.

II. Signatory Parties

This Stipulation is entered into by and among the Staff of the Public Utilities Commission, Office of the Ohio Consumers' Counsel (OCC), Ohio Partners for Affordable Energy (OPAE), Appalachian Peace and Justice Network (APJN), Ohio Energy Group (OEG), OMA Energy Group (OMA), The Kroger Co (Kroger), Ormet Primary Aluminum Corporation (Ormet), Ohio Cable Telecommunications Association (OCTA), Ohio Department of Development (ODOD), Natural Resources Defense Council (NRDC), Ohio Hospital Association (OHA), Sierra Club, Columbus Southern

Power and Ohio Power. As further discussed below, all of the Signatory Parties agree to fully support adoption of the Stipulation without modification in this proceeding. The Signatory Parties jointly recommend that they each be granted intervention in this proceeding.

III. Recitals

WHEREAS, this Stipulation represents a serious compromise of complex issues and involves substantial benefits that would not otherwise have been achievable; and

WHEREAS, the Signatory Parties believe that the agreements herein represent a fair and reasonable solution to the issues raised in these cases;

WHEREAS, the Signatory Parties understand that the terms of the Stipulation are dependent upon the recovery associated with the Distribution Investment Rider (DIR) sought in the Stipulation and Recommendation filed on September 7, 2011 in Commission Cases 11-346-EL-SSO and 11-348-EL-SSO et. al (ESP II Stipulation).¹

NOW, THEREFORE, the Signatory Parties stipulate, agree and recommend that the Commission should issue its Opinion and Order in these proceedings accepting and adopting this Stipulation and relying upon its provisions as the basis for resolving all issues raised by these proceedings.

IV. Recommendations

- A) The outcome of the provisions of the settlement will result in a zero base distribution rate increase including the following considerations:

¹ OCC and APJN were not signatory parties to the ESP II Stipulation. Although participating in this Stipulation as Signatory Parties OCC's and APJN's participation here shall not be construed as a waiver or compromise of their respective positions taken in the ESP II cases in which *inter alia* OCC and APJN continue to advocate against the inclusion of a DIR as part of the Companies' ESP.

- 1) AEP Ohio's rate base, rate of return, and recommended revenue requirement shall be as set forth on the Revised Schedules, attached as Attachment A, which are hereby incorporated by reference. Specifically, the Revised Schedules modify the Staff Report Schedules in the following respects:
 - a. The value of CSP's property used and useful in the rendition of distribution of electric power (rate base) is \$908,001 million (Stipulated Schedules A-1 and B-1).
 - b. The value of OPCo's property used and useful in the rendition of distribution of electric power (rate base) is \$1,003.670 million (Stipulated Schedules A-1 and B-1).
 - c. CSP's total adjusted operating revenues for the test year are \$363,461 million; its total adjusted operating expenses are \$298,266 million; and its net operating income is \$65,194 million (Stipulated Schedule C-1).
 - d. OPCo's total adjusted operating revenues for the test year are \$337,205 million; its total adjusted operating expenses are \$281,442 million; and its net operating income is \$55,763 million (Stipulated Schedule C-1).
 - e. A net operating income of \$65,194 million is insufficient to provide CSP with reasonable compensation for distribution of electric power service rendered to its customers.

- f. A net operating income of \$55.763 million is insufficient to provide OPCo with reasonable compensation for distribution of electric power service rendered to its customers.
 - g. A just and reasonable increase in the revenue requirement for Columbus Southern Power Company is \$8.517 million (Stipulated Schedule A-1).
 - h. A just and reasonable increase in the revenue requirement for Ohio Power Company is \$38.139 million (Stipulated Schedule A-1).
 - i. CSP is entitled to an overall rate of return of 7.78%, reflecting a cost of long-term debt 5.50%, a cost of preferred stock of 0.00%, and a return on equity of 10.00%.
 - j. OPCo is entitled to an overall rate of return of 7.97%, reflecting a cost of long-term debt 5.27%, a cost of preferred stock of 4.40%, and a return on equity of 10.30%.
 - k. The Signatory Parties agree that for purposes of this Stipulation reached in these cases the return on equity (ROE) used for CSP is 10.0% and for OPCo the ROE used is 10.3% and the ROE used for the combined CSP and OPCo if the merger is approved is 10.2%.²
- 2) The Signatory Parties agree that the increase in the distribution base rate revenue requirement of \$46.656 million shall terminate on May 31, 2015.
- Any change to distribution base rates upon expiration of the rates agreed

² The establishment of the ROE in these cases does not preclude Signatory Parties from arguing in other AEP Ohio cases that this authorized ROE is not an appropriate component of a proposed carrying charge.

to in this Stipulation shall occur only pursuant to an application for establishing rates filed under R.C. 4909.18.

- 3) The Signatory Parties agree that in order to prevent any potential excess collection of distribution revenue associated with the collection of the DIR in the ESP II Stipulation, there will be a \$62,344 million revenue credit applied, as outlined in this Stipulation. This credit is derived from taking the \$86 million DIR cap for 2012 in the ESP II Stipulation³ and subtracting the \$23,656 million of DIR revenues related to post date certain distribution investments actual and estimated through December 2012 (Attachment R). This establishes the pre date certain distribution investment during the period from January 2000 through August 2010 that is eligible to be collected through the DIR through the ESP II Stipulation.

- 4) The first \$46,656 million of DIR revenue credit will be treated on the revised CSP and OPCo Schedules A-1 as a credit to negate the aforementioned base distribution revenue requirement, resulting in a net \$0 base distribution rate increase until new base distribution rates are established pursuant to an application for establishing rates filed under R.C. 4909.18.

The remaining \$15,688 million DIR revenue collected will be applied annually through May 31, 2015 as follows:

³ ESP II Stipulation at 9.

a) The first \$14.688 million of remaining DIR revenue credit will be applied annually as a credit solely to residential customers through a new Commission approved rider⁴ during the term in which the DIR is in effect, until May 31, 2015.⁵ The total credit to Residential customers' bills during the term in which the DIR is in effect will be no greater than \$50.184 million [\$14.688 million annually divided by 12 (months) times 41 (months)].

b) The final \$1 million DIR annual revenue credit will be used to fund the Partnership with Ohio initiative, prorated for 2015, totaling \$3.4 million during the term in which the DIR is in effect. This low-income bill payment assistance funding shall be provided through the Partnership with Ohio Initiative's existing Neighbor to Neighbor program. The Companies will provide Staff, APJN and OCC an annual verification of the credit disbursement.

- 5) The determination of the zero base distribution increase in this Stipulation includes amortization of the depreciation reserve overaccrual identified in the Staff Reports of Investigation in these cases.⁶ The Parties agree that the Stipulated A-1 schedules in Attachment A will reflect a 10 year amortization of the theoretical accumulated depreciation reserve

⁴ This residential credit will be a rider applied on a percentage of base distribution charges basis.

⁵ The DIR will end on May 31, 2015. ESP II Stipulation at 9.

⁶ Staff Reports of Investigation at 6

overaccrual. However, in recognition of the overall compromises in this settlement agreement and in particular the decrease in carrying charges on the DARR regulatory assets that is to occur once DARR collection has begun, the Companies will amortize the depreciation reserve overaccrual over a 7 year period. In addition, AEP Ohio will provide the Commission Staff with a yearly comparison of the theoretical depreciation reserve with the actual depreciation reserve balance;

- 6) In determination of the zero distribution base revenue increase, the Signatory Parties agree that AEP Ohio will be authorized to establish new depreciation rates based on the whole life method as recommended in the Staff Reports of Investigation.⁷ If the merger of CSP and OPCo is approved, the combined Company will utilize the combined rates detailed in Attachment D;
- 7) The Companies will withdraw their applications in Case Nos. 11-148-EL-RDR and 11-149-EL-RDR seeking approval of a rider to recover the portion of Percentage of Income Payment Plan (PIPP) installment payments that is actually billed to the customer but not paid by the customers in recognition that recovery of those PIPP amounts is included in the distribution base rate revenue requirement agreed to in this Stipulation.

- B) A new rider Deferred Asset Recovery Rider (DARR) will be implemented to fully collect the Companies' distribution regulatory assets requested in the Companies'

⁷ Staff Reports at 6.

applications. The collections shall be based upon a uniform percentage of base distribution charges for each Company (the Companies will utilize a single percentage if the merger of the Companies is approved). The DARR requested in the Companies' applications will be modified as follows: (a) the monthly accumulated balance over- or under- recovery will accrue a carrying charge equal to a long term debt rate of 5.5% for CSP and 5.27% for OPCo (the Company will utilize the combined rate of 5.34% if the merger of CSP and OPCo is approved). The carrying charges will accrue during the collection period at a long term debt rate versus the proposed weighted average cost of capital (WACC) rate, and (b) the 7 year DARR recovery period will start upon the later of (1) the first billing cycle upon Commission approval of the Stipulation or (2) the first billing cycle of 2012. Because the DARR will be implemented sooner than requested in the Companies' application (i.e. the Companies' applications requested the first billing cycle of 2013), the amount of regulatory asset balances (including carrying costs) to be recovered through DARR will be less than those forecasted in Companies' witnesses Mitchell's and Moore's direct testimonies. Therefore, the Companies will provide interested Signatory Parties workpapers (similar to Mitchell Exhibit TEM-1), that summarize the actual regulatory asset balances (including carrying costs) to be recovered and the calculation of the revenue requirement and DARR rate. Rider DARR will be subject to audit by the Commission Staff. AEP Ohio shall file an application at the end of the 7 year recovery period to true-up Rider DARR.

- C) The Signatory Parties agree to the creation of a decoupling pilot program (Pilot). To facilitate the Pilot, the Companies shall submit to the Commission compliance tariffs to establish the Pilot Throughput Balancing Adjustment Rider applicable to the Residential and GS-1 tariff rate schedules. The Pilot will be for the calendar years 2012, 2013 and 2014 and annual increases attributable to the Pilot shall be capped at 3% of the total annual distribution revenues for a customer class. There shall be no cap of annual rate decreases to customers attributable to the Pilot. The detailed description of the Pilot is shown in Attachment Y.
- D) The Signatory Parties agree that as part of this Stipulation that AEP Ohio will not collect from customers net lost distribution revenues associated with Residential and GS-1 load in its 2012 through 2014 energy efficiency/peak demand reduction plan;
- E) The Signatory Parties agree that AEP Ohio will adopt a revenue-neutral distribution rate design for demand-metered customers as detailed in Attachment Z. The distribution rate design (the structure including design of blocks and the charges therein) for CSP and OPCo residential customers will remain the same as currently offered. In the event of a CSP and OPCo merger, all customers will continue to take service at their then current and separate rate schedules;
- F) The Signatory Parties agree that AEP Ohio will adopt a merged set of Terms and Conditions of Service including adoption of the miscellaneous services rate structure as agreed to in Attachment TC
- G) The Signatory Parties agree that the Companies will include data related to their DIR investments and their effect on distribution service reliability in their next

application(s) to establish new service standards under O.A.C. 4901:1-10-10.

Such data will be considered in establishing reliability performance standards in 2012 through 2015.

- H) The Signatory Parties agree that the pole attachment tariff will be amended as shown in Attachment P, Pole Attachment tariff change
- I) The Signatory Parties agree that in the Companies' next distribution base rate case filing, the Companies will propose a single set of distribution tariffs for all rate schedules (including, but not limited to, the rate schedules included in Attachment X and Attachment Z) so that customers will pay the same applicable distribution rates whether they take Standard Service or Open Access Service for their generation supply. In an effort to better align the Standard Service and Open Access Distribution Service rate schedules in these current proceedings, the rate changes reflected on page 2 of Attachment X will be made to make the distribution charges consistent for Standard Service and Open Access Distribution Service customers. The changes reflected in Attachment X are in addition to the proposed revenue-neutral rate design for distribution service demand-metered customers agreed to by the Parties, which also improves the alignment between the Standard Service and Open Access Distribution Service rate schedule tariff sheets.

The Parties further agree that as soon as reasonably practical, but not later than July 30, 2012, the Companies will implement an Open Access Distribution Rate Schedule R-R-1 for the Columbus Southern Power rate area, and Residential

Open Access Distribution Storage/Load Management Water Heating provisions as shown on page 1 of Attachment X.

- J) The Signatory Parties agree that the Stipulation in these cases is intended to settle only the issues in the cases listed on the caption of this Stipulation. While the terms of the agreement address the collection of distribution investment associated with the Distribution Investment Rider sought in the Stipulation filed in Commission Cases 11-346-EL-SSO and 11-348-EL-SSO et. al, a signature by a party to this agreement does not in any way change the position or opinion of that party in those other cases. Signatory Parties to these cases are only agreeing on how to treat the collection of distribution investment if the Commission approves the DIR mechanism as proposed in the ESP II Stipulation before the Commission.⁸ The Commission approval of the DIR in the ESP II case is linked to this agreement as a prerequisite to the elements of the bargain reached in these proceedings. Therefore, to the extent the Commission materially modifies the DIR in the ESP II to the detriment of AEP Ohio then AEP Ohio has the right to withdraw from this agreement and litigate the issues as if the settlement in these cases had not been reached. AEP Ohio must exercise this right no later than thirty (30) days of the final non-appealable order in the ESP II proceeding. If the Commission increases the amount of the DIR in the ESP II Stipulation to the detriment of another Signatory Party, then that Signatory Party has the right to

⁸ OCC and APJN were not signatory parties to the ESP II Stipulation. Although participating in this Stipulation as Signatory Parties, OCC's and APJN's participation here shall not be construed as a waiver or compromise of their respective positions taken in the ESP II cases in which, *inter alia*, OCC and APJN continue to advocate against the inclusion of a DIR as part of the Companies' ESP.

withdraw from this agreement and litigate the issues as if the settlement in these cases had not been reached; the Signatory Party seeking this withdrawal must exercise this right no later than thirty (30) days of the final non-appealable order in the ESP II proceeding. In addition, in the event the DIR is approved but not implemented this Stipulation will be null and void and the issues in this case will be litigated as if the settlement in these cases had not been reached.

- K) AEP Ohio will work with Staff to address the issues included in the management and operations section of the Staff Reports.
- L) The parties withdraw their objections to the Staff findings and recommendations in the Staff Report as modified by the Revised Schedules. The parties agree to all other recommendations in the Staff Report that do not directly contradict a provision of this Stipulation for purposes of supporting Exhibit A. The objections shall be reinstituted if any Party exercises its right to terminate and withdraw this Stipulation.

V. Procedural Matters

- A. The following Exhibits are deemed to be admitted into evidence:
 - 1. Commission-Ordered Exhibit 1A – The CSP Staff Report filed on September 15, 2011 in Case No. 11-0351-EL-AIR;
 - 2. Commission-Ordered Exhibit 1B – The OPCo Staff Report filed in on September 15, 2011 in Case No. 11-352-EL-AIR;
 - 3. Company Exhibit 1 – CSP and OPCo’s application, which was filed on January 27, 2011;

4. Company Exhibit 2 -- AEP Ohio's proofs of publication of the rate application;
 5. Company Exhibit 3, AEP Ohio's proofs of publication of the local public hearings held October 17, 2011 in Marietta, Ohio, October 18, 2011 in Canton, Ohio, October 24, 2011 in Lima, Ohio, and October 26, 2011 in Columbus, Ohio;
 6. ODOT Exhibit 1, the Direct Testimony of Ohio Department of Development Witness Donald A. Skaggs, which was filed in Case Nos. 11-0351 and 11-0352 on October 24, 2011 for purposes of supporting the Stipulation
 7. Joint Exhibit 1 - This Stipulation and Recommendation
- B. Except for enforcement purposes or to establish that the terms of the Stipulation are lawful, neither this Stipulation nor the information and data contained herein or attached hereto shall be cited as a precedent in any future proceeding for or against any Signatory Party, or the Commission itself, if the Commission approves the Stipulation. Nor shall the acceptance of any provision within this settlement agreement be cited by any party or the Commission in any forum so as to imply or state that any signatory party agrees with any specific provision of the settlement. More specifically, no specific element or item contained in or supporting this Stipulation shall be construed or applied to attribute the results set forth in this Stipulation as the results that any Signatory Party might support or seek, but for this Stipulation in these proceedings or in any other proceeding. This Stipulation contains a combination of outcomes that reflects an overall

compromise involving a balance of competing positions, and it does not necessarily reflect the position that one or more of the Signatory Parties would have taken on any individual issue. Rather the Stipulation represents a package that, taken as a whole, is acceptable for the purposes of resolving all contested issues without resorting to litigation. The Signatory Parties believe that this Stipulation, taken as a whole, represents a reasonable compromise of varying interests.

- C The Signatory Parties will support the Stipulation if the Stipulation is contested, and no Signatory Party will oppose an application for rehearing designed to defend the terms of this Stipulation.
- D This Stipulation is conditioned upon adoption of the Stipulation by the Commission in its entirety and without material modification. If the Commission rejects or materially modifies all or any part of this Stipulation, any Signatory Party shall have the right within thirty (30) days of issuance of the Commission's order to apply for rehearing. The Signatory Parties agree that they will not oppose or argue against any other Party's application for rehearing that seeks to uphold the original unmodified Stipulation. If the Commission does not adopt the Stipulation without material modification⁹ upon any rehearing ruling, then within thirty (30) days of such Commission rehearing ruling any Signatory Party may terminate and withdraw from the Stipulation by filing a notice with the Commission. If the Commission does not act upon the application(s) for rehearing

⁹ Any Signatory Party has the right, in its sole discretion, to determine what constitutes a "material" change for the purposes of that Party withdrawing from the Stipulation

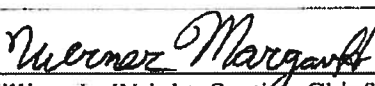
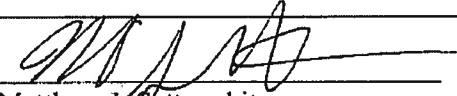
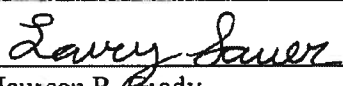
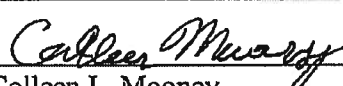
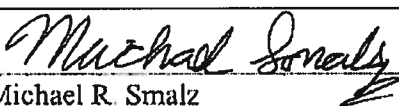
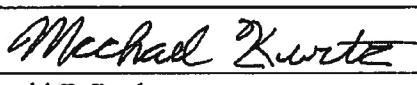
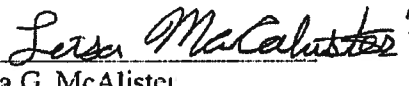
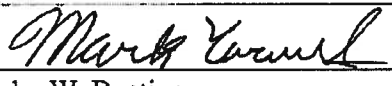
in support of the Stipulation as filed within forty five (45) days of the filing of the application(s) for rehearing, then any Signatory Party may terminate and withdraw from the Stipulation by filing a notice with the Commission. Upon the filing of either of these notices, the Stipulation shall immediately become null and void. No Signatory Party shall file a notice of termination and withdrawal without first negotiating in good faith with the other Signatory Parties to achieve an outcome that substantially satisfies the intent of the Stipulation. If a new agreement is reached, the Signatory Parties will file the new agreement for Commission review and approval. If the discussions to achieve an outcome that substantially satisfies the intent of the Stipulation are unsuccessful, the Commission will convene an evidentiary hearing to afford the Signatory Parties the opportunity to present evidence through witnesses, to cross-examine witnesses, to present rebuttal testimony, and to brief all issues that the Commission shall decide based upon the record and briefs as if this Stipulation had never been executed. If the discussions to achieve an outcome that substantially satisfies the intent of the Stipulation are successful, some, or all, of the Signatory Parties shall submit the amended Stipulation to the Commission for approval after a hearing if necessary.

- E Unless the Signatory Party exercises its right to terminate its Signatory Party status or withdraw as described above, each Signatory Party agrees to and will support the reasonableness of this Stipulation before the Commission, and to cause its counsel to do the same, and in any appeal it participates in from the Commission's adoption and/or enforcement of this Stipulation. The Signatory

Parties also agree to urge the Commission to accept and approve the terms hereof
as promptly as possible

IN WITNESS WHEREOF, this Stipulation and Recommendation has been signed
by the authorized agents of the undersigned Parties as of this 23rd day of November,
2011

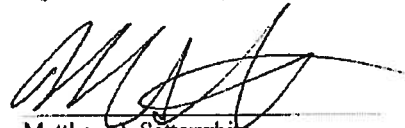
MJS =
Matthew J.
Satterwhite

 ^{per authority} MJS William L. Wright, Section Chief Werner L. Margard III Stephen A. Reilly On Behalf of the Staff of the Public Utilities Commission of Ohio	 Matthew J. Satterwhite Anne M. Vogel Steven T. Nourse On Behalf of Columbus Southern Power Company and Ohio Power Company
 ^{per authority} MJS Maureen R. Grady Larry Sauer On Behalf of the Office of the Ohio Consumers' Counsel	 ^{per authority} MJS Colleen L. Mooney On Behalf of Ohio Partners for Affordable Energy
 ^{per authority} MJS Michael R. Smalz Joseph V. Maskovyak On Behalf of the Appalachian Peace and Justice Network	 ^{per authority} MJS David F. Boehm Michael L. Kurtz On Behalf of the Ohio Energy Group
 ^{per authority} MJS Lisa G. McAlister Matthew W. Warnock On Behalf of the OMA Energy Group	 ^{per authority} MJS John W. Bentine Mark S. Yurick Zachary D. Kravitz On Behalf of the Kroger Co.

<p><i>Christopher J. Allwein</i> ^{per authority} MJS</p> <p>Christopher J. Allwein</p> <p>On Behalf of the Natural Resources Defense Council</p>	<p><i>Thomas J. O'Brien</i> ^{per authority} MJS</p> <p>Thomas J. O'Brien Richard Sites</p> <p>On Behalf of the Ohio Hospital Association</p>
<p><i>Emma F. Hand</i> ^{per authority} MJS</p> <p>Douglas G. Bonner Emma F. Hand Keith C. Nusbaum</p> <p>On Behalf of Ormet Primary Aluminum Corporation</p>	<p><i>Benita Kahn</i> ^{per authority} MJS</p> <p>Benita Kahn Lija Kaleps-Clark</p> <p>On Behalf of the Ohio Cable Telecommunications Association</p>
<p><i>Barth E. Royer</i> ^{per authority} MJS</p> <p>Barth E. Royer</p> <p>On Behalf of the Ohio Department of Development</p>	<p><i>Henry W. Eckhart</i> ^{per authority} MJS</p> <p>Henry W. Eckhart</p> <p>On Behalf of the Sierra Club</p>

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing **Joint Stipulation and Recommendation on Behalf of Signatory Parties** has been served upon the below-named counsel via email, this 23rd day of November, 2011



Matthew J. Satterwhite

William L. Wright, Section Chief
 Thomas McNamee
 Werner L. Margard III
 Stephen A. Reilly
 Public Utilities Commission of Ohio
 180 East Broad Street, 6th Floor
 Columbus, OH 43215-3793
William.wright@puc.state.oh.us
Thomas.mcnamee@puc.state.oh.us
werner.margard@puc.state.oh.us
stephen.reilly@puc.state.oh.us

614-466-4397
 614-466-4397
 614-466-4395
 614-466-4397

Samuel C. Randazzo
 Joseph E. Oliker
 Frank P. Darr
 McNees Wallace & Nurick LLC
 21 East State Street, 17th Floor
 Columbus, OH 43215
sam@mwncmh.com
joliker@mwncmh.com
fdarr@mwncmh.com

614-719-2840
 614.719.5957
 614.719.2855

Counsel for Industry Energy Users-Ohio

David F. Boehm
 Michael L. Kurtz
 Boehm, Kurtz & Lowry
 36 East Seventh Street, Suite 1510
 Cincinnati, Ohio 45202
dboehm@bklawfirm.com
mikurtz@BKLlawfirm.com

513-421-2255
 513-421-2255

Counsel for Ohio Energy Group

Thomas J. O'Brien
 Matthew W. Warnock
mwarnock@bricker.com
tobrien@bricker.com

614.227-2300
 614.227-2335

Counsel for Ohio Hospital Association

Richard L. Sites
 155 East Broad Street, 15th Floor
 Columbus, OH 43215-3620
ricks@ohahnet.org

614-221-7614

Counsel for Ohio Hospital Association

James F. Lang
 Laura C. McBride
 N. Trevor Alexander
 Calfee, Halter & Griswold LLP
 1400 KeyBank Center
 800 Superior Avenue
 Cleveland, OH 44114
J.Lang@Calfee.com
L.McBride@Calfee.com
talexander@calfee.com

216 622 8563
 216 622 8528
 614 621 7774

Counsel for FirstEnergy Solutions Corp.

Maureen R. Grady
 Larry Sauer
 Ohio Consumers' Counsel
 10 W. Broad Street Suite 1800
 Columbus OH 43215
gradym@occ.state.oh.us
sauer@occ.state.oh.us

614-466-8574
 614-466-1312

Colleen L. Mooney
 Ohio Partners for Affordable Energy
 231 West Lima Street
 Findlay, OH 45840
cmooney2@columbus.rr.com

419-425-8860

Counsel for Ohio Partners for Affordable Energy

Henry W. Eckhart, Esq.
 Eckhart Law Offices
 1200 Chambers Road, Suite 106
 Columbus, OH 43212
 (614) 461-0984
henryeckhart@aol.com

Mark A. Hayden
 FirstEnergy Service Company
 76 South Main Street
 Akron, OH 44308
haydenm@firstenergycorp.com

John W. Bentine
 Mark S. Yurick
 Zachary D. Kravitz
 Chester Willcox & Saxbe, LLP
 65 East State Street, Suite 1000
 Columbus, OH 43215
jbentine@cwslaw.com 614-334-6121
myurick@cwslaw.com 614-334-7197
zkravitz@cwslaw.com 614-334-6117

Counsel for The Kroger Co

Benita Kahn
 Lija Kaleps-Clark
 Vorys, Sater, Seymour and Pease LLP
 52 East Gay Street
 P.O. Box 1008
 Columbus, OH 43216-1008
bkahn@vorys.com 614-464-6487
lkalepsclark@vorys.com

Counsel for Ohio Cable Telecommunications Association

John Davidson Thomas
 Hogan Lovells US LLP
 Columbia Square
 555 Thirteenth Street, NW
 Washington DC 20004
Dave.Thomas@hoganlovells.com
 202-637-5675

Counsel for Ohio Cable Television Association

Christopher J. Allwein
 Williams, Allwein and Moser, LLC
 1373 Grandview Ave., Suite 212
 Columbus, OH 43212
cjallwein@williamsandmoser.com
 614-429-3092

Counsel for Natural Resources Defense Council

Barth E. Royer
 Bell & Royer Co., LPA
 33 South Grant Avenue
 Columbus, OH 43215-3927
barthroyer@aol.com (614) 228-0704

Counsel for The Ohio Department of Development

Michael R. Smalz
 Joseph V. Maskovyak
 Ohio Poverty Law Center
 555 Buttrick Avenue
 Columbus, OH 43215
msmalz@ohioovertylaw.org 614-824-2502
jmaskovyak@ohioovertylaw.org 614/221-7201 x105

Counsel for The Appalachian Peace and Justice Network

Douglas G. Bonner
 Emma F. Hand
 Keith C. Nusbaum
 SNR Denton US LLP
 1301 K Street NW
 Suite 600, East Tower
 Washington, DC 20005
doug.bonner@snrdenton.com 202-408-3957
emma.hand@snrdenton.com 202-408-7094
keith.nusbaum@snrdenton.com

Counsel for Ormet Primary Aluminum Corporation

Lisa G. McAlister
 Bricker & Eckler LLP
 100 South Third Street
 Columbus, OH 43215-4291
lmcalister@bricker.com 614 227 4854
 Counsel for Ohio Hospital Association and
 OMA Energy Group

FILE

Attachment 2

67

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

RECEIVED-DOCKETING DIV
2008 OCT 27 PM 5:21
PUCO

In the Matter of the Application of Duke Energy Ohio for Approval of an Electric Security Plan	)	Case No. 08-920-EL-SSO
In the Matter of the Application of Duke Energy Ohio for Approval to Amend Accounting Methods	)	Case No. 08-921-EL-AAM
In the Matter of the Application of Duke Energy Ohio for Approval of a Certificate of Public Convenience and Necessity to Establish an Unavoidable Capacity Charge(s)	)	Case No. 08-922-EL-UNC
In the Matter of the Application of Duke Energy Ohio for Approval to Amend its Tariffs	)	Case No. 08-923-EL-ATA

STIPULATION AND RECOMMENDATION

Rule 4901-1-30, Ohio Administrative Code (O.A.C.) provides that any two or more parties to a proceeding may enter into a written stipulation covering the issues presented in such a proceeding. The purpose of this document is to set forth the understanding and agreement of the Parties who have signed below (Parties) and to recommend that the Public Utilities Commission of Ohio (Commission) approve and adopt this Stipulation and Recommendation (Stipulation), which resolves all of the issues raised by Duke Energy Ohio (DE-Ohio) in these cases relative to the Application to establish an Electric Security Plan (ESP) within DE-Ohio's certified territory.

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.
Technician Sm Date Processed 10/28/08

This Stipulation is supported by adequate data and information; represents a just and reasonable resolution of the issues raised in these proceedings; violates no regulatory principle or precedent; and is the product of lengthy, serious bargaining among knowledgeable and capable Parties in a cooperative process, encouraged by this Commission and undertaken by the Parties representing a wide range of interests, including the Commission's Staff,¹ to resolve the aforementioned issues. While this Stipulation is not binding on the Commission, it is entitled to careful consideration by the Commission. For purposes of resolving all issues raised by these proceedings, the Parties stipulate, agree and recommend as set forth below.

Except for dispute resolution purposes, neither this Stipulation, nor the information and data contained therein or attached, shall be cited as precedent in any future proceeding for or against any Party, or the Commission itself. This Stipulation and Recommendation is a reasonable compromise involving a balancing of competing positions, and it does not necessarily reflect the position which one or more of the Parties would have taken if these issues had been fully litigated.

This Stipulation is conditioned upon adoption of the Stipulation by the Commission in its entirety and without material modification. Should the Commission reject or modify all or any part of this Stipulation, the Parties shall have the right to file an application for

¹ Staff will be considered a party for the purpose of entering into this Stipulation by virtue of O.A.C. Rule 4901-1-10(c).

rehearing. If the Commission does not adopt the Stipulation without material modification upon rehearing, any Party may terminate and withdraw from the Stipulation by filing a notice with the Commission, including service to all Parties, in the docket within thirty (30) days of the Commission's Entry on Rehearing. Upon such notice filing, the Stipulation shall immediately become null and void.

Prior to the filing of this notice, the Party wishing to terminate agrees to work in good faith with the other Parties to achieve an outcome that substantially satisfies the intent of the Stipulation and, if a new agreement is reached, to file the new agreement for Commission review and approval. If the discussions to achieve an outcome that substantially satisfies the intent of the Stipulation are unsuccessful, the Commission may convene an evidentiary hearing such that the Parties will be afforded the opportunity to present evidence through witnesses, to cross-examine witnesses, to present rebuttal testimony, and to brief all issues that the Commission shall decide based upon the record and briefs as if this Stipulation had never been executed. If the discussions to achieve an outcome that substantially satisfies the intent of the Stipulation are successful, some, or all, of the Parties shall submit the amended Stipulation to the Commission for approval.

All the Signatory Parties fully support this Stipulation and urge the Commission to accept and approve the terms herein.

WHEREAS, all of the related issues and concerns raised by the Parties have been addressed in the substantive provisions of this Stipulation, and reflect, as a result of such discussions and compromises by the Parties, an overall reasonable resolution of all such issues. This Stipulation is the product of the discussions and negotiations of the Parties, and is not intended to reflect the views or proposals which any individual Party may have advanced acting unilaterally. Accordingly, this Stipulation represents an accommodation of the diverse interests represented by the Parties, and is entitled to careful consideration by the Commission;

WHEREAS, this Stipulation represents a serious compromise of complex issues and involves substantial benefits that would not otherwise have been achievable; and

WHEREAS, the Parties believe that the agreements herein represent a fair and reasonable solution to the issues raised in the cases set forth above concerning DE-Ohio's Application to establish an ESP;

NOW, THEREFORE, the Parties stipulate, agree and recommend that the Commission make the following findings and issue its Opinion and Order in these proceedings approving this Stipulation in accordance with the following:

1. DE-Ohio shall implement an ESP as set forth in its Application, including the generation, transmission and distribution price structure described on Stipulation Attachment 1, for a term of

three years, beginning January 1, 2009, and extending through December 31, 2011, except as modified by this Stipulation.

2. DE-Ohio's base generation charge (PTC-BG) (currently known as Little 'g') shall reflect the unbundled generation rate as approved in Case No. 99-1658-EL-ETP less the Regulatory Transition Charges (RTC), as adjusted to reflect the following:

- a. The RTC for residential customers shall be eliminated on December 31, 2008;
- b. The RTC for non-residential customers shall remain in effect, as an unavoidable charge, through December 31, 2010;
- c. The frozen fuel, purchased power and emission allowances currently recovered in Little 'g' (1.2453 ¢/kWh), shall be transferred to the fuel and purchased power rider (Rider PTC-FPP, currently known as Rider FPP). Such cost transfer will not increase the total price charged to customers; and
- d. A base generation charge increase for residential and non-residential customers on January 1, 2009, January 1, 2010, and for non-residential customers, on January 1, 2011, as further described in paragraph 3, below.

3. DE-Ohio shall implement the base generation charge, PTC-BG, as shown on Stipulation Attachment 2 and established in the attached tariff sheets. These charges reflect the adjustments described in paragraph 2, above.

4. DE-Ohio shall amend its Application to eliminate any requested price or cost deferral except as set forth in paragraphs 11 and 16.
5. DE-Ohio shall withdraw its proposed Rider PTC-IA.
6. DE-Ohio shall implement prices for the riders listed on Stipulation Attachment 1 as established in the attached tariffs. Such riders shall reflect the types of prices, charges, periodic adjustments, avoidability, and due process, including an opportunity for hearing, as described in DE-Ohio's Application, except as modified in this Stipulation. All prices will continue to be subject to the same existing types of charges that are currently applied to the Rate Stabilization Plan (RSP) prices, such as metering and tax charges, except as provided in this Stipulation.
7. The Parties agree to the following commitments with respect to Rider PTC-FPP:
 - a. Rider PTC-FPP shall reflect the transfer of the frozen fuel, purchased power and emission allowances currently included in DE-Ohio's unbundled base generation charge as described in paragraph 2, above;
 - b. Rider PTC-FPP shall include an allocation, as of the date on which this Stipulation is filed, of the actual delivered cost of fuel pursuant to the existing fuel and transportation agreements, the actual cost of net purchased power, including gains and losses resulting from the settlement of

forward power contracts, and SO₂ and NO_x emission allowance inventories proportional to the expected generation share needed to serve DE-Ohio's Rider PTC-FPP customers. Recent court rulings make the NO_x emission allowance inventory unclear. The parties agree to allocate the NO_x emission allowance inventory, and any other emission allowance inventory established during the ESP period, proportional to the expected generation share needed to serve DE-Ohio's rider PTC-FPP customers, as of the date the allowances are granted to DE-Ohio; and,

- c. After the Stipulation is filed, an actively managed commodity portfolio consisting of fuel, SO₂ and NO_x emission allowances, DE-Ohio owned and dedicated generation, and purchased power will be maintained with the objective of providing a least cost energy supply for the Rider PTC-FPP customers with the associated costs, gains and losses flowing to the Rider PTC-FPP customers.
- d. DE-Ohio agrees to make a filing with the Commission proposing the manner of any true-up of Rider PTC-FPP revenues and costs through December 31, 2008. Such filing will be submitted during the first quarter of 2009, and will be subject to due process, including the audit for the eighteen month period ending December 31, 2008. Such

audit shall be conducted by an independent third party auditor or Staff, at the Commission's discretion. DE-Ohio shall fund the audit and receive cost recovery through Rider PTC-FPP as approved by the Commission.

8. In order to maintain the same Rider PTC-FPP process as the current Rider FPP and to maintain the same Rider TCR process as the current Rider TCR, the Parties agree that the Midwest Independent System Operator, Inc. (MISO), costs for net congestion and losses shall be recovered through Rider PTC-FPP, including the net revenue received from financial transmission rights and auction revenue rights. The Parties also agree to recommend that the Commission grant DE-Ohio's request for a waiver from the proposed Commission's rules to permit such cost recovery through avoidable Rider PTC-FPP rather than avoidable Rider TCR. Ancillary services shall be recovered through Rider TCR.
9. Subject to Commission approval in these proceedings and Case No. 08-1025-EL-UNC, Rider PTC-AAC rate, currently known as Rider AAC, will be updated effective December 1, 2008. Annually thereafter during the ESP time period as proposed in DE-Ohio's application, DE-Ohio may request, subject to due process, including an opportunity for a hearing and Commission approval, the recovery of net incremental costs or credits associated with environmental compliance, homeland security, and changes in tax

law. The Parties further agree that DE-Ohio may also seek Commission approval for recovery through Rider PTC-AAC or Rider PTC-FPP of cost-effective generation projects not required for environmental compliance that would improve fuel flexibility, and the supporting Parties reserve the right to oppose any such application.

DE-Ohio agrees to make a filing with the Commission proposing the manner of any true-up of Rider PTC-AAC reagent revenues and costs through December 31, 2008. Such filing will be submitted during the first quarter of 2009, and will be subject to due process, including the audit for the eighteen month period ending December 31, 2008. Such audit shall be conducted by an independent third party auditor or Staff, at the Commission's discretion. DE-Ohio shall fund the audit and receive cost recovery through Rider PTC-AAC as approved by the Commission.

10. Eligible capacity purchases under Rider SRA-SRT shall be subject to the annual due process, including an opportunity for a hearing, approved in Case No. 03-93-EL-ATA, *et al.*:
 - a. Shall include recovery of market capacity purchases for any duration up-to three-years, if approved by the Commission;

- b. DE-Ohio shall solicit for capacity in an open, non-discriminatory, and competitive manner;²
- c. Capacity contracts shall be awarded to the lowest and best offer submitted pursuant to the open, non-discriminatory, and competitive process conducted by DE-Ohio;
- d. Rider SRA-SRT may include compensation for capacity owned by DE-Ohio or its affiliates that has never been used and useful in serving DE-Ohio load;
- e. Compensation for DE-Ohio's capacity shall be determined through offer solicitation by DE-Ohio using one of the following two methodologies:
 - i. Compensation shall equal the lowest offer price for the capacity pursuant to the open, non-discriminatory, and competitive offer solicitation process outlined in this paragraph; or,
 - ii. If there are no offers for capacity other than from DE-Ohio, DE-Ohio shall be compensated at the price for the last actual competitively-priced, arms-length transaction.

Nothing herein shall be construed as a requirement that DE-Ohio solicit bids through a formal request for proposal process overseen by an independent third party;

² DE-Ohio may maintain confidential information within its bid solicitation process but within the due process review before the Commission shall provide information necessary to the parties and for the Commission to affirm the open, non-discriminatory, and competitive solicitation. Such information may be provided under seal or otherwise protected through appropriate agreements and other means.

- f. Rider SRA-SRT shall be avoidable for all non-residential customers who agree not to return to the standard service offer for the remainder of the three-year term of the proposed ESP period. The agreement not to return shall be by contract or one of the methods approved for the Rate Stabilization Program³ including the currently approved script and Competitive Retail Electric Service (CRES) provider initiated electronic sign up. A non-residential customer who pledges not to return to the ESP-SSO, but does so, shall pay the competitive retail electric service price specified in Stipulation paragraph 17; and
- g. DE-Ohio shall develop and implement a tariff compensating non-residential customers with qualified backup generating facilities for use of their facilities as needed to maintain reliable generation service. Capacity compensation shall not exceed the average price per kW for capacity purchases recoverable in Rider SRA-SRT. The key provisions of the tariff are set forth as Stipulation Attachment 4. Participating capacity shall count toward DE-Ohio's market capacity purchases and shall be recovered through Rider SRA-SRT. DE-Ohio and the Greater Cincinnati Health Council have

³ Authorization in the Rate Stabilization Program included both a two page form and telephonic approval with use of an agreed to script with the customer response recorded as filed by Integrys Energy Services, Inc. on May 4, 2007 in case 03-93-EL-ATA .

agreed to the terms and conditions related to a capacity purchase program and other related items set forth on Stipulation Attachment 9.

- h. DE-Ohio agrees to make a filing with the Commission proposing the manner of any true-up of Rider SRA-SRT revenues and costs through December 31, 2008. Such filing will be submitted during the first quarter of 2009, and will be subject to due process, including the audit for the eighteen month period ending December 31, 2008. Such audit shall be conducted by an independent third party auditor or Staff, at the Commission's discretion. DE-Ohio shall fund the audit and receive cost recovery through Rider SRA-SRT as approved by the Commission.

- 11. The Parties recommend Rider DR-IM for approval in this proceeding. Cost recovery for Rider DR-IM shall be on a cost per meter basis. The Parties agree to a January 1, 2009, implementation of distribution Rider DR-IM, limited to SmartGrid,⁴ DE-Ohio's Gas Furnace Program as identified in paragraph 13,⁵ and, if subsequently approved by the Commission pursuant to the process set forth in Paragraph 19 of this Stipulation, the Electronic Bulletin Board (EBB). Annual second quarter approval of Rider

⁴ As referenced in this Stipulation "SmartGrid" includes Advanced Meter Infrastructure (AMI) and Distribution Automation (DA).

⁵ Signatory Parties that were not also parties in Case No. 06-91-EL-UNC *et al*, do not express an opinion regarding the retention and funding of the Gas Furnace program.

DR-IM adjustments shall be subject to due process, including an opportunity for hearing, as set forth in the Application.

- a. Rider DR-IM shall be initially set at zero. Thereafter, such charge shall be subject to an applicable annual second quarter due process and true-up contemporaneous with the SmartGrid, EBB, and Gas Furnace Program. The cost recovery methodology for the Gas Furnace Program shall remain the same as it is today under Rider DSM, thus having no effect on customers' rates. Rider DR-IM will be adjusted, following the effective date of the Commission's order in DE-Ohio's next base electric distribution rate case, to reflect the amount of SmartGrid, EBB and gas furnace program costs, if any, that are included in base rates.
- b. Stipulation Attachment 3 sets forth the projected SmartGrid electric deployment investment, operating costs net of savings and revenue requirement through 2014. For each annual Rider DR-IM filing, 85% of the annual SmartGrid revenue requirement will be allocated to residential customers and recovered on a monthly price per meter. Non-residential customers served on the distribution system (excluding lighting) shall be allocated 15% of the annual SmartGrid revenue requirement, to be recovered on a monthly price per meter based on the currently approved

weighted-average customer charge (see Stipulation Attachment 3, page 2 of 2).

- c. The SmartGrid revenue requirement shall be recovered on a monthly price per meter for residential customers not to exceed \$0.50 in 2009, \$1.50 in 2010, \$3.25 in 2011, \$5.25 in 2012, \$5.50 in 2013, and thereafter, pursuant to the process set forth in Paragraph 11(f) of this Stipulation.
- d. DE-Ohio shall accrue Post-in-Service Carrying Charges at the most recently approved weighted average cost of long term debt and to defer depreciation and operating costs from the date that the applicable expenditures are incurred until such expenditures are included for recovery in Rider DR-IM. Such regulatory assets will be included in unique sub-accounts of Account 182.3, Other Regulatory Assets, and will be subject to review by all parties in the annual Rider DR-IM filing. The Parties also agree to the regulatory asset accounting treatment for replaced meters as described in DE-Ohio's Application, for which recovery shall be through existing depreciation rates as they may be amended from time to time.
- e. The annual second quarter due process regarding Rider DR-IM shall include the projected deployment and implementation plan for the current year including its design

requirements, performance goals, metrics, and milestones, and a Staff audit and verification of the previous year's SmartGrid costs and system performance levels. Also included will be a high level overview of the following year's plan and any associated details to the extent available. DE-Ohio will share this information contemporaneously with OCC as it is provided to Staff.

- f. As part of the annual due process related to 2010 costs net of benefits, DE-Ohio shall include a mid-deployment program summary and review with the second quarter 2011 filing outlining its progress through 2010, including expenditures, deployment program summary and review. As part of the same filing DE-Ohio shall also outline deployment milestones, system performance levels and customer benefits versus the plan. The summary and review shall address deployment lessons learned, an updated allocation of the annual distribution revenue requirement, and the desirability of continuing the program beyond December 31, 2011.
- g. DE-Ohio shall convene a working group or collaborative process for the purpose of exploring opportunities to maximize the benefits of the SmartGrid investment. Such opportunities shall include, but are not limited to, designing

and implementing tariffs by December 31, 2009, including revenue-neutral critical peak pricing and enhanced power manager pricing programs, residential time of use, and improving access to meter information that will assist customers, especially low-income customers, in managing their electric costs. The working group or collaborative process shall be open to Staff, Marketers, PWC and other interested stakeholders.

- h. DE-Ohio will focus initial SmartGrid deployment on circuits mostly in high density areas with a high percentage of inside meters. Such focus will eliminate the monthly need to access over 400,000 meters located inside customer premises, including many low-income customers. Remotely obtaining meter data for these locations will provide significant customer benefit.
- i. DE-Ohio shall deploy SmartGrid technology in the Village of Terrace Park, Ohio during 2009.
- j. It is the Parties' expectation that System reliability will be enhanced commensurate with the deployment of SmartGrid. Based on the deployment schedule in Attachment 3, DE-Ohio agrees to improve its targeted system average interruption frequency index (SAIFI) as set forth in O.A.C. 4901:1-10-10 from 1.50 in 2009, to 1.44 in 2010, to 1.38 in

2011, to 1.31 in 2012, to 1.24 in 2013, to 1.17 in 2014, and 1.10 in 2015. If DE-Ohio meets its deployment commitments, and the expected SAIFI target improvements do not materialize in any year during deployment, the parties agree that DE-Ohio may apply to the Commission to suspend deployment or seek amended SAIFI targets as may be appropriate. The pendency of that application does not absolve DE-Ohio of its requirement to meet the SAIFI targets outlined herein.

- k. Rider AU, currently pending in Case No. 07-589-GA-AIR, represents the recovery of the SmartGrid costs allocable to DE-Ohio's gas distribution customers and is still under Commission consideration. The Parties recognize that DE-Ohio is a combination gas and electric utility and understand that benefits to customers may accrue by deploying both electric and gas SmartGrid at the same time. Therefore, DE-Ohio may apply to the Commission to discuss alternatives to the electric SmartGrid including the electric SmartGrid caps outlined in 11(c) and amendments to SAIFI targets outlined in 11(j) of this Stipulation as a result of the decision in 07-589-GA-AIR.⁶

⁶ Signatory Parties that were not also parties in Case No. 07-589-GA-AIR *et al*, do not express an opinion concerning Rider AU.

12. DE-Ohio shall withdraw its request in this proceeding to implement a change in the distribution customer charges. Such proposed changes in the customer charge shall be determined in Case No. 08-709-EL-AIR.
13. Rider DR-SAW shall be implemented by January 1, 2009.
 - a. Upon the implementation of Rider DR-SAW effective January 1, 2009, DE-Ohio will eliminate the existing charge in customer rates for Rider DSM. On or before March 31, 2009, DE-Ohio proposes to file a final report and reconciliation for the period July 1, 2008, through December 31, 2008, which represents the period that would not be covered by the upcoming November 15, 2008, Annual Report filing of programs under Rider DSM. To affect a final true-up of Rider DSM, DE-Ohio would seek the Commission's approval in its March 31, 2009, filing to add or subtract the resulting true-up from the July - December 2008 period to Rider DR-SAW at that time. The resulting adjustment to Rider DR-SAW would effectuate the close-out of Rider DSM. The energy efficiency programs approved under Rider DSM, as updated in the Supplemental Direct Testimony of Theodore E. Schultz, shall continue in effect under Rider DR-SAW subject to the same annual reporting and program approval requirements currently in effect under Rider DSM,

which include due process and an opportunity for a hearing. The Rider DR-SAW true-up shall occur in the Second quarter of 2012 for programs operating from January 1, 2009, through December 31, 2011. The costs relating to the DSM Smart Saver/Summer Saver program for high-energy furnaces without electronically commutated motors (i.e., Gas Furnace Program) shall be transferred for recovery to Rider DR-IM. Rider DR-SAW shall be amended effective January 1, 2009, as set forth in Supplemental Attachment PGS-1, filed on September 16, 2008.

- b. Section 4928.66(A)(2)(c), Revised Code, provides that mercantile customers that commit their demand response or other customer-sited capabilities, whether existing or new, for integration into the electric distribution utility's demand-response, energy efficiency, or peak demand reduction programs may be exempted from a cost-recovery mechanism designed to recover the costs of utility programs created to meet the energy savings and peak demand reduction benchmarks set forth in divisions (A)(1)(a) and (b) of the statute. Pursuant to this statute, exemptions from Rider DR-SAW shall be available to customers that have a minimum monthly demand of 3 MW at a single site or aggregated at multiple sites within DE-Ohio's certified

territory and agree to comply with the Commission's rules regarding exemption from cost-recovery mechanisms.

To obtain exemption, the customer shall file a joint application with DE-Ohio before the Commission seeking approval of the exemption.⁷ To qualify for exemption, the applicant customer must demonstrate to the Commission that it has undertaken or will undertake self-directed energy efficiency and/or demand reduction programs that have produced or will produce annual percentage energy savings and/or peak demand reductions equal to or greater than the applicable annual percentage statutory energy savings and/or peak demand reduction benchmarks to which DE-Ohio is subject. The energy savings and demand reductions resulting from the customers' self-directed program shall be calculated using the same methodology used to calculate DE-Ohio's energy savings and demand reductions for purposes of determining compliance with the statutory benchmarks, including normalization adjustments to the baseline, where appropriate. As a part of the application, the customer shall provide a calculation of the customer baseline and independent measurement and verification of the level of energy savings and demand reduction achieved

⁷ If DE-Ohio, for any reason, decides not to proceed with a joint application with a customer, the customer may file an application before the Commission on its own initiative.

or anticipated, and, to retain the exemption, shall, thereafter, on an annual basis, make a filing with the Commission demonstrating that it remains eligible for the exemption under the criteria set forth herein.

The Parties recognize that there may be customers that have previously implemented effective self-directed energy efficiency and demand reduction programs and that such existing programs may severely limit the ability of such customers to achieve additional savings and reductions. The Parties further recognize that such existing customer programs also affect DE-Ohio's ability to comply with the applicable statutory benchmarks by limiting the potential for savings and reductions that can be achieved under its own programs. Such a customer seeking exemption from Rider DR-SAW based on energy savings and/or demand reductions achieved under a self directed program shall demonstrate in its application that (i) such program was tailored to the particular energy consumption characteristics of the customers equipment and/or facilities and (ii) that the savings and/or reductions that have been achieved under its self-directed program have limited its ability to achieve meaningful additional cost-effective savings and/or reductions through participation in DE-Ohio's programs.

The parties recommend that the Commission determine the methodology to be employed to effectuate the integration of the committed capabilities of exempt customers into DE-Ohio's energy efficiency and peak demand reduction programs in determining DE-Ohio's benchmark compliance. DE-Ohio shall not be subject to penalties, including compliance payments, as a result of the failure of an exempted customer to achieve the anticipated level of energy savings and/or peak demand reduction claimed in the application for exemption.⁸ The application for exemption, joint or otherwise, shall include proposed consequences for the customers' failure to achieve the energy savings and/or demand reductions claimed in the application.

Applicants for exemption may seek confidential treatment of materials provided in support of the application, including, but not limited to, customer name(s), price, and trade secret(s).

- c. DE-Ohio shall administer Rider DR-SAW by applying to the Commission for approval of each Rider DR-SAW program except that approval of this Stipulation shall constitute

⁸ The OCC does not support DE-Ohio's liability exemption for an exempted customer's failure to meet its energy efficiency commitment but recognizes the Stipulation is a compromise of views and will not litigate the issue. Nothing herein restricts OCC's legal rights to litigate this issue in any other proceeding before the Commission.

approval of the initial Rider DR-SAW program content as set forth in the Supplemental Direct Testimony of DE-Ohio witness Theodore E. Schultz. Program development shall be through DE-Ohio individually or collaboratively with other interested parties through the Duke Energy Community Partnership (DECP),⁹ proposed manufacturers' collaborative or other collaborative or individual customers. Non-Company stakeholders in the DECP shall have one vote each for the purpose of advising DE-Ohio regarding energy efficiency program development which may include programs that bridge tax incentive gaps to the extent programs are projected to be cost effective and are approved by the Commission under Rider DR-SAW. DE-Ohio will consider collaborative advice regarding program development, evaluation, and effectiveness. DE-Ohio will share residential and non-residential energy efficiency information with the collaboratives except that all parties agree to protect confidential information disclosed in the collaborative process. Customers that do not become exempt shall be eligible for Rider DR-SAW programs applicable to their rate classification and shall pay Rider DR-SAW. Exempt

⁹ The DECP shall include as members the Cincinnati-Hamilton and Clermont County Community Action Agencies, Adams Brown Economic Opportunities, Inc., and the Community Action Partnership of the Greater Dayton Area.

customers, as set forth in division (b) of this paragraph, shall not be eligible for any Rider DR-SAW programs.

- d. Non-residential Rider DR-SAW recovery shall be allocated between distribution and transmission service customers based on the allocation of distribution revenues as approved in the Company's most recent electric distribution rate case, as shown on Stipulation Attachment 8. A transmission service customer that participates in the Save-A-Watt program will be charged the Rider DR-SAW rate applicable to non-residential customers served on the distribution system, and this will in no way increase the DR-SAW rate charged to non-participating transmission service customers.
- e. As an incentive for achieving energy efficiency above the statutory mandate over the ESP period, DE-Ohio shall be entitled to the following return on investment on its program costs up to the following caps:

% Mandate ¹⁰	Return on Investment Cap
> 125%	15%
116 - 125%	13%
111 - 115%	11%
101 - 110%	6%
< or =100%	0%

¹⁰ Mandate means the benchmarks and baseline for energy efficiency set pursuant to R.C. 4929.66.

Nothing herein may be used as precedent for any other proceeding except as may be needed to enforce the terms of this Stipulation.

- f. The Parties agree that DE-Ohio will work with Staff and interested parties to develop a non-residential interruptible tariff as an energy efficiency program option. The key provisions of the tariff are set forth as Stipulation Attachment 4. DE-Ohio shall submit the non-residential interruptible tariff for Commission approval and upon approval shall implement the tariff. Participating load will receive compensation from DE-Ohio for interruption based upon specified conditions at specified prices. Participating load shall count toward DE-Ohio's statutory energy efficiency peak demand reduction mandate. Nothing herein prohibits DE-Ohio from offering an interruptible tariff that is not part of its energy efficiency and peak reduction program.
- g. The Parties agree that DE-Ohio shall, with the assistance of the Ohio Manufacturers' Association, establish an energy efficiency, manufacturing collaborative (Manufacturing Collaborative) to develop and implement programs for manufacturers in DE-Ohio's certified territory that benefit both participants and the state of Ohio consistent with SB 221. The Ohio Manufacturers' Association and other

participating statewide non-profit manufacturing advocacy organizations with manufacturing membership may participate in the Manufacturing Collaborative and provide volunteers to participate in program design, development and implementation working with DE-Ohio. DE-Ohio shall provide the Manufacturing Collaborative with an unrecoverable financial contribution of up to \$100,000 per year during the ESP period, for research and development of energy efficiency programs for manufacturers. DE-Ohio further agrees to provide its expertise, in association with participating manufacturers and Staff, in developing energy efficiency programs targeted toward manufacturers in DE-Ohio's service territory. The Manufacturing Collaborative shall recommend cost-effective, energy efficiency programs to the Commission for adoption and recovery through Rider DR-SAW. DE-Ohio also agrees to participate in a statewide energy efficiency, manufacturing collaborative or similar organization if such a Manufacturing Collaborative or organization is formed.

- h. All demand response program participation requirements shall be consistent with MISO's Load Serving Entities planning reserve requirements.

- i. DE-Ohio shall perform measurement and verification as set forth in the Supplemental Testimony of Dr. Richard G. Stevie. DE-Ohio shall issue a request for proposal to hire an independent evaluator. Measurement and verification costs shall be capped at 5% of program costs.
 - j. If the Commission adopts a decoupling or straight fixed variable rate design for DE-Ohio, DE-Ohio agrees to discuss and implement appropriate adjustment to its recovery of lost margins pursuant to Rider DR-SAW. DE-Ohio agrees to conduct one educational decoupling workshop in Columbus, Ohio before November 30, 2009.
14. The Parties recommend that DE-Ohio shall recover delta revenues associated with reasonable arrangements through Rider DR-ECF, to the extent such arrangements and delta revenues are individually approved by the Commission. The allocation of delta revenues cost recovery rates between DE-Ohio and the customer classes shall be determined by the Commission. DE-Ohio shall not enter into arrangements for discounted rates without making a public application to the Commission and receiving the Commission's approval. If the Commission approves but modifies an application for a reasonable arrangement DE-Ohio and the customer reserve the right to withdraw such application.

15. The Parties recommend that the Commission approve an Economic Development Contract between DE-Ohio and the City of Cincinnati as a reasonable arrangement pursuant to R.C. 4905.31 and in compliance with the Commission's proposed rules under O.A.C. 4901:1-38-03. The City shall commit to create a minimum of twenty-five new jobs and DE-Ohio shall provide economic development funding as follows: (1) \$0 in 2009; (2) \$2 million in 2010; and (3) \$1 million in 2011. The City of Cincinnati shall specify project milestones that include construction in progress and the procurement of additional public and private financing. DE-Ohio and the City shall file annual project reports before the Commission to verify job creation. DE-Ohio shall recover one-half the Economic Development Contract, or \$1 million in 2010 and \$500,000 in 2011, through Rider DR-ECF during the ESP period. The remaining one-half of the grant shall be funded by DE-Ohio. A copy of the anticipated arrangement between the City of Cincinnati and DE-Ohio is set forth as Stipulation Attachment 5. DE-Ohio and the City of Cincinnati shall file an application for approval of the economic development contract, conditioned on approval of this Stipulation, in a separate proceeding. The Parties further agree that DE-Ohio shall purchase from the City of Cincinnati 20,263 streetlights located in the DE-Ohio service territory at the cost of approximately \$4 million. Stipulation Attachment 5 sets

forth the settlement terms and conditions for the streetlight purchase involving DE-Ohio and the City of Cincinnati.

16. Certain operating and maintenance costs of up to \$50 million will be incurred at the Beckjord generating station beginning in 2009 in order to allow the continued operation of the station. These costs are to be deferred and amortized over a three (3) year period. The deferral and amortization expense is included for recovery in Rider SRA-CD. The Rider SRA-CD rate is equal to the Rider IMF rate that was approved by the Commission, and shall remain constant during the ESP period.
17. During the ESP period DE-Ohio shall permit non-residential customers that purchase competitive retail electric service from a CRES provider to avoid Rider SRA-SRT; provided that such customers agree to remain off its ESP-SSO service through December 31, 2011 and that if such customers desire to return to ESP-SSO service that they agree to return at 115% of DE-Ohio's ESP-SSO price, including only the generation riders set forth on Stipulation Attachment 1. Such non-residential customers shall also receive a generation price shopping credit equal to 6% of the current Little 'g' price as specified in Stipulation Attachment 6. Non-residential customers that purchase competitive retail electric service from a CRES provider but choose to pay Rider SRA-SRT

and waive the shopping credit may return to the ESP-SSO price at any time without notice.

18. The following customers who desire to return to ESP-SSO service need not pay 115% of DE-Ohio's ESP-SSO price:

a. RSP-MBSSO period contract exclusion: non-residential customers who as of September 30, 2008, are purchasing competitive retail electric generation service from a CRES provider under a contract that expires on or after January 1, 2009, may elect the ESP-SSO price if the customer, no less than sixty (60) days prior to the expiration of their current CRES contract, excluding contract extensions, notifies DE-Ohio of its desire to enroll in the ESP-SSO.

b. ESP period contract origination exclusion: non-residential customers that enter a contract for the provision of competitive retail electric service with a CRES provider after December 31, 2008, may elect to enroll in SSO service beginning January 1, 2012, if the customer, no less than sixty (60) days prior to January 1, 2012, notifies DE-Ohio of its desire to enroll in the ESP-SSO at the expiration of its current CRES provider contract, excluding extensions.

19. As reasonably practicable after Commission approval of the Stipulation in these proceedings, DE-Ohio shall initiate a collaborative process for the purpose of establishing an EBB as

generally proposed in its Application. DE-Ohio agrees that the CRES providers, Staff, and other interested parties may participate in the design of the EBB. The EBB shall be an open access platform and competitively neutral, and may utilize a third party independent operator. The design and cost of developing and maintaining the EBB shall be discussed in the collaborative process and to the extent the Commission approves such cost recovery, the EBB will be developed and the actual costs incurred to develop the EBB shall be recoverable through Rider DR-IM or otherwise as agreed upon.

20. Non-Residential customers (including Governmental Aggregation) and Non Residential Minimum Stay provisions:

- a. Non-residential customers who have switched to a CRES provider on or after December 31, 2008, including governmental aggregation customers, may return to DE-Ohio, but must pay 115% of the ESP-SSO price unless they qualify for the exemptions set forth in paragraph 18.
- b. DE-Ohio does not assess a separate charge for standby service or default service on non-residential customers.
- c. A non-residential customer that returns to ESP-SSO service and is subject to pay 115% of the ESP-SSO price shall have no minimum stay requirement and may contract with a CRES provider in accordance with the normal enrollment process

except that mercantile customers as set forth in R.C. 4928.01(A)(19), must remain on DE-Ohio's SSO service for twelve consecutive billing cycles if they return between May 15, and September 16, of any year. If such customer wishes to purchase service from a CRES provider prior to the expiration of twelve billing cycles DE-Ohio, at its discretion, may negotiate an exit fee.

- d. Non-residential customers in a Governmental Aggregation may avoid Rider SRA-SRT and receive the credit as established in Stipulation Attachment 6 if the Governmental Aggregator notifies DE-Ohio at least sixty (60) days prior to the start of Governmental Aggregation of its intent to maintain the Governmental Aggregation through the remainder of the ESP-SSO period and it agrees that returning non-residential customers shall return at a price equal to 115% of the ESP-SSO price.¹¹ Nothing herein prohibits an individual non-residential customer from contacting DE-Ohio to pay Rider SRA-SRT and Rider SRA-CD to return at the standard ESP-SSO price.

- 21. Residential customers (including Governmental Aggregation) and residential Minimum Stay provisions:

¹¹ The Parties agree that OCC shall have the right to carve out for litigation the issue of by-passability of charges and shopping credits for residential government aggregation customers.

- a. Residential customers who have switched to a CRES provider on or after December 31, 2008, including residential governmental aggregation customers, shall have no minimum stay and may return to the ESP-SSO.
 - b. DE-Ohio does not assess a separate charge for standby service or default service on residential customers.
22. During the ESP period, DE-Ohio shall increase its funding for Home Energy and Weatherization Contracts to \$1 million per year. Such contracts shall be extended for the duration of the ESP period as required.
23. DE-Ohio shall contribute \$50,000 per year through 2011 to the Hamilton County Community Action Agency, or another non-profit organization in DE-Ohio's certified territory, to be used for distributing fans and/or air conditioners to qualifying customers.
24. DE-Ohio shall withdraw its request for approval of Rider SRA-NDC from these proceedings. The Parties recommend that the Commission authorize DE-Ohio to make market purchases with the objective of filling its short capacity position in a least cost manner with cost recovery through Rider SRA-SRT pursuant to paragraph 10.
25. DE-Ohio's Operational Support Plan shall remain as filed in these proceedings, except that existing waivers of Rider SRA-SRT (currently Rider SRT) shall remain in effect.

26. DE-Ohio's Corporate Separation Plan shall remain in effect as filed in these proceedings, except that DE-Ohio may transfer to an affiliate or sell to an unaffiliated party the following gas-fired generating assets: Lee Station; Hanging Rock Station; Washington Station; Fayette Station; and Vermillion Station, as these plants have never been used and useful in serving DE-Ohio load. Any such transfer is subject to approval by the Federal Energy Regulatory Commission (FERC) if necessary, but Commission acceptance of this Stipulation constitutes the approval of the Commission required under R.C. 4928.17. DE-Ohio agrees to withdraw from this proceeding and at FERC its request to transfer its previously used and useful assets. DE-Ohio may, however, during the ESP period, file an application before this Commission and at the FERC to transfer its previously used and useful assets effective no sooner than January 1, 2012.
27. The Parties recommend that the Commission find that DE-Ohio's ESP-SSO, as modified by this Stipulation, including its pricing and all other terms and conditions, plus any deferrals and future recovery of deferrals, is more favorable in the aggregate as compared to the expected results that would otherwise apply under R.C. 4928.142.¹²

¹² The signatory CRES providers take no position regarding Paragraph 26 and do not support the deferrals of any additional generation-related costs but recognize that this Stipulation is a compromise of interests and issues among the Parties.

28. The Parties agree that beginning in 2010, by May 15 of each year covered by this Stipulation, the Commission will implement the significantly excessive earnings test as follows:

DE-Ohio's return on ending common equity will be computed using DE-Ohio's prior year publicly reported FERC Form 1 financial statements, including off-system sales, subject only to the following specific adjustments:

- Net Income
 - Eliminate all depreciation and amortization expense related to the purchase accounting recorded pursuant to the Duke Energy/Cinergy merger,
 - Eliminate all impacts of refunds to customers pursuant to this paragraph,
 - Eliminate all impacts of mark-to-market accounting,
 - Eliminate all impacts of material, non-recurring gains/losses, including, but not limited to, the sale or disposition of assets.
- Common Equity
 - Eliminate the acquisition premium recorded to equity pursuant to the Duke Energy/Cinergy merger.

Should the actual annual return on ending common equity for each review year, as adjusted pursuant to this paragraph, not exceed 15%, DE-Ohio's return on common equity shall be deemed

to not be significantly in excess of the return on common equity that was earned during the same period by publicly traded companies that face comparable business and financial risks. If such return exceeds 15%, such excess shall be refunded on a grossed-up for taxes basis, to Rider PTC-FPP customers over a period not to exceed twelve-months, plus a true-up to avoid any over- or under-recovery. Any refund required shall not cause an adjustment to earnings for the years refunded to or from.

This Paragraph does not create a precedent for the computation of DE-Ohio's return on common equity or the applicability of the significantly excess earnings test set forth in R.C. 4928.143 regarding any SSO that DE-Ohio may implement subsequent to December 31, 2011.

29. Effective on the date of the Commission's Order approving this Stipulation, The Kroger Company shall have an one-hundred-eighty (180) day option to sell, and upon fifteen (15) days notice of The Kroger Company's election, to exercise such option, DE-Ohio shall purchase approximately 45 transformers located in the DE-Ohio service territory (as more specifically set forth and listed on Stipulation Attachment 7) at the cost of \$287,000, which reflects the net book value of such transformers based upon DE-Ohio's original cost.

30. The Parties agree that DE-Ohio's ESP Application, as amended by this Stipulation, complies with the state policies set forth in R.C. 4928.02.
31. DE-Ohio shall continue its GoGreen program (Rider GP) through December 31, 2011. Rider GP is currently scheduled to expire at December 31, 2008. DE-Ohio shall work with any interested parties to revise the current REC tariff price to a price that is commensurate with the current market price and to include a R.C. 4928.64 residential REC purchase program by June 30, 2009. Upon inquiry by a consumer considering the installation of renewable energy generation at the consumer's site, DE-Ohio shall make information available to the consumer on net metering, interconnection and the REC purchase program.
32. Pursuant to R.C. 4928.143, and subject to DE-Ohio's legal rights, including but not limited to the right to comments, apply for rehearing, and appeal, DE-Ohio shall conform to the Commission's ESP rules as set forth in Case Nos. 08-777-EL-ORD and 08-888-EL-ORD.
33. DE-Ohio agrees to an annual audit review of compliance with its Corporate Separation Plan, including, but not limited to a review of its Cost Allocation Manual. Such audit shall be conducted by an independent third party auditor or Staff at the Commission's discretion. DE-Ohio shall fund the audit and receive cost recovery

through an appropriate rate mechanism approved by the Commission.

34. Effective January 1, 2009, and continuing through the ESP-SSO period, DE-Ohio shall contribute \$700,000 annually to benefit electric consumers at or below 175% of poverty level and who do not participate in PIPP. The contribution shall be made directly to the Hamilton County and Clermont County Community Action Agencies, SEL in Butler County, CAP Dayton in Warren County, and Adams-Brown Community Action. DE-Ohio, CUFA and the aforementioned agencies shall agree to the amount of distribution to each agency, program parameters, and reporting requirements.
35. The Parties agree that all provisions of this Stipulation shall be effective January 1, 2009, except where specifically stated otherwise. Any adverse economic impact to DE-Ohio due to implementation delay, including carrying costs at the weighted average cost of long-term debt, shall be recoverable via the applicable rider(s) during the next rider filing.

The undersigned Parties hereby stipulate and agree and each represents that it is authorized to enter into this Stipulation and Recommendation this 27 day of October 2008.

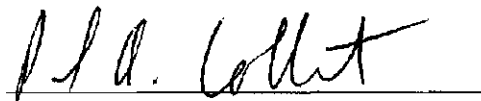
Respectfully submitted,



Paul A. Colbert, Trial Attorney
Associate General Counsel
Rocco D'Ascenzo, Counsel
Elizabeth Watts, Assistant General Counsel
Amy Spiller, Associate General Counsel
Duke Energy Ohio

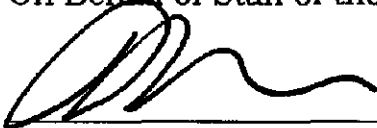
2500 Atrium II, 139 East Fourth Street
P. O. Box 960
Cincinnati, Ohio 45201-0960
(513) 419-1827 (telephone)

On Behalf of Duke Energy Ohio, Inc.



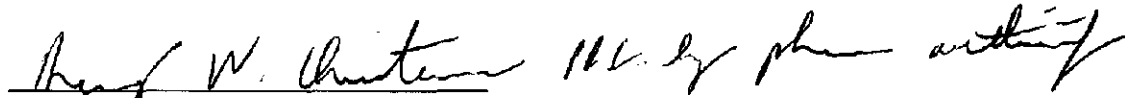
Attorney Paul A. Colbert
155 East Broad St, 21st Floor
Columbus, OH 43215

On Behalf of Staff of the Public Utilities Commission of Ohio



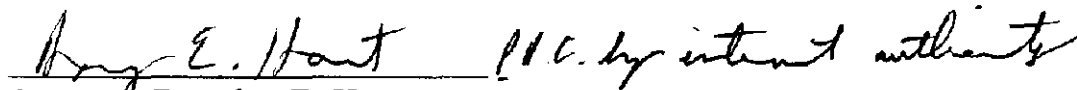
Attorneys Thomas McNamee, William L. Wright
Assistant Attorneys General
PUCO
180 East Broad Street, 9th Floor
Columbus, OH 43215

On Behalf of People Working Cooperatively, Inc.



Attorney Mary W. Christensen
Christensen, Christensen, Donchatz, Kettlewell, Owens
100 E. Campus View Blvd., Suite 360
Columbus OH 43235

On Behalf of the Greater Cincinnati Health Council

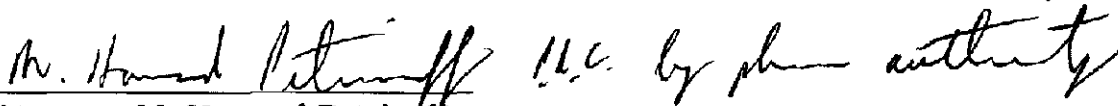


Attorney Douglas E. Hart
441 Vine St, Suite 4192
Cincinnati OH 45202

On Behalf of Direct Energy Services, LLC.

Attorney M. Howard Petricoff
Vorys, Sater, Seymour, and Pease LLP
52 East Gay St
Columbus OH 43215

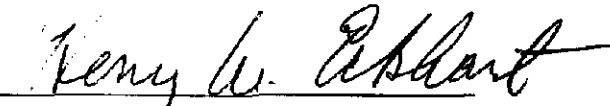
On Behalf of Integrys Energy Services, Inc.


Attorney M. Howard Petricoff
Vorys, Sater, Seymour, and Pease LLP
52 East Gay St
Columbus OH 43215


On Behalf of National Energy Marketers Association

Attorney Stephen M. Howard
Vorys, Sater, Seymour, and Pease LLP
52 East Gay St
Columbus OH 43215

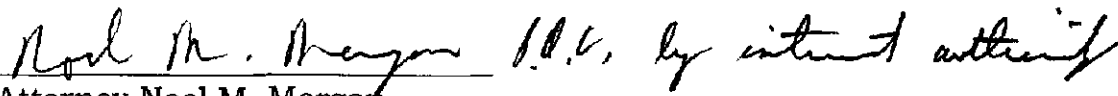
On Behalf of The Natural Resources Defense Council


Attorney Henry W. Eckhart
50 West Broad St, Suite 2117
Columbus OH 43215

On Behalf of The Sierra Club, Ohio Chapter


Attorney Henry W. Eckhart
50 West Broad St, Suite 2117
Columbus OH 43215

On Behalf of Communities United for Action


Attorney Noel M. Morgan
Legal Aid Society of Southwest Ohio
215 E Ninth St
Cincinnati OH 45202

On Behalf of Dominion Retail, Inc.

Attorney Barth E. Royer
Bell & Royer Co LPA
33 South Grant Ave
Columbus OH 43215

On Behalf of Constellation NewEnergy, Inc.

M. Howard Petricoff *!!! by phone authority*
Attorney M. Howard Petricoff
Vorys, Sater, Seymour, and Pease LLP
52 East Gay St
Columbus OH 43215

On Behalf of Constellation Energy Commodities Group, Inc.

M. Howard Petricoff *!!! by phone authority*
Attorney M. Howard Petricoff
Vorys, Sater, Seymour, and Pease LLP
52 East Gay St
Columbus OH 43215

On Behalf of Ohio Partners for Affordable Energy

David C. Rinebolt *!!! by phone authority*
Attorneys David C. Rinebolt
Colleen L. Mooney
231 West Lima St.
PO Box 1793
Findlay OH 45839

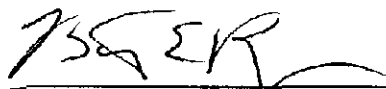
On Behalf of The City of Cincinnati

Attorney Thomas J. O'Brien
Bricker & Eckler LLP
100 South Third St.
Columbus OH 43215

On Behalf of Industrial Energy Users, Ohio

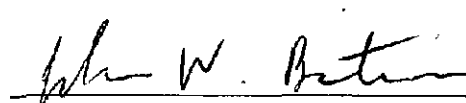
Attorney Joseph M. Clark
McNees Wallace & Nurick LLP
21 East State St, 17th Floor
Columbus OH 43215

On Behalf of The Ohio Environmental Council



Attorney Barth E. Royer
Bell & Royer Co LPA
33 South Grant Ave
Columbus OH 43215

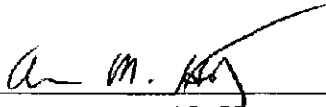
On Behalf of The Kroger Company



Attorneys John W. Bentine, Mark S. Yurick, Matthew M. White
Chester Wilcox & Saxbe LLP
65 East State St, Suite 1000
Columbus OH 43215


100% by phone and email

On Behalf of the Ohio Consumers Counsel



Attorneys Ann M. Hotz
Jeffrey L. Small
Jacqueline Lake Roberts
Michael E. Idzkowski
Ohio Customers' Counsel
10 West Broad Street, Suite 180

On Behalf of The Ohio Energy Group



Attorneys David F. Boehm, Michael L. Kurtz
Boehm Kurtz & Lowry
36 East Seventh St, Suite 1510
Cincinnati OH 45202

On Behalf of The Village of Terrace Park

Attorney Robert P. Malloy
Wood & Lamping LLP
600 Vine St, Suite 2500
Cincinnati OH 45202

On Behalf of Ohio Farm Bureau Federation

Attorney Larry Gearhardt
Ohio Farm Bureau Federation
280 N. High St
PO Box 182383
Columbus OH 43218

On Behalf of The American Wind Energy Association

Attorney Sally Bloomfield
Bricker & Eckler LLP
100 South Third St
Columbus OH 43215

On Behalf of Wind on the Wires

Attorney Sally Bloomfield
Bricker & Eckler LLP
100 South Third St
Columbus OH 43215

On Behalf of Ohio Advanced Energy

Attorney Sally Bloomfield
Bricker & Eckler LLP
100 South Third St
Columbus OH 43215

On Behalf of The University of Cincinnati

Attorney M. Howard Petricoff
Vorys, Sater, Seymour, and Pease LLP
52 East Gay St
Columbus OH 43215

On Behalf of The Ohio Association of School Business Officials

Attorney M. Howard Petricoff
Vorys, Sater, Seymour, and Pease LLP
52 East Gay St
Columbus OH 43215

On Behalf of The Ohio School Boards Association

Attorney M. Howard Petricoff
Vorys, Sater, Seymour, and Pease LLP
52 East Gay St
Columbus OH 43215

On Behalf of The Buckeye Association of School Administrators

Attorney M. Howard Petricoff
Vorys, Sater, Seymour, and Pease LLP
52 East Gay St
Columbus OH 43215

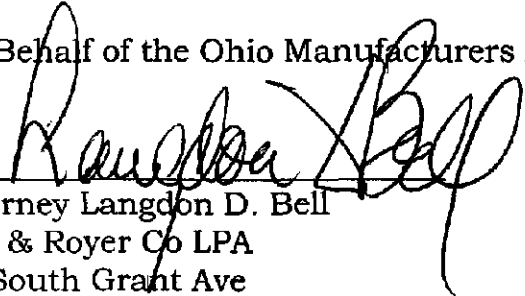
On Behalf of Morgan Stanley Capital Group, Inc

Attorney Douglas M. Mancino
McDermott Will & Emery LLP
2049 Century Park East, Suite 3800
Los Angeles, CA 90067

On Behalf of Environment Ohio

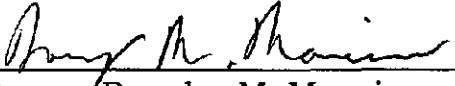
Attorney Amy Gornberg
203 East Broad St, Suite 3
Columbus OH 43215

On Behalf of the Ohio Manufacturers Association



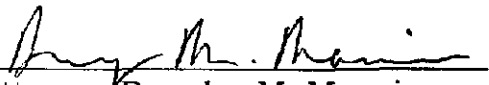
Attorney Langdon D. Bell
Bell & Royer Co LPA
33 South Grant Ave
Columbus OH 43215

On Behalf of The Commercial Group

 *I.D.C. by phone authority*

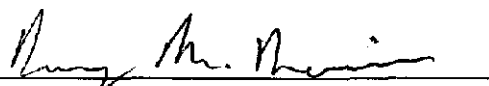
Attorney Douglas M. Mancino
McDermott Will & Emery LLP
2049 Century Park East, Suite 3800
Los Angeles, CA 90067

On Behalf of Wal-Mart Stores East LP

 *I.D.C. by phone authority*

Attorney Douglas M. Mancino
McDermott Will & Emery LLP
2049 Century Park East, Suite 3800
Los Angeles, CA 90067

On Behalf of Sam's Club East

 *I.D.C. by phone authority*

Attorney Douglas M. Mancino
McDermott Will & Emery LLP
2049 Century Park East, Suite 3800
Los Angeles, CA 90067

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Stipulation and Recommendation was served on the following parties this 27th day of October, 2008 by regular U.S. Mail, overnight delivery or electronic delivery.



Paul A. Colbert

<p>Ann M. Hotz, Esq. Jeffrey L. Small Jacqueline Lake Roberts Michael E. Idzkowski Ohio Consumers' Counsel 10 West Broad Street, Suite 1800 Columbus, OH 43215-3420 hotz@occ.state.oh.us</p>	<p>John W. Bentine, Esq. Mark Yurick, Esq. Matthew S. White, Esq. Counsel for the Kroger Company Chester, Wilcox & Saxbe, LLP 65 East State Street, Suite 1000 Columbus, Ohio 43215-4213 jbentine@cwslaw.com myurick@cwslaw.com mwhite@cwslaw.com</p>
<p>David C. Rinebolt, Esq. Colleen L. Mooney, Esq. Counsel for Ohio Partners for Affordable Energy 231 West Lima Street Findlay, OH 45840-3033 Drinebolt@aol.com</p>	<p>Amy Gomberg Environment Ohio 203 East Broad St., Suite 3 Columbus, Ohio 43215</p>
<p>Noel M. Morgan, Esq. Counsel for Communities United for Action 215 E. Ninth Street, 500 Cincinnati, Ohio 45202 nmorgan@lascinti.org</p>	<p>William L. Wright, Esq. Thomas W. McNamee Assistant Attorney General Public Utilities Commission of Ohio 180 East Broad Street, 9th Floor Columbus, Ohio 43215 William.Wright@puc.state.oh.us</p>

<p>Samuel C. Randazzo, Esq. Joseph M. Clark, Esq. Counsel for Industrial Energy Users- Ohio McNees Wallace & Nurick LLC 21 E. State Street, 17th Floor Columbus, Ohio 43215 srandazzo@mwncmh.com jclark@mwncmh.com</p>	<p>Thomas J. O'Brien, Esq. Counsel for City of Cincinnati Bricker & Eckler LLP 100 South Third Street Columbus, Ohio 43215-4236 tobrien@bricker.com</p>
<p>Nolan Moser The Ohio Environmental Council 1207 Grandview Avenue, Suite 201 Columbus, OH 43212-3449 nmoser@theOEC.org</p>	<p>Gary A. Jeffries Dominion Resources Services, Inc. 501 Martindale Street, Suite 400 Pittsburgh, PA 15212-5817 Gary.A.Jeffries@dom.com</p>
<p>Bobby Singh Integrays Energy Services, Inc. 300 West Wilson Bridge Road, Suite 350 Worthington, OH 43085 bsingh@integraysenergy.com</p>	<p>Douglas E. Hart Greater Cincinnati Health Council 441 Vine Street, Suite 4192 Cincinnati, OH 45202 dhart@douglasshart.com</p>
<p>David F. Boehm, Esq., Michael Kurtz, Esq. Counsel for Ohio Energy Group Boehm, Kurtz & Lowry 36 East Seventh Street, Suite 1510 Cincinnati, Ohio 45202 dboehm@bkllawfirm.com</p>	<p>Barth E. Royer, Esq. Counsel for the Ohio Environmental Council and Dominion Retail, Inc. 33 S. Grant Street Columbus, Ohio 43215 barthroyer@aol.com</p>
<p>M. Howard Petricoff, Esq. Steven M. Howard, Esq. Counsel for Integrays Energy Services, Inc., Direct Energy Services LLC, Constellation NewEnergy, Inc. and Constellation Energy Commodities Group, Inc., Ohio Association School Business Officials, Ohio School Board Association, Buckeye Association of School Administrators, University of Cincinnati Vorys, Sater, Seymour and Pease LLP 52 East Gay Street P.O. Box 1008 Columbus, Ohio 43216-1008 mhpetricoff@vorys.com</p>	

<p>Sally W. Bloomfield Terrence O'Donnell American Wind Energy Association, Wind on the Wires, Ohio Advanced Energy 100 South Third Street Columbus, Ohio 43215-4236 sbloomfield@bricker.com todonnell@bricker.com</p>	<p>Larry Gearhardt Ohio Farm Bureau Federation 280 N. High Street P.O. Box 182383 Columbus, OH 43218-2383 LGerhardt@ofbf.org</p>
<p>Robert P. Malloy Village of Terrace Park Wood & Lamping 600 Vine Street Suite 2500 Cincinnati, OH 45202 rpmalloy@woodlamping.com</p>	<p>Langdon D. Bell Ohio Manufacturer's Association Bell & Royer Company, LPA 33 South Grant Avenue Columbus, OH 43215-3927 LBell33@aol.com</p>
<p>Mary W. Christensen, Esq. Counsel for People Working Cooperatively, Inc. Christensen Christensen Donchatz Kettlewell & Owens, LLC 100 East Campus View Blvd., Suite 360 Columbus, Ohio 43235 mchristensen@columbuslaw.org</p>	<p>Henry W. Eckhart, Esq. The Natural Resources Defense Council and The Sierra Club of Ohio 50 W. Broad Street, #2117 Columbus, Ohio 43215 henryeckhart@aol.com</p>
<p>Craig G. Goodman, Esq. National Energy Marketers Association 3333 K Street, N.W., Suite 110 Washington, DC 20007 cgoodman@energymarketers.com</p>	<p>Douglas M. Mancino The Commercial Group, Wal-Mart Stores East, LP Sam's Club East McDermott Will & Emery LLP 2049 Century Park East Suite 3800 Los Angeles, CA 90067-3218 dmancino@mwe.com</p>

Stipulation Attachment 1

Electric Security Plan Price Structure (Note 1)

Generation

- Avoidable Generation Charges
 - Price-to-Compare (PTC)
 - Base Generation (PTC-BG)
 - Fuel, Purchased Power & Emission Allowances (PTC-FPP)
 - Annually Adjusted Component (PTC-AAC)
- Unavoidable Generation Charges
 - System Resource Adequacy (SRA)
 - Capacity Dedication (SRA-CD)
 - Market Capacity Purchases (SRA-SRT) (Note 2)
 - Regulatory Transition Charge (RTC)

Transmission

- Avoidable Transmission Charge (TCR)

Distribution

- Infrastructure Modernization (DR-IM)
- Energy Efficiency (DR-SAW)
- Economic Competitiveness Fund (DR-ECF)

Note 1: This price structure excludes various existing charges and riders that are not specifically identified in Duke Energy Ohio's ESP Application.

Note 2: Market Capacity Purchases (Rider SRA-SRT) may be avoidable by non-residential consumers under certain conditions further described in paragraph 17.

DUKE ENERGY OHIO**Electric Security Plan Revenue**
(\$ in 000's)

	PTC-BG (Little's)	Generation Riders	Transmission Distribution & Other	Total Revenue
	(b)	(c)	(e)	(f)
2007 Actual Revenue				
Total Revenue	21,894,973			
Less: Shoppers	749,929			
Total Non-Shopper Revenue	21,145,044			
2009 ESP Adjustments				
Transfer Base Fuel to PTC-FPP	(263,319)	263,319		
Terminate Residential RTC		(47,299)		(47,299)
Base Generation Increase	83,327			83,327
Adjusted 2009 Non-Shopper Revenue	\$ 614,106	\$ 73,202	\$ 697,686	\$ 508,319
2010 ESP Adjustments				
Base Generation Increase	38,047			38,047
Adjusted 2010 Non-Shopper Revenue	\$ 652,153	\$ 73,202	\$ 697,686	\$ 608,319
2011 ESP Adjustments				
Terminate Non-Residential RTC		(73,202)		(73,202)
Base Generation Increase	97,196			97,196
Adjusted 2011 Non-Shopper Revenue	\$ 749,349	\$ -	\$ 697,686	\$ 508,319
				\$ 1,955,354

Note 1: Generation riders include PTC-FPP, PTC-AAC, SRA-CD and SRA-SRT. Such riders will be updated pursuant to the Application and/or Stipulation.

Revenue by Tariff (Non-Shoppers)

	2007			2009			2010			2011		
	Sales	PTC-BG	Total Revenue	PTC-BG	Total Revenue	% Increase	PTC-BG	Total Revenue	% Increase	PTC-BG	Total Revenue	% Increase
Rate RS - Residential	7,701,750	\$ 312,468	\$ 777,644	\$ 277,629	\$ 791,477	1.8%	\$ 292,593	\$ 806,441	1.9%	\$ 292,593	\$ 806,441	0.0%
Rate DS - Distribution Secondary	6,613,929	270,710	604,712	204,022	617,387	2.1%	214,203	630,568	2.1%	274,073	644,278	2.2%
Rate DM - Distribution Second Small	566,530	25,229	68,471	19,396	69,693	1.8%	20,668	70,965	1.8%	27,312	72,286	1.9%
Rate DP - Distribution Primary	2,525,438	80,073	182,108	52,243	185,727	2.0%	56,007	188,491	2.0%	70,330	193,405	2.1%
Rate TS - Transmission	3,494,041	98,311	200,404	59,144	204,748	2.2%	63,662	209,266	2.2%	78,652	213,964	2.2%
Rate EH - Electric Space Heating	81,852	2,172	5,872	1,261	5,981	1.9%	1,374	6,094	1.9%	2,039	6,212	1.9%
Rate GSFL - Unmetered Small Fixed	29,194	1,900	3,605	1,620	3,689	2.3%	1,707	3,776	2.4%	1,994	3,867	2.4%
Rate Lighting	123,535	2,958	13,726	1,560	13,855	0.9%	1,695	13,990	1.0%	2,106	14,130	1.0%
Rate ORH - Optional Heating	7,816	227	636	188	647	1.7%	199	658	1.7%	199	658	0.0%
Rate SFL-ADPL - Small Fixed Load	614	40	76	35	78	2.6%	36	79	1.3%	42	81	2.5%
Rate TD - Optional Time of Day	345	10	31	8	31	0.0%	9	32	3.2%	9	32	0.0%
Total	21,145,044	\$ 794,098	\$ 1,857,285	\$ 614,106	\$ 1,893,313	1.9%	\$ 652,153	\$ 1,931,360	2.0%	\$ 749,349	\$ 1,955,354	1.2%

Duke Energy Ohio

**Electric Security Plan
PTC - BG and Rider RTC
(\$ per kWh except where noted)**

	Existing Price		2009		2010		2011		
	Big 'G' A	Rider RTC B	Little 'g' C = A - B	PTC-BG D	Rider RTC E	PTC-BG F	Rider RTC G	PTC-BG H	Rider RTC I
Rate RS, Residential Service									
Summer, First 1000 kWh	5.0664	0.6484	4.4180	4.0238	-	4.2345	-	4.2345	-
Summer, Additional kWh	6.3534	0.7556	5.5978	5.3622	-	5.6265	-	5.6265	-
Winter, First 1000 kWh	5.0664	0.6484	4.4180	4.0238	-	4.2345	-	4.2345	-
Winter, Additional kWh	2.0546	0.3877	1.6669	0.8915	-	0.9770	-	0.9770	-
Rate ORH, Optional Residential Service									
Summer, First 1000 kWh	4.7202	0.7760	3.9442	3.6637	-	3.8801	-	3.8801	-
Summer, Additional kWh	5.6310	0.9044	4.7266	4.8109	-	4.8452	-	4.8452	-
Winter, First 1000 kWh	4.7200	0.7760	3.9440	3.6635	-	3.8598	-	3.8598	-
Winter, Additional kWh	2.5057	0.4640	2.0417	1.3606	-	1.4849	-	1.4849	-
Winter, kWh greater than 150 times demand	1.6156	0.3386	1.2770	0.4349	-	0.5021	-	0.5021	-
Rate TD, Optional Time-of-Day Rate									
Summer, On-Peak kWh	10.6570	1.6491	9.0079	9.8380	-	10.2813	-	10.2813	-
Summer, Off-Peak kWh	1.6734	0.3578	1.3156	0.4850	-	0.5846	-	0.5846	-
Winter, On-Peak kWh	8.4072	1.3261	7.0811	7.4982	-	7.8479	-	7.8479	-
Winter, Off-Peak kWh	1.6739	0.3578	1.3161	0.4856	-	0.5652	-	0.5652	-
Rate CUR, (Rev. Class 01, 02, 04, 16 & 18 only)									
Summer, First 1000 kWh	5.0664	0.6484	4.4180	3.3754	0.6484	3.5861	0.6484	4.4537	-
Summer, Additional kWh	6.3534	0.7556	5.5978	4.6066	0.7556	4.8709	0.7556	5.9014	-
Winter, First 1000 kWh	5.0664	0.6484	4.4180	3.3754	0.6484	3.5861	0.6484	4.4537	-
Winter, Additional kWh	2.0546	0.3877	1.6669	0.5038	0.3877	0.5893	0.3877	1.0658	-
Rate DS, Secondary Distribution Voltage									
First 1000 kW (\$ per kW)	\$ 7.6574	-	\$ 7.6574	\$ 7.9637	-	\$ 8.2822	-	\$ 8.6135	-
Additional kW (\$ per kW)	\$ 6.0574	-	\$ 6.0574	\$ 6.2897	-	\$ 6.5517	-	\$ 6.8138	-
Billing Demand Times 300	2.8568	0.8992	1.9576	0.8266	0.8992	0.9454	0.8992	1.9682	-
Additional kWh	1.6366	0.0100	1.6266	0.4488	0.0100	0.5148	0.0100	0.5957	-
Rate GS-FL, Optional Unmetered									
kWh Greater Than or Equal to 540 Hours	7.1760	0.6719	6.5041	5.5458	0.6719	5.8444	0.6719	6.8267	-
kWh Less Than 540 Hours	8.1484	0.6719	7.4765	6.5571	0.6719	6.8961	0.6719	7.9205	-
Rate SFL-ADPL, Optional Unmetered									
All kWh	7.1780	0.6719	6.5041	5.5458	0.6719	5.8444	0.6719	6.8267	-
Rate EH, Optional Electric Space Heating									
All kWh	3.3405	0.6719	2.6686	1.5569	0.6719	1.6959	0.6719	2.5123	-

Duke Energy Ohio

**Electric Security Plan
PTC - BG and Rider RTC
(\$ per kWh except where noted)**

	Existing Price		2009		2010		2011	
	Big 'G' A	Rider RTC B	PTC-BG D	Rider RTC E	PTC-BG F	Rider RTC G	PTC-BG H	Rider RTC I
Rate DM, Secondary Dist. Service, Small								
Summer, First 2800 kWh	7.0728	1.2166	4.8938	1.2166	5.1880	1.2166	6.7106	-
Summer, Next 3200 kWh	1.8173	0.3221	0.3226	0.3221	0.3982	0.3221	0.7989	-
Summer, Additional kWh	0.9004	0.2484	(0.5573)	0.2484	(0.5188)	0.2484	(0.2325)	-
Winter, First 2800 kWh	5.6302	0.9822	3.6278	0.9822	3.8621	0.9822	5.0879	-
Winter, Next 3200 kWh	1.8172	0.3203	0.3243	0.3203	0.3989	0.3203	0.7988	-
Winter, Additional kWh	0.8633	0.2442	(0.6017)	0.2442	(0.5558)	0.2442	(0.2742)	-
Rate DP, Service at Primary Dist. Voltage								
First 1000 kW (\$ per kW)	\$ 6.9150	-	\$ 7.1916	-	\$ 7.4783	-	\$ 7.7784	-
Additional kW (\$ per kW)	\$ 5.4550	-	\$ 5.6732	-	\$ 5.9001	-	\$ 6.1361	-
Billing Demand Times 300	2.8698	0.6850	1.0751	0.6850	1.1953	0.6850	2.0053	-
Additional kWh	1.7782	0.0100	0.5940	0.0100	0.6880	0.0100	0.7549	-
Rate TS, Service at Transmission Voltage								
First 50,000 kVA (\$ per kVA)	\$ 8.3830	-	\$ 8.7183	-	\$ 9.0671	-	\$ 9.4297	-
Additional kVA (\$ per kVA)	\$ 6.0430	-	\$ 6.2847	-	\$ 6.5361	-	\$ 6.7976	-
Billing Demand Times 300	1.9894	0.6590	0.2751	0.5590	0.3583	0.5590	1.0038	-
Additional kWh	1.6481	0.0100	0.4587	0.0100	0.5273	0.0100	0.6086	-
Rate TL, Traffic Lighting Service								
All kWh	1.9148	0.2290	0.5171	0.2290	0.5987	0.2290	0.8086	-
Rate SL, Street Lighting Service								
Rate OL, Outdoor Lighting Service								
Rate NSU, Street Lighting								
Rate NSP, Private Outdoor Lighting								
Rate SE, Street Lighting Service								
All kWh	3.1094	0.2290	1.7595	0.2290	1.8888	0.2290	2.2524	-
Rate SC, Street Lighting								
Energy Only - All kWh	1.3749	0.2290	(0.0444)	0.2280	0.0128	0.2280	0.3013	-
Units - All kWh	3.1094	0.2290	1.7595	0.2280	1.8888	0.2290	2.2524	-
Rate UOL, Unmetered Outdoor Lighting								
All kWh	1.4148	0.2290	(0.0029)	0.2290	0.0559	0.2290	0.3462	-

Stipulation Attachment 3
Page 1 of 2

Duke Energy Ohio
SmartGrid Component of Rider DR-IM

Residential Rate Cap (\$ / monthly bill)

Residential Cumulative Rate Cap

	2009	2010	2011	2012	2013	2014
	\$0.50	\$1.50	\$3.25	\$5.25	\$5.50	\$6.50

Annualized Revenue Requirement

Gross Plant	\$19,968,050	\$59,904,149	\$159,060,806	\$261,131,407	\$305,924,613	\$337,169,767
Accumulated Depreciation	787,909	2,363,728	10,758,405	26,601,808	47,859,075	71,934,374
Net Plant	\$19,180,141	\$57,540,422	\$148,302,400	\$234,529,598	\$258,065,538	\$265,335,393
Accum Def Income Tax	1,375,793	4,127,379	16,413,701	36,168,285	59,315,449	81,904,255
Rate Base	\$17,804,348	\$53,413,043	\$131,888,699	\$198,361,313	\$198,750,089	\$183,431,138
Return on Rate Base (allowed)	11.69%	11.69%	11.69%	11.69%	11.69%	11.69%
Return on Rate Base	\$2,081,328	\$6,243,985	\$15,417,789	\$23,198,437	\$23,233,886	\$21,443,100
Operating Expenses						
Depreciation	\$787,909	\$1,575,816	\$8,394,678	\$15,843,403	\$21,257,266	\$23,975,289
Annualized Property Taxes	399,361	798,722	3,181,216	5,222,628	6,118,482	6,743,395
Amortization of PISCC	-	39,936	99,157	102,071	44,793	31,245
Metering (net of Severance)	79,099	158,199	(212,355)	(2,288,336)	(5,502,112)	(7,413,897)
IT & Communication Costs	539,160	1,078,318	4,150,635	7,557,189	9,815,892	11,027,998
Customer Service (net)	183,801	367,202	1,164,468	1,222,643	391,654	188,510
Distribution System	70,817	141,634	500,101	816,020	1,065,108	1,294,006
Other O&M Reductions (net)	-	-	(81,453)	(594,605)	(1,021,066)	(1,175,847)
Total Operating Expenses	\$2,059,947	\$4,159,831	\$17,196,446	\$27,880,993	\$32,170,007	\$34,670,709
Annualized Revenue Requirement	\$4,141,276	\$10,403,816	\$32,614,235	\$51,069,430	\$55,403,892	\$56,113,809

Revenue Requirement Allocation

Residential Allocation						
Residential Revenue Requirement	85%	\$8,843,243	\$27,722,099	\$43,409,016	\$47,093,308	\$47,696,737
Non-residential Allocation	15%	\$1,580,572	\$4,892,135	\$7,660,415	\$8,310,584	\$8,417,071
Non-residential Revenue Requirement						

Duke Energy Ohio
SmartGrid Component of Rider DR-IM
Allocation of SmartGrid Revenue Requirement by Non-residential Tariff

Annual Revenue Requirement	# of Bills	Allocation	Projected Non-Residential Rate (\$ / Monthly Bill)				
			2009	2010	2011	2012	2013
			\$621,191	\$1,560,572	\$4,892,135	\$7,660,415	\$8,310,584
DS - Single Phase	53,386	4.8%	\$0.56	\$1.41	\$4.43	\$6.93	\$7.52
DS - Single Phase Load Mgmt	12,610	1.1%	\$0.56	\$1.41	\$4.43	\$6.93	\$7.52
DS - Three Phase	177,302	32.1%	\$1.12	\$2.82	\$8.85	\$13.86	\$15.04
DS - Three Phase Load Mgmt	947	1.7%	\$11.24	\$28.24	\$88.54	\$138.65	\$150.41
EH - Single Phase	2,398	0.2%	\$0.58	\$1.41	\$4.43	\$6.93	\$7.52
EH - Three Phase	2,626	0.5%	\$1.12	\$2.82	\$8.85	\$13.86	\$15.04
DM - Single Phase	351,836	31.8%	\$0.56	\$1.41	\$4.43	\$6.93	\$7.52
DM - Three Phase	118,436	21.4%	\$1.12	\$2.82	\$8.85	\$13.86	\$15.04
DP - Standard	2,785	5.0%	\$11.24	\$28.24	\$88.54	\$138.65	\$150.41
DP - Load Mgmt	672	1.2%	\$11.24	\$28.24	\$88.54	\$138.65	\$150.41

Allocation by Non-residential Tariff

	Customer Charge	Number of Customer Bills	Per Case No. 05-59-EL-AIR	
			Annual Customer Charge Amount	% of Total
Distribution Secondary (DS)				
Single Phase	\$7.50	53,386	\$400,395	4.8%
Single Phase Load Mgmt	\$7.50	12,610	\$94,575	1.1%
Three Phase	\$15.00	177,302	\$2,659,530	32.1%
Three Phase Load Mgmt	\$150.00	947	\$142,050	1.7%
		244,245	\$3,296,550	39.8%
Electric Space Heating (EH)				
Single Phase	\$7.50	2,398	\$17,985	0.2%
Three Phase	\$15.00	2,626	\$39,390	0.5%
		5,024	\$57,375	0.7%
Distribution Secondary - Small (DM)				
Single Phase	\$7.50	351,836	\$2,638,770	31.8%
Three Phase	\$15.00	118,436	\$1,776,540	21.4%
		470,272	\$4,415,310	53.3%
Distribution Primary (DP)				
Standard Load Mgmt	\$150.00	2,785	\$417,750	5.0%
	\$150.00	672	\$100,800	1.2%
		3,457	\$518,550	6.3%
Total Non-residential		722,988	\$8,287,785	100.0%

Note: Allocation excludes transmission customers (Rate TS)

Stipulation Attachment 4

**Non-Residential Interruptible Program &
Backup Generating Facility Program
Key Provisions**

- **Contract Term:** 1 - 3 years
- **Capacity Payments:**
 - **Reliability Program:** Based on avoided cost of generation resources, and validated against market-based capacity resources
 - **Economic Program:** None
- **Energy Payments:**
 - **Reliability Program:** Based on avoided MISO hourly LMP
 - **Economic Program:** Based on XX% avoided MISO hourly LMP (less \$30/MWh)
- **Advanced Notification:** 10 minutes – 12 hours
- **Buy-Through:** Available during non-MISO declared events at 125% of hourly LMP
- **Load Reduction:** Customer selects fixed reduction or firm demand level
- **Program Options:** Summer program or Year-round program
- **Generator Requirements:**
 - **Metering:** Additional metering may be required
 - **Periodic Testing:** Required to demonstrate availability and capacity value
 - **Load Shifting:** Other load shifting resources allowed
- **RTP Eligibility:** Duplicate compensation for same demand reduction is not allowed
- **Hours/Number of Interruptions per Year:** Customer selects from available options
- **Duke Energy:** May call up to 2 interruptions/year without buy-through capability
- **MISO Module E Requirements:**
 - MISO may call 5 interruptions per year without buy-through capability
 - MISO can call whenever EEA 2, Step 1 Emergency Alert Level is declared (max 5)
 - Minimum event duration of 4 hours
 - MISO non-compliance costs based on 125% of hourly LMP and RSG prices
 - Failure to comply with MISO declared events could result in expulsion from program

Stipulation Attachment 5

Settlement Between DE-Ohio and the City of Cincinnati

A. Economic Development Contract

Duke Energy Ohio, Inc., (DE-Ohio) and the City of Cincinnati (City), desire to enter a contract to provide economic development funds to the City for the purpose of creating jobs and fostering economic development within the City of Cincinnati.

The City is a mercantile customer of DE-Ohio with an annual load in excess of 42 million MWH. This contract furthers the state policy set forth in R.C. 4928.02 by strengthening the economy within the City through the creation of a significant number of jobs over a three year time period during a time of general economic duress.

The project proposed by the City, the development of a street car system in downtown Cincinnati, extending to the Over-the Rhine neighborhood, is not a retail project and is projected to create both construction-phase jobs, as well as permanent jobs within the City. If, for any reason, the City does not go forward with the street car project it will, with the Commission's approval, substitute another economic development project set forth in its reports to the Commission. The City is committed to projects that create a minimum of twenty-five (25) jobs during the three-year ESP period. The average hourly rate of the jobs shall exceed 150% of the federal minimum wage.

The City is a major employer in the Cincinnati area. It has significant financial resources to draw upon. The street car project may include federal, state, local, and/or private support in addition to the monies approved by the Public Utilities Commission of Ohio, if any. There are significant ancillary benefits to the project including significant additional tax revenues. The largest benefit is expected to come from the economic and business development along the street car corridor. The streetcar system alone is expected to consume approximately 7.5 million kWh per year, once fully operational. The City agrees to maintain the incremental employment for a period of three years beyond the date of initial operation.

DE-Ohio agrees to provide the City \$2 million during 2010, and \$1 million during 2011. DE-Ohio shall apply for recovery of half the funds equal to \$1 million during 2010, and \$500,000 during 2011 through its Rider DR-ECF conditioned upon approval for recovery by the Public Utilities Commission of Ohio (Commission) through a case filed during 2009 and upon the City meeting project milestones including but not limited to the creation of jobs within the City of Cincinnati. The City agrees to create a minimum of twenty-five (25) jobs through direct employment or indirect employment. Direct employment shall be incremental employees dedicated to the project above those employed by the City on January 1, 2009. Indirect employment shall be new jobs associated with a project sponsored by the City.

The City shall maintain the increased level of employment for at least three years after the date of initial operation. If the City does not maintain the increased level of employment DE-Ohio shall refund \$1.5 million to customers over a twenty-four (24) month period.

The City and DE-Ohio shall report to the Commission the number of jobs created and the forecast of incremental jobs annually beginning January 1, 2010, and ending Date TBD.

This Economic Development Contract shall terminate upon completion of reporting during the three years after initial operation.

B. Streetlights

DE-Ohio agrees to purchase from the City approximately 20,263 existing streetlights, which are identified in Attachment A, that are attached to DE-Ohio's utility poles located outside the City's central business district. The purchase is subject to the following terms and conditions:

1. The purchase price shall be approximately \$4 million for all streetlights owned by the City outside of the City's central business district.
2. DE-Ohio shall remit the full purchase price to the City within 120 days of the execution of a Stipulation. The City shall execute a bill of sale transferring title to the streetlights to DE-Ohio when DE-Ohio remits the full purchase price. The \$4 million shall be designated for the City's street car project, or another economic development project as determined by the City should the street car project not go forward. A portion of the \$4 million may also be designated by the City to offset the cost of those streetlights required to be replaced under the terms of the agreement.
3. Upon payment of the purchase price by DE-Ohio, the City shall be charged consistent with the energy portion of Rate OULS (or its successor tariff) and with the maintenance portion of Rate OL-E (or its successor tariff). The existing streetlight maintenance contract will be rescinded. Should any of the 20,263 streetlights require replacement following transfer of the streetlights to DE-Ohio, such replacement shall be under the terms of the capital equipment portion of DE-Ohio's Rate OL-E (or its successor tariff) except as stated below. The term "streetlight" is inclusive of a bracket arm, luminaries and associated wiring.
4. For the first ten years following purchase, regardless of the actual number of streetlights replaced, DE-Ohio agrees to charge the City on an annual basis for the actual cost of streetlights replaced but not to exceed the replacement costs of 2000 streetlights. Should any more than 2000 streetlights be replaced within a calendar year, the capital and carrying

costs to replace those additional streetlights shall be carried over to the following calendar year and paid during that year, subject to the same 2,000 streetlight limit. At the end of the ten year period, the City shall be responsible for any balance remaining associated with streetlights replaced during the ten year period.

The Parties agree to work together to determine the cost-effectiveness of installing new energy efficient lighting technologies as replacement fixtures.

5. The Parties agree that DE-Ohio shall remove any third-party (non-City of Cincinnati) attachments that may exist on the streetlights.

C. Life Safety Signs

On or before December 31, 2009, the City will remove all "Life Safety Signs" from DE-Ohio's utility poles. Life Safety Signs are those signs described in Attachment B.

The City further agrees that it will not install any new or additional Life Safety Signs on DE-Ohio's utility poles.

In the event DE-Ohio discovers the attachment of Life Safety Signs to its utility poles after December 31, 2009, the Parties agree that the City will remove those signs within 30 days' notice from DE-Ohio.

D. Remaining, Existing Attachments

The Parties agree to work together to promptly address any situations where a City attachment may be a violation of the NESC. The Parties further agree that any known violations that create an immediate hazard may be repaired or removed without notice to the other Party.

The Parties will work together to establish a no-cost Application and Permit for Attachment Process and Sign Guidelines. The City shall not be required to perform an audit of its existing attachments. In addition, the City shall not be required to go through the Application and Permit Process for existing attachments until DE-Ohio notifies the City of the existence of non-permitted or unauthorized attachments. Upon such notification the City shall submit each such attachment to the agreed upon Application and Permit for Attachment Process within 30 days.

This provision is not intended to contradict or replace the terms and conditions to which they are subject pursuant to the Application and Permit for Attachment Process.

E. Future Attachments

The Parties agree that they will utilize the Application and Permit for Attachment Process and the Sign Guidelines to be jointly established by the Parties with respect to any future requests of the City to make attachments to DE-Ohio's utility poles.

F. Permit Fees

The Parties agree that DE-Ohio shall support a revision to the pole attachment (PA) tariff filed in connection with its electric distribution rate case, pending under Case No. 08-709-EL-AIR. The revision shall exempt municipalities from attachment fees provided those municipalities timely remove life safety signs, equipment, and lights from DE-Ohio's utility poles, enter into pole attachment agreements or otherwise submit to an application and permit process for any future pole attachments, submit any existing, non-permitted (*i.e.*, unauthorized) attachments to an application and permit process, and timely correct any attachments that violate NESC or other applicable regulation.

The above revision to the pole attachment tariff shall ensure that the City of Cincinnati will not be responsible for paying pole attachment fees for existing or new attachments now or in the future. If the revisions to the pole attachment tariff are not accepted by the PUCO, the City and DE-Ohio will enter into a pole attachment agreement which clarifies that the City will not be responsible for paying pole attachment fees for existing or new attachments now or in the future.

The Parties agree that effective January 1, 2009, that if the relocation of existing DE-Ohio overhead and/or underground electric facilities in the public rights-of-way are necessary to accommodate a City public improvement project, then the City shall not assess DE-Ohio street opening permit fees typically charged in order to compensate the City for its costs to review and process DE-Ohio's relocation proposal.

G. Future Audit

The Parties agree that DE-Ohio may, at its discretion and at its sole expense, conduct an audit of its system for purposes of identifying attachments.

The Parties further agree that if the audit reveals the existence of non-permitted or unauthorized City attachments or City attachments that violate the NESC or other applicable regulation, the Parties agree that the City will remove or make application for the attachments within 30 days' notice from DE-Ohio. The Parties further agree that any known violations that create an immediate hazard may be repaired or removed without notice to the other Party.

H. Miscellaneous Provisions

The City agrees that it will not assert any opposition to the proposed pole attachment tariff within DE-Ohio's electric distribution rate case, pending under Case No. 08-709-EL-AIR.

On Behalf of DE-Ohio

On Behalf of the City of Cincinnati

Duke Energy Ohio

Electric Security Plan Shopping Credit
(¢ per kWh except where noted)

	Big 'G' A	Rider RTC B	Little 'g' C = A - B	Shopping Credit D = 6% X C
Rate CUR, (Rev. Class 01, 02, 04, 16 & 18 only)				
Summer, First 1000 kWh	5.0664	0.6484	4.4180	0.2651
Summer, Additional kWh	6.3534	0.7556	5.5978	0.3359
Winter, First 1000 kWh	5.0664	0.6484	4.4180	0.2651
Winter, Additional kWh	2.0546	0.3877	1.6669	0.1000
Rate DS, Secondary Distribution Voltage				
First 1000 kW (\$ per kW)	\$ 7.6574	-	\$ 7.6574	\$ 0.4594
Additional kW (\$ per kW)	\$ 6.0574	-	\$ 6.0574	\$ 0.3634
Billing Demand Times 300	2.8568	0.8992	1.9576	0.1175
Additional kWh	1.6366	0.0100	1.6266	0.0976
Rate GS-FL, Optional Unmetered				
kWh Greater Than or Equal to 540 Hours	7.1760	0.6719	6.5041	0.3902
kWh Less Than 540 Hours	8.1484	0.6719	7.4765	0.4486
Rate SFL-ADPL, Optional Unmetered				
All kWh	7.1760	0.6719	6.5041	0.3902
Rate EH, Optional Electric Space Heating				
All kWh	3.3405	0.6719	2.6686	0.1601
Rate DM, Secondary Dist. Service, Small				
Summer, First 2800 kWh	7.0728	1.2166	5.8562	0.3514
Summer, Next 3200 kWh	1.8173	0.3221	1.4952	0.0897
Summer, Additional kWh	0.9004	0.2484	0.6520	0.0391
Winter, First 2800 kWh	5.6302	0.9822	4.6480	0.2789
Winter, Next 3200 kWh	1.8172	0.3203	1.4969	0.0896
Winter, Additional kWh	0.8633	0.2442	0.6191	0.0371
Rate DP, Service at Primary Dist. Voltage				
First 1000 kW (\$ per kW)	\$ 6.9150	-	\$ 6.9150	\$ 0.4149
Additional kW (\$ per kW)	\$ 5.4550	-	\$ 5.4550	\$ 0.3273
Billing Demand Times 300	2.8898	0.6850	2.2048	0.1323
Additional kWh	1.7782	0.0100	1.7682	0.1061
Rate TS, Service at Transmission Voltage				
First 50,000 kVA (\$ per kVA)	\$ 8.3830	-	\$ 8.3830	\$ 0.5030
Additional kVA (\$ per kVA)	\$ 6.0430	-	\$ 6.0430	\$ 0.3626
Billing Demand Times 300	1.9984	0.5590	1.4404	0.0864
Additional kWh	1.6481	0.0100	1.6381	0.0983
Rate TL, Traffic Lighting Service				
All kWh	1.9148	0.2290	1.6858	0.1011
Rate SL, Street Lighting Service				
Rate OL, Outdoor Lighting Service				
Rate NSU, Street Lighting				
Rate NSP, Private Outdoor Lighting				
Rate SE, Street Lighting Service				
All kWh	3.1084	0.2290	2.8804	0.1728
Rate SC, Street Lighting				
Energy Only - All kWh	1.3749	0.2290	1.1459	0.0688
Units - All kWh	3.1084	0.2290	2.8804	0.1728
Rate UOLS, Unmetered Outdoor Lighting				
All kWh	1.4148	0.2290	1.1858	0.0711

Stipulation Attachment 7

Kroger Co.
List of Transformers

<u>Address</u>	<u>Suburb</u>	<u>Vintage year</u>	<u>Transformer #</u>	<u>Size</u>	<u>Serial #</u>
11390 Montgomery Rd	Montgomery	1988	X24-24	750	88JG207279
550 Old St Rt 74	Mt Carmel	1986	6C-2874	500	HI2844223296
550 Old St Rt 74	Mt Carmel	1985	6C-2873	500	8560000578
2443 Harrison	Westwood	1973	K9-3	500	K855325T73AA
428 Oxford State Rd	Amanda	1990	BTO-2532	1000	21353724D1
6725 Dick Flynn Bl	Goshen	2000	CLO-3651	750	HI1250030300
3760 Paxton	Hyde Park	1989	HMO-5303	1500	89J451144
1260 Ohio Pk	Amelia	1994	20C 2092	1000	93B50078
3491 North Bend Rd W	White Oak	1988	J14-C-6	750	88JG203005
2900 US Rt 22-3 W	20 Mi Stand	1986	W83-243	1000	86JA601214
1868 Seymour	Bond Hill	1990	Q15-18	500	90A39476
7132 Hamilton	N Coll Hill	2001	HMO-3286	750	HI3267004301
6401 Colerain	Grosbeck	1986	K16-15	1000	86JB606082
6950 Miami Rd	Madeira	2002	HMO-5318	750	HI3763654202
8241 Vine	Hartwell	1981	P17-5	500	NO17837TL5A
1 Corry W	Corryville	1981	O9-11-33-11	500	81ZB61A001
800 Main	Milford	1993	CLO 11	1500	SQ930117A1
800 Loveland Maderia Rd	Loveland	1980	Z30-1	750	79JM111212
5575 Galbraith Rd E	Kenwood	1988	V17-47	500	88J246229
7401 Wooster Pk	Plainville	2000	W-11-363	1000	8HI4470994799
4777 Kenard	Winton Pl	1994	O12-652	750	Q248614TWJ
4777 Kenard	Winton Pl	1996	O12-651	500	3480424395
12164 US Rt 42	Sharonville	1994	U26-236	750	93B50067
5420 Liberty Fairfield Rd	Maustown	1998	58BT-1493	750	HI3930354697
8800 Beechmont	Cherry Grv	1988	5C 2888	750	88J241314
2280 Ferguson Rd	Westwood	1995	J8-682	750	
10595 Springfield Rd	Woodlawn	2000	P22-215	1000	HI4286254499
5830 Harrison	Dent	2000	HMO-255	1000	HI4402044200
2100 Beechmont	Mt Wash	2002	V6-600	2000	HI3301783503
210 Sterling Run Blvd	Mt Orab	2000	BRO-87	1000	HI2912572300
4001 St Rt 128	Hooven	1999	HMO-1950	1000	HI3776894398
5100 Terra Firma Dr	Mason R	2003	WRO-3462	750	HI2874553003
11350 Grooms	Blue Ash	1994	V24-500	300	939004973
4530 Eastgate Bl	Glen Este	1989	6C 460	500	88JH22403
9690 Colerain	Bevis	1997	J20-346	750	19572101597
7580 Beechmont	Forestville	2003	HMO-7553	2000	HI3654894003
8328 Princeton Glendale R	Port Union	1990	BTO-3784	750	90J761221
1093 St Rt 28	Mulberry	1991	25C-1931	750	P814107TWF
560 Wessel Dr	Fairfield	2002	BTO-3779	1000	HI1676431102
1212 Kemper Rd W	Forest Pk	1987	N25-15	750	876007549
5080 Delhi	Delhi Hls	2002	J5-34	750	HI3962754502
7855 Tylersville Rd	Maud	1973	78BT-77	750	2-56191
6165 GLENWAY AVE.	WESTWOOD	2005	HMO-7726	750	HI509059004

Stipulation Attachment 8

**THE CINCINNATI GAS & ELECTRIC COMPANY
SETTLEMENT DISTRIBUTION RATES
CASE NO. 05-59-EL-AIR**

LINE NO.	RATE CODE (A)	CLASS / DESCRIPTION (B)	CUSTOMER BILLS (C)	SALES (D)	DISTRIBUTION REVENUE (F)	% OF REVENUE (G)
				(KWH)	(\$)	(%)
		<u>RESIDENTIAL</u>				
1	RS	RESIDENTIAL SERV	7,753,637	7,137,886,740	177,285,069	
2	ORH	OPTIONAL HEATING SERVICE	2,447	7,872,162	155,362	
3	TD	OPTIONAL TIME OF DAY SERVICE	653	416,418	13,224	
4		TOTAL RESIDENTIAL	7,756,737	7,146,175,320	177,453,655	100.00%
		<u>NON-RESIDENTIAL</u>				
5	DS	SEC DISTRIBUTION SERV	244,245	7,362,160,419	82,130,326	66.77%
6	DS RTP	SEC DISTRIBUTION SERV RTP	346	9,972,922	183,871	0.15%
7	GSFL	UNMTRED SMALL FIXED LOAD	4,651	29,437,207	474,650	0.39%
8	EH	ELEC SPACE HTG	5,024	106,271,601	1,264,195	1.03%
9	DM	SEC DIST SERV-SMALL	470,272	535,560,094	17,595,273	14.30%
10	DP	PRIM DIST VOLTAGE	3,457	2,221,867,890	19,525,563	15.87%
11	DP RTP	PRIM DIST VOLTAGE RTP	300	78,956,543	594,805	0.48%
12		TOTAL DISTRIBUTION	728,295	10,344,226,676	121,768,683	99.00%
13	TS	TRANSMISSION SERV	629	3,270,715,976	1,196,189	0.97%
14	TS RTP	TRANSMISSION SERV RTP	69	71,528,044	36,017	0.03%
15		TOTAL TRANSMISSION	698	3,342,244,020	1,232,206	1.00%
		TOTAL NON-RESIDENTIAL	728,993	13,686,470,696	123,000,889	100.00%

CASE NO. 08 -920-EL-SSO, ET AL
STIPULATION ATTACHMENT 9

1. Reserve Capacity. DE-Ohio will provide existing distribution reserve capacity at no charge for existing load during the ESP period¹ for GCHC member hospitals.
2. Additional Feeder. DE-Ohio will provide an additional distribution feeder to any GCHC member hospital, without an existing second feed, requesting such service. The cost of the additional feeder will be recovered from the requesting GCHC member through an applicable rate Rider or Excess Facilities Charge using a rate of return component no greater than that approved by the Commission in Duke's distribution rate case, Case No. 08-709-EL-AIR.
3. Payment for Available Emergency Generation Capacity. DE-Ohio agrees to compensate GCHC member hospitals who participate in a non-residential capacity pilot program as follows:
 - a. During the first year of the ESP period, participating GCHC members who participate in an approved program consistent with MISO Module E requirements will receive capacity payments at the higher of the market based price or \$40/kW per year. The Parties recommend that DE-Ohio recover Capacity payments through Rider SRA-SRT. If cost recovery is denied DE-Ohio may prospectively adjust capacity payments to a level where the Commission is expected to permit cost recovery. In such event, participating GCHC members shall have the right to withdraw from the program.
 - b. Capacity credits during subsequent years of the ESP period will be based upon DE-Ohio's avoided cost of generation capacity and verified against market-based capacity resources. The Parties recommend that credits be recovered through Rider SRA-SRT. Participating GCHC members shall have the right to withdraw from the program if approved credits are unsatisfactory to them.
 - c. DE-Ohio agrees to compensate GCHC program participants for energy during a capacity call based on the DE-Ohio's avoided cost of energy during an interruption period. During the first year of the ESP period,

¹ The ESP period is defined as the period beginning January 1, 2009 and ending December 31, 2011.

GCHC members participating in the program will receive energy payments at a rate of \$0.11 /kWh. The Parties recommend that DE-Ohio recover Energy payments through Rider PTC-FPP. If cost recovery is denied DE-Ohio may prospectively adjust Energy payments to a level where the Commission is expected to permit cost recovery. In such event, participating GCHC members shall have the right to withdraw from the program.

- d. The maximum number of capacity call hours during any calendar year of the ESP period will be limited to 400 hours.
 - e. The program shall be applicable to existing and new generation capacity of GCHC's participating member hospitals during the ESP period. Duke Energy Ohio guarantees that members of the GCHC having surplus generating assets will be provided each year of the ESP the opportunity to contract that capacity to DE-Ohio as well as additional Capacity up to 3 MW they might add at various times during the ESP.
4. Energy Improvement/Efficiency, Demand-Response and Patient Safety - DE-Ohio agrees to provide funds of \$150k annually (to be paid quarterly beginning January 1, 2009) during the ESP period to GCHC for GCHC to use in support of energy initiatives for its member hospitals, long-term care facilities and other affiliate members including but not limited to, such purposes as energy-related programs for patient safety, reliability, energy efficiency, cost-control, alternative resources, research and development and any related program or administrative expenses.
 5. Onsite Generation Service Tariff – DE Ohio agrees to work with GCHC member hospitals, long-term care facilities and affiliate members to develop an onsite generation service tariff for Commission review and approval. The tariff will include back-up service from DE-Ohio owned on-site generation assets. In case of failure of DE-Ohio on-site generators, the load served by such generator will return to the DE-Ohio system provided such service is available.
 6. Service Improvement for GCHC Hospital Members – DE-Ohio will work with GCHC member hospitals to develop:
 - a. Coordinated Work Plans that enhance communication, advance notice and coordination of operations and maintenance of distribution feeders with

FILE

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke Energy Ohio for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan, Accounting Modifications and Tariffs for Generation Service.) Case No. 11-3549-EL-SSO

In the Matter of the Application of Duke Energy Ohio for Authority to Amend its Certified Supplier Tariff, P.U.C.O. No. 20.) Case No. 11-3550-EL-ATA

In the Matter of the Application of Duke Energy Ohio for Authority to Amend its Corporate Separation Plan.) Case No. 11-3551-EL-UNC

RECEIVED OCT 24 PM 5:20
P.U.C.O.

STIPULATION AND RECOMMENDATION

Rule 4901-1-30, Ohio Administrative Code (O.A.C.), provides that any two or more parties to a proceeding may enter into a written stipulation covering the issues presented in such a proceeding. The purpose of this document is to set forth the understanding and agreement of the parties that have signed below (Signatory Parties or Parties) and to recommend that the Public Utilities Commission of Ohio (Commission) approve and adopt this Stipulation and Recommendation (Stipulation), which resolves all of the issues raised by the parties in this case relative to Duke Energy Ohio's Application for Approval of an Electric Security Plan and Associated Tariffs, for Approval to Amend its Certified Supplier Tariff, and for Approval to Amend its Corporate Separation Plan (Application). This Stipulation is supported by adequate

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.
technician SM Date Processed OCT-25-2011

data and information including, but not limited to, Duke Energy Ohio's Application and testimony filed on June 20, 2011, and the Attachments filed herewith.

The Stipulation represents a just and reasonable resolution of the issues raised in these proceedings, violates no regulatory principle or precedent, and is the product of lengthy, serious bargaining among knowledgeable and capable Parties in a cooperative process, encouraged by this Commission and undertaken by the Parties representing a wide range of interests, including the Commission's Staff, to resolve the aforementioned issues. Although this Stipulation is not binding on the Commission, it is entitled to careful consideration by the Commission. For purposes of resolving all issues raised by these proceedings, the Parties stipulate, agree, and recommend as set forth below.

This Stipulation is a reasonable compromise that balances diverse and competing interests and does not necessarily reflect the position that any one or more of the Parties would have taken had these issues been fully litigated. This Stipulation represents an agreement by all Parties to a package of provisions rather than an agreement to each of the individual provisions included within the Stipulation. The Signatory Parties' agreement to this Stipulation, in its entirety, shall not be interpreted in a future proceeding before this Commission as their agreement to only an isolated provision of this Stipulation.

This Stipulation is submitted for purposes of these proceedings only, and neither this Stipulation nor any Commission Order considering this Stipulation shall be deemed binding in any other proceeding nor shall this Stipulation or any such Order be offered or relied upon in any other proceedings, except as necessary to enforce the terms of this Stipulation.

The Signatory Parties agree that the settlement and resulting Stipulation are a product of serious bargaining among capable, knowledgeable Parties. This Stipulation is the product of an

open process in which all parties were represented by able counsel and technical experts. The Stipulation represents a comprehensive compromise of issues raised by Parties with diverse interests. The Signatory Parties, which include Duke Energy Ohio, Ohio Energy Group, Industrial Energy Users-Ohio, The Office of the Ohio Consumers' Counsel, Ohio Manufacturer's Association, the Commission Staff,¹ City of Cincinnati, Ohio Partners for Affordable Energy, Retail Energy Supply Association, The Greater Cincinnati Health Council, The Ohio Environmental Council, People Working Cooperatively, Inc., Environmental Law & Policy Center, the Kroger Company, Constellation NewEnergy, Inc., Constellation Energy Commodities Group, Inc., FirstEnergy Solutions Corp., EnerNOC, Inc., Vectren Retail, LLC d/b/a/ Vectren Source, AEP Retail Energy Partners LLC, PJM Power Providers Group, Direct Energy Services, LLC, Direct Energy Business LLC, Miami University, the University of Cincinnati, COMPETE Coalition, Duke Energy Retail Sales, LLC, American Municipal Power, Inc., Interstate Gas Supply, Inc., Exelon Generation Company, LLC, the Natural Resources Defense Council, Wal-Mart Stores East, LP, Sam's East, Inc., Cincinnati Bell Inc., and the Council of Smaller Enterprises have signed the Stipulation and adopted it as a reasonable resolution of all issues.² The Signatory Parties believe that the Stipulation that they are recommending for Commission adoption presents a fair and reasonable result.

The Signatory Parties agree that the settlement, as a package, benefits ratepayers, and is in the public interest. The Signatory Parties agree that the settlement package does not violate any important regulatory principle or practice.

¹ The Commission Staff is a party for the purpose of entering into this Stipulation by virtue of O.A.C. 4901-1-10(C).

² Industrial Energy Users-Ohio (IEU-Ohio) supports the Stipulation. However, IEU-Ohio takes no position regarding Sections VI.B., VII.A., VII.M., VIII.A., IX.M., IX.U.(ii), and IX.AA., or does not support or oppose such sections, so that IEU-Ohio's support for the Stipulation may not be used as precedent in any other proceeding.

WHEREAS, all of the related issues and concerns raised by the Parties have been addressed in the substantive provisions of this Stipulation, and reflect, as a result of such discussions and compromises by the Parties, an overall reasonable resolution of all such issues;

WHEREAS, this Stipulation is the product of the discussions and negotiations of the Parties and is not intended to reflect the views or proposals that any individual Party may have advanced acting unilaterally;

WHEREAS, this Stipulation represents an accommodation of the diverse interests represented by the Parties and is entitled to careful consideration by the Commission;

WHEREAS, this Stipulation represents a serious compromise of complex issues and involves substantial benefits that would not otherwise have been achievable; and

WHEREAS, the Parties believe that the agreements herein represent a fair and reasonable resolution to the issues raised in the case set forth above concerning Duke Energy Ohio's Application;

NOW, THEREFORE, the Parties stipulate, agree, and recommend that the Commission make the following findings and issue its Opinion and Order in these proceedings approving this Stipulation in accordance with the following:

I. TERM

- A. The Parties agree that Duke Energy Ohio's Electric Security Plan (ESP) will be for the period of January 1, 2012, through May 31, 2015. The Parties further agree that Duke Energy Ohio shall file its next application, pursuant to R.C. 4928.141, for a standard service offer (SSO) no later than June 1, 2014. This subsequent application shall make provision for SSO supply procurements via a descending-clock format, competitive bid process (CBP) and the Parties hereby expressly

waive any rights that they may have to contest the use of such a CBP for the purpose of establishing Duke Energy Ohio's next SSO. The Parties agree to hold a collaborative meeting prior to March 31, 2014, to discuss lessons learned and potential improvements to the bid process, including, but not limited to, the need, if any, to address changes to the rules regarding switching between SSO and CRES providers, for consideration in Duke Energy Ohio's next SSO. Through the CBP to be included in its next SSO application, Duke Energy Ohio will seek to procure, on a slice of system basis, the aggregate wholesale full requirements SSO supply, which includes energy and capacity, market-based transmission service,³ and market-based transmission ancillary services requirements, for the period of its next SSO. Said process shall be conducted by an independent bid manager and consistent with the bid documents submitted as a part of Duke Energy Ohio's Application in the above-referenced proceeding, as modified in this Stipulation and the Attachments hereto. The Parties further acknowledge and agree that they shall expressly support the use, by Duke Energy Ohio, of such a CBP for purposes of acquiring all of the supply needed to serve its SSO load under the next SSO. The Parties reserve all other rights that they may have to support, contest, or recommend modification of Duke Energy Ohio's next SSO. Consistent with paragraph B, below, Duke Energy Ohio expressly reserves all rights to withdraw its next SSO application.

³ "Market-based transmission services," for purposes of this Stipulation, include those PJM (as defined below) charges and credits assigned to competitive retail electric service providers and those identified on the sample PJM Invoice as being assigned to wholesale suppliers. The PJM Sample Invoice is provided in the Master Supply Agreement, Attachment D to this Stipulation.

- B. In the event the Commission rejects Duke Energy Ohio's next SSO application or substantially modifies it such that Duke Energy Ohio withdraws the application, the Parties expressly acknowledge and agree that the auction-based pricing and cost-recovery provisions of the SSO structure under which Duke Energy Ohio is operating as of May 31, 2015, shall persist until such time as a subsequent SSO is approved and not withdrawn, as provided for in R.C. 4928.143(C)(2)(a), by Duke Energy Ohio. Any such withdrawal by Duke Energy Ohio shall be filed within 30 days following the issuance of the Commission's final order. Specifically, for the term commencing June 1, 2015, unless a new SSO is approved by the Commission and not withdrawn by Duke Energy Ohio, prior to April 1, 2015, Duke Energy Ohio will procure, through a descending clock, auction-based SSO procurement process substantially similar to the auctions conducted under the ESP described herein, a full requirements load following product for a term that is not less than quarterly or more than annually until a new SSO is approved and not withdrawn, with retail generation rates being determined based on the results of those auction-based SSO load procurements. The Parties agree and recommend that the Commission determine the term for the procurement process upon the filing of any Duke Energy Ohio withdrawal of its next SSO application. For purposes of this paragraph, the Parties also agree that, for so long as Duke Energy Ohio is a Fixed Resource Requirements (FRR) entity under PJM Interconnection, LCC, (PJM), it will provide capacity at the Final Zonal Capacity Price (FZCP) in the unconstrained regional transmission organization (RTO) region. For the period during which Duke Energy Ohio participates in PJM's Reliability Pricing

Model (RPM) and Base Residual Auction (BRA), the capacity price is the FCZP for the DEOK load zone region, and capacity shall be provided pursuant to the PJM RPM process. The Parties agree that the Commission's oversight of said procurement process shall be consistent with the oversight afforded it in the ESP discussed herein. For purposes of this paragraph, a full requirements load following product shall include energy and capacity delivered to the DEOK load zone, as well as market-based transmission service, and market-based transmission ancillary service, plus the reasonable costs to procure.

II. SSO SUPPLY

- A. Duke Energy Ohio agrees to procure all of its energy, capacity, market-based transmission service, and market-based transmission ancillary services requirements for its SSO load, for the duration of the ESP, through the CBP outlined in Duke Energy Ohio's Application in these proceedings and testimony filed in support thereof, except as modified in this Stipulation and the Attachments hereto. The auction schedule shall proceed consistent with Attachment A, hereto.
- B. Acknowledging Duke Energy Ohio's status as an FRR entity in PJM, the Parties agree that Duke Energy Ohio shall supply capacity to PJM, which, in turn, will charge for capacity to all wholesale supply auction winners for the applicable time periods of Duke Energy Ohio's ESP with the charge for said capacity determined by the PJM RTO, which is the FZCP in the unconstrained RTO region.
- C. Duke Energy Ohio will implement Rider RC (Retail Capacity) and Rider RE (Retail Energy) to recover the costs associated with serving its SSO load, with the

aggregate sum of the revenues under said riders equal to the auction clearing prices, as converted into retail rates. Rider RC shall recover the cost of capacity consistent with paragraph B above and Rider RE shall recover all remaining auction costs, including energy, market-based transmission service, and market-based transmission ancillary services. Rider RC and Rider RE are unconditionally bypassable by all non-SSO customers. Rider RC and Rider RE will be put into effect through updated rates for each of the PJM planning years for which all tranches for the delivery period have been approved by the Commission.

- D. Duke Energy Ohio shall implement conditionally bypassable Rider SCR (Supplier Cost Reconciliation) to recover any difference between the payments made to suppliers for SSO service and the amount of revenue collected from Rider RC and Rider RE. Rider SCR will also be used to recover all prudently incurred costs associated with conducting the auctions for SSO service and any costs resulting from supplier default. Rider SCR will be filed quarterly in this docket and will be subject to annual audits by the Commission at its discretion. The monthly accumulated balance of over- or under-recovery will accrue a carrying charge equal to Duke Energy Ohio's overall cost of long-term debt, as approved in its most recent distribution rate case (*e.g.*, Case No. 08-709-EL-AIR, *et al.*).

Rider SCR shall be bypassable by shopping customers during the time that they purchase retail electric generation service from a competitive retail electric service (CRES) provider, as long as the balance of said Rider is less than 10 percent of Duke Energy Ohio's overall actual SSO revenue (*i.e.*, all revenue

collected for SSO service under Riders RE, RC, RECON, and AER-R) for the most recent quarter for which data is available at the time of the filing. If the balance of Rider SCR becomes equal to or greater than 10 percent of Duke Energy Ohio's overall actual SSO revenue, Duke Energy Ohio shall apply to the Commission for confirmation that Duke Energy Ohio should modify the Rider such that it becomes non-bypassable (whether the balance in the Rider results from over- or under-recovery). Rider SCR will again become bypassable for shopping customers if the balance of said Rider falls below 10 percent of Duke Energy Ohio's overall actual SSO revenue.

- E. Upon Commission approval of the bids, Duke Energy Ohio shall determine the rates for Rider RE and Rider RC by converting the clearing prices from each auction into retail rates pursuant to the methodology contained in Attachment B. The conversion of the auction prices into Rider RC and Rider RE will include applicable losses.
- F. Affiliates and subsidiaries of Duke Energy Ohio shall be permitted to participate and compete in the SSO auctions on the same fair and non-discriminatory manner as all other participants. Duke Energy Ohio shall not give any competitive advantage to an affiliate or subsidiary participating in the SSO auctions. Notwithstanding the above, Duke Energy Ohio agrees that, for the period during which Rider ESSC (referenced and defined below in Section VII.A.) is in place, and irrespective of ownership of its generation assets (Generation Assets),⁴ it shall not participate in the SSO auctions. Rather, during said period and irrespective of

⁴ For purposes of this Stipulation, "Generation Assets" shall refer to all generation assets currently, directly owned by Duke Energy Ohio, whether operating or retired, but shall not include any generation assets currently owned by an affiliate or subsidiary of Duke Energy Ohio.

ownership, Duke Energy Ohio shall cause the energy from all of its Generation Assets to be sold into the Day Ahead or Real Time PJM energy markets, or on a forward basis through a bilateral arrangement. Any forward bilateral sales must be done at a liquid trading hub (*i.e.*, Western Hub, AD-Hub, Cinergy Hub) at the then current market wholesale equivalent price. ICE (Intercontinental Exchange) or a similar publicly available document shall be used as a form of measure of the then current market wholesale equivalent pricing. The Commission Staff, or, at the Commission's discretion, an independent auditor, shall semi-annually audit Duke Energy Ohio records to ensure compliance with this provision. The cost of any such audits shall be recovered through Rider SCR.

- G. The Parties agree that there shall be load caps applicable to each auction conducted during the term of the ESP, with no one supplier being able to bid upon or awarded more than 80 percent of the tranches in any one auction.
- H. The Parties agree that the bidding process as described in the Company's Application, and as modified herein, shall be conducted by an independent bidding manager, CRA International, dba Charles River & Associates (CRA International), except as provided below in Section II.I. The Parties further agree that the Commission may also retain a consultant who may monitor the bidding process and the costs of such consultant shall be recovered under Rider SCR.
- I. Within the first 30 days following Commission approval of the results of each auction, Commission Staff may notify Duke Energy Ohio of its desire to evaluate the use of an independent auction manager other than CRA International. Within 30 days of such notification, Duke Energy Ohio and Commission Staff shall

jointly: (1) confirm whether CRA International will continue to serve as the independent auction manager; or (2) identify a new independent auction manager; or (3) identify a process to determine the new auction manager. In order to avoid disruption to the auction schedule, the substitution of the independent auction manager shall occur no sooner than 6 months after confirmation of such a substitution. If Commission Staff does not provide notice, as set forth above, CRA International shall continue to serve as the auction manager until such time as a substitution is confirmed. In no event shall the substitution of the independent auction manager delay or otherwise alter the bidding schedule as delineated in Attachment A or result in a modification of the CBP or bidding documents detailed in Duke Energy Ohio's Application, and as modified herein, except to revise the identification of, and contact information for, the auction manager. The Parties agree that any costs associated with the substitution of independent auction managers shall be recovered through Rider SCR.

- J. The Parties agree that the Commission may reject the results of any auction, by means of an order filed within 48 hours of the conclusion of each such auction, based upon a report from the independent auction manager or the Commission's consultant that the auction violates a specific CBP rule in such a manner so as to invalidate the auction or if the Commission determines that one or more of the following criteria were not met:
 - i. The bidding process was oversubscribed based upon bidder indicative offers submitted as part of the Part 2 Application, such that the amount of the supply bid upon was greater than the amount of the load bid out;

- ii. There were four or more bidders; or,
- iii. Consistent with the load cap, no bidder won more than 80 percent of the tranches in any one auction.

III. TRANSMISSION SERVICES

- A. Transmission services shall be provided consistent with the Opinion and Order issued by the Commission on May 25, 2011, in Case No. 11-2641-EL-RDR, *et al.*, except that the Parties hereby agree that PJM Schedule 1 (Scheduling, System Control, and Dispatch) shall not be included in Rider BTR and will be billed directly to wholesale auction winners and CRES providers by PJM.

IV. CAPACITY FOR SHOPPING CUSTOMERS

- A. Consistent with Section II.B., above, the Parties agree that Duke Energy Ohio shall supply capacity resources to PJM, which, in turn, will charge for capacity resources to all CRES providers in its service territory for the term of the ESP, with the exception of those CRES providers that have opted out of Duke Energy Ohio's FRR plan, for the period during which they opted out. The Parties further agree that, during the term of the ESP, Duke Energy Ohio shall charge CRES providers for capacity as determined by the PJM RTO, which is the FZCP in the unconstrained RTO region, for the applicable time periods of its ESP. When computing the capacity allocations for PJM, Duke Energy Ohio shall use an allocation formula in common use in PJM.

V. FUTURE CAPACITY SUPPLY

- A. Upon Duke Energy Ohio's signing of this Stipulation, it will provide its generating unit commitment information to PJM as soon as reasonably possible

but no later than February 1, 2012. Provided that Duke Energy Ohio does not withdraw the ESP approved in a Commission Order prior to February 29, 2012, it will terminate its election of an FRR plan and provide written notice by March 2, 2012, to the PJM Office of the Interconnection of its intent to participate in the RPM and the BRA for the 2015/2016 planning year. If Duke Energy Ohio is required to make a filing with the Federal Energy Regulatory Commission (FERC) to terminate its FRR status for the 2015/2016 planning year, the Parties agree not to intervene in said proceeding for the purpose of contesting, opposing, or otherwise objecting to the termination of the election; nor shall the Parties seek to delay the proceeding. Nothing herein prohibits the Parties from intervening in such proceeding for the purpose of supporting the filing. In the event Duke Energy Ohio is precluded from terminating its FRR plan for the 2015/2016 planning year and, in addition, the Commission's final order in these proceedings permits full legal corporate separation as set forth in this Stipulation, Duke Energy Ohio will provide notice to PJM (pursuant to Schedule 8.1 of the Reliability Assurance Agreement) no later than March 2013 that it intends to participate in the RPM and BRA for the 2016/2017 planning year. Further, in the event Duke Energy Ohio is precluded from terminating its FRR plan for the 2015/2016 planning year, it shall supply capacity to PJM, which, in turn, shall charge all wholesale auction winners, generation suppliers for the PIPP (as defined below) contract load, and CRES providers for capacity as determined by the PJM RTO, which is the FZCP in the unconstrained RTO region.

VI. RENEWABLE ENERGY CREDITS

- A. Duke Energy Ohio will implement Rider AER-R as proposed in its Application to recover the costs incurred in complying with the requirements of R.C. 4928.64, *et seq.* The Parties agree and recommend that Rider AER-R shall not expire upon the termination of the ESP on May 31, 2015, but instead shall continue in order to enable recovery of all reasonable and prudently incurred costs for the acquisition of renewable energy credits (RECs), including brokerage fees, REC tracking participation expenses, gains and losses realized from the sale of RECs, and carrying costs at the long term cost of debt, as approved in Duke Energy Ohio's most recent distribution rate case (*e.g.*, Case No. 08-709-EL-AIR, *et al.*). Rider AER-R shall remain bypassable for customers taking generation service from a CRES provider. Rider AER-R will be filed quarterly and will include true-up provisions, with annual audits conducted by Commission Staff, or an independent auditor at the discretion of the Commission, in a manner similar to that employed in Duke Energy Ohio's current fuel and purchased power tracker.
- B. Within 60 days of Commission issuance of a final order adopting the Stipulation that does not result in Duke Energy Ohio's withdrawal of its SSO Application, Duke Energy Ohio will engage in collaborative discussions with interested parties to prepare an application to revise certain elements of the current R.C. 4928.64 residential solar REC (SREC) purchase program. With the common goal of expanding customer participation in the program, Duke Energy Ohio will work with the Signatory Parties to identify mutually agreeable modifications aimed at

enhancing clarity, transparency, and certainty of contractual terms. These changes may include, but may not be limited to, features such as the assignment of a known SREC price over the length of the contract, an up-front rebate with certain output standards, or another, mutually agreed solution as yet to be developed. AEP Ohio's program, as stated and approved in Case No. 09-1872-EL-ACP, will be evaluated as a potential model for Duke Energy Ohio's modified program, in addition to other potential program modifications. If the Parties are unable, within 60 days of the start of the collaborative process, to agree on changes to Duke Energy Ohio's existing SREC tariff, Duke Energy Ohio shall file a letter at the Commission indicating that the Parties could not reach agreement. In such event, the other Parties retain the right to petition the Commission to make changes to Duke Energy Ohio's existing SREC tariff. The Commission will become the final arbiter in the event of such a dispute.

- C. Within 60 days of the Commission's issuance of a final order adopting the Stipulation that does not result in Duke Energy Ohio's withdrawal of its SSO application, Duke Energy Ohio will initiate collaborative work in consultation with the Ohio Environmental Council, Environmental Law & Policy Center, and other interested Signatory Parties on an evaluation and report on Combined Heat and Power. This commitment is identified in the stipulation filed in Case No. 10-503-EL-FOR on March 21, 2011.

VII. OHIO POLICY

- A. For the calendar years 2012, 2013, and 2014 of the ESP, Duke Energy Ohio shall recover annually, via a non-bypassable generation charge called the Electric

Service Stability Charge Rider (Rider ESSC), an amount intended to provide stability and certainty regarding Duke Energy Ohio's provision of retail electric service as an FRR entity while continuing to operate under an ESP.⁵ Duke Energy Ohio shall be permitted to implement an ESSC rate to collect \$110 million per year for a period of three years commencing January 1, 2012, with the collection to be trued-up annually and the total equal to \$330 million, allocated in accordance with Attachment B. The revenue collected under Rider ESSC shall stay with Duke Energy Ohio and shall not be transferred to any subsidiary or affiliate.

- B. For calendar year 2012, Duke Energy Ohio commits to a \$1,000,000 contribution to support economic development efforts in its service territory. For each of the two remaining calendar years of the ESP, Duke Energy Ohio agrees to provide \$1,000,000, annually, to support economic development efforts, provided Duke Energy Ohio's return on equity (ROE), as determined in its then most recent annual significantly excessive earnings test (SEET) review, exceeds 10 percent for the prior calendar year. Said funds will be provided from Duke Energy Corporation shareholders and Duke Energy Ohio shall have sole discretion to direct the use and allocation of the funding, which shall be available to customers in Duke Energy Ohio's service territory on a competitively neutral basis and without regard to their status as a shopping or non-shopping customer.

⁵ The Office of the Ohio Consumers' Counsel (OCC), FirstEnergy Solutions, and the Ohio Manufacturer's Association (OMA) support the Stipulation. However, the OCC, FirstEnergy Solutions, and OMA take no position regarding Section VII.A., or do not support or oppose the paragraph, so that the OCC's, FirstEnergy Solutions', and OMA's support for the Stipulation may not be used as precedent in any other proceeding.

- C. For calendar year 2012, Duke Energy Ohio commits to a \$100,000 contribution to the OMA to support economic development and energy efficiency initiatives among its members within Duke Energy Ohio's service territory. For each of the remaining two calendar years of the ESP, Duke Energy Ohio agrees to provide \$100,000 annually, to support economic development and energy efficiency efforts provided Duke Energy Ohio's ROE, as determined in its then most recent annual SEET review, exceeds 10 percent for the prior calendar year. Said funds will be provided from Duke Energy Corporation shareholders and shall be available to OMA members in Duke Energy Ohio's service territory on a competitively neutral basis and without regard to their status as a shopping or non-shopping customer.
- D. For the term of this ESP, while percentage of income payment plan (PIPP) customers will remain retail generation customers of Duke Energy Ohio, their metered, retail load and usage will be supplied by FirstEnergy Solutions at a 5 percent discount off the applicable residential price to compare, excluding Rider AER-R. Duke Energy Ohio will enter into a wholesale bilateral contract with FirstEnergy Solutions at such pricing for the full requirements supply including capacity, energy, market-based transmission services, and market-based transmission ancillary services for the term of the ESP, with power flow under such wholesale contract commencing January 1, 2012. While Duke Energy Ohio is an FRR entity, it will continue to supply the capacity at the FZCP for the unconstrained RTO region. Duke Energy Ohio will continue to supply RECs associated with the PIPP load, as required under the alternative energy resource

requirements of the Commission, with cost recovery through Rider AER-R. Under the bilateral contract, FirstEnergy Solutions will supply power to Duke Energy Ohio at wholesale in an amount sufficient to meet the requirements of all PIPP customers taking service under Duke Energy Ohio's tariffs and riders for generation service. For purposes of this section, a PIPP customer shall be defined as any customer who is a PIPP customer as of January 1, 2012, and any customer who thereafter is enrolled in the PIPP program during the period of this ESP. Within five days of the filing of this Stipulation, Duke Energy Ohio will enter into the bilateral agreement with FirstEnergy Solutions as referred to herein, with performance obligations thereunder expressly conditioned upon Duke Energy Ohio's acceptance of the Commission's order approving or modifying and approving the Stipulation.⁶

- E. For calendar year 2012, Duke Energy Ohio commits to a \$1,000,000 contribution for low-income weatherization efforts in its service territory, to be administered by People Working Cooperatively (PWC). For each of the two remaining calendar years of the ESP, the Company agrees to provide \$1,000,000 annually to support low-income weatherization, provided Duke Energy Ohio's ROE, as determined in its then most recent annual SEET review, exceeds 10 percent for the prior calendar year. Said funds will be provided from Duke Energy Corporation shareholders and shall be available to customers in Duke Energy Ohio's service

⁶ The Retail Energy Supply Association; Constellation NewEnergy, Inc.; Constellation Energy Commodities Group, Exelon Generation Company, LLC; Direct Energy Services, LLC; Direct Energy Business LLC; Interstate Gas Supply, Inc; Vectren Retail, LLC d/b/a Vectren Source; Wal-Mart East, LP; Sam's East, Inc.; PJM Power Providers Group; and AEP Retail Energy Partners LLC support the Stipulation but do not endorse Section VII, Paragraph D.

territory on a competitively neutral basis and without regard to their status as a shopping or non-shopping customer.

- F. Duke Energy Ohio and PWC will jointly undertake a pilot energy efficiency project. This pilot will utilize Duke Energy Ohio funds provided to PWC for low-income weatherization. PWC will use Duke Energy Ohio dollars to leverage additional energy efficiency funds from non-utility public and private sources for both electric and gas energy efficiency for low-income households. The leveraged energy efficiency funds will provide funding for low-income weatherization services that will yield energy efficiency that is enhanced by additional improvements in the home and funded by other sources. It is anticipated that the enhanced energy efficiency services will yield better results as measured by the total resource cost test. Duke Energy Ohio and PWC will provide the results of the pilot energy efficiency project to the energy efficiency collaborative and will jointly file such results with the Commission and seek the Commission's approval of inclusion of the enhanced energy efficiency attributes in Duke Energy Ohio's portfolio of programs for energy efficiency. The project shall be available to customers in Duke Energy Ohio's service territory on a competitively neutral basis and without regard to their status as a shopping or non-shopping customer.
- G. For calendar year 2012, Duke Energy Ohio commits to a \$350,000 fuel fund contribution to benefit electric consumers in its service territory who are at or below 200 percent of poverty level. The fund will be managed in conjunction with the Ohio Department of Development or its successor, in a manner

consistent with the operation of the fuel fund provided by Duke Energy Ohio during the current ESP. Assistance will be provided through the agencies in the Duke Energy Ohio service territory that provide assistance under the Emergency Home Energy Assistance Program in the Duke Energy Ohio service territory. For each of the two remaining calendar years of the ESP, Duke Energy Ohio agrees to provide \$350,000 in continued support of the fuel fund, provided Duke Energy Ohio's ROE, as determined in its then most recent annual SEET review, exceeds 10 percent for the prior calendar year. Said funds will be provided from Duke Energy Corporation shareholders and shall be available to customers in Duke Energy Ohio's service territory on a competitively neutral basis and without regard to their status as a shopping or non-shopping customer.

- H. For calendar year 2012, Duke Energy Ohio commits to a \$325,000 contribution for low-income weatherization efforts in its service territory in Adams, Brown, Butler, Clermont, Clinton, Highland, Montgomery, and Warren Counties. The contribution shall be made to OPAE, which shall receive an administrative fee of \$25,000. The funds shall be available until expended for the benefit of the appropriate agencies within Duke Energy Ohio's service territory. Duke Energy Ohio and OPAE shall agree to the amount of distribution to each agency, program parameters, and reporting requirements.⁷ For each of the two remaining calendar years of the ESP, Duke Energy Ohio agrees to provide \$325,000 annually to support low-income weatherization programs of OPAE member organizations, provided Duke Energy Ohio's ROE, as determined in its then most recent annual

⁷ The program parameters shall be substantially similar to the programs currently managed by OPAE for American Electric Power, The Dayton Power & Light Company, and FirstEnergy operating companies.

SEET review, exceeds 10 percent for the prior calendar year. Said funds will be provided from Duke Energy Corporation shareholders and shall be available to customers in Duke Energy Ohio's service territory on a competitively neutral basis and without regard to their status as a shopping or non-shopping customer. The Duke Energy Community Partnership shall review the results of the program and make recommendations regarding continuation of the program as a part of Duke Energy Ohio's demand-side management portfolio.

- I. The Parties expressly agree that Duke Energy Ohio will continue to provide existing distribution reserve capacity at no charge for existing load for Greater Cincinnati Health Council (GCHC) member hospitals for the term of this ESP. Duke Energy Ohio agrees to consider similar reasonable arrangements for new hospital construction and/or expansion up to 4,000 kVa during the term of this ESP, provided the requesting hospital(s) and Duke Energy Ohio can reach agreement on appropriate compensation to Duke Energy Ohio if it is necessary to upgrade facilities for the purpose of (i) a secondary distribution service; and/or (ii) reserve capacity. Duke Energy Ohio agrees to meet with any requesting GCHC member hospitals to discuss Duke Energy Ohio's electric distribution system serving the member hospital, including but not limited to any system enhancements planned and the age and performance of the system. Also, for the term of the ESP, Duke Energy Ohio will work with GCHC member hospitals to understand and evaluate service quality concerns, particularly with regard to secondary feeders for reliability purposes, and to enhance communication between members and Duke Energy Ohio to facilitate better understanding of

overall service quality. Duke Energy Ohio and GCHC will hold meetings upon request to discuss, at least annually, any service quality or reliability concerns. Within 90 days of the approval of this Stipulation, Duke Energy Ohio will meet with GCHC to identify ways to leverage and better utilize Duke Energy Ohio's non-residential custom and prescriptive energy efficiency programs to benefit GCHC member hospitals.

For the term of the ESP, Duke Energy Ohio agrees to continue to compensate GCHC member hospitals that participate in PowerShare agreements consistent with the terms of the PowerShare program as approved by the Commission in Case No. 09-1999-EL-POR and any subsequent program approved by the Commission.

- J. For the term of the ESP, the Parties agree to establish, on a revenue neutral basis among all demand metered customer classes, a non-bypassable demand charge and non-bypassable energy credit designed to stabilize electric service by enhancing some of the benefits associated with high load factor customers under current rates. For customers served under Rates DS, DP, and TS, there will be a non-bypassable demand charge of \$8/kW per month and a non-bypassable energy credit of \$0.020961/kWh to produce net revenues of \$0 for Rates DS, DP, and TS as a group. The energy credit referred to in this paragraph is to be trued up quarterly to maintain net revenue neutrality.
- K. The University of Cincinnati (UC) operates a Commission-certified renewable energy generation facility at its Main Campus in Cincinnati (See Case No. 10-1382-EL-REN), which is not directly metered by Duke Energy Ohio. For the

term of this ESP, UC will establish for its Main Campus demand usage for rate purposes including for Rider ESSC (Section VII.A.) and the load factor adjustment (Section VII.J.) by using the 5 CP demand determinate established by PJM for purposes of assessing capacity costs. Until PJM establishes an actual demand determinate for PJM 2012/2013 planning year, which is anticipated to occur in October 2011, Duke Energy Ohio shall use 12,475 kW, which is the 5 CP demand factor for UC for the 2011/2012 PJM planning year. The commodity billing determinates for both Rider ESSC and the load factor adjustment shall be the kWh received by UC at its side of the substation.

- L. Council of Smaller Enterprises (COSE) and Duke Energy Ohio will work with small and mid-sized businesses in the Duke Energy Ohio service territory to educate such entities with respect to services provided by both Duke Energy Ohio and COSE related to energy efficiency during the term of this ESP.

To the extent such customers can provide energy savings as a result of implementing energy efficiency measures, Duke Energy Ohio will compensate COSE through its Commission-approved energy efficiency programs for services performed on behalf of the businesses that they work with, at a rate to be determined in the future and similar to the compensation rate paid to other vendors, provided the savings contribute to Duke Energy Ohio's mandated energy efficiency requirements.

COSE will participate in Duke Energy Ohio's Energy Efficiency Collaborative and provide its views and input with respect to the design of energy efficiency products and programs for small- and mid-sized businesses.

M. The Parties agree that, in the aggregate, the ESP as agreed to herein is better than the results that would be expected under a market rate offer (MRO) and that the ESP is consistent with and advances state policy, as set forth in R.C. 4928.02, as it:

- Is quantitatively better than the results expected under the MRO, as provided in Attachment D;
- Allows customers to benefit from a fully competitive market as soon as practicable;
- Encourages and supports the development of competitive retail markets in Ohio;
- Results in stability and certainty in respect of retail electric service;
- Provides for a stable electric distribution utility;
- Encourages the development of renewable resources in Ohio;
- Supports economic development;
- Provides low-income assistance;
- Ensures PIPP customers a discount from the SSO;
- Continues and expands the ability of retail electric consumers served by Duke Energy Ohio to choose from among CRES providers on a competitive basis;
- Expands wholesale competition;
- Mandates divestiture of Duke Energy Ohio's Generation Assets;

- Constitutes a State Regulatory Structural Change, within the meaning of Section 1.81 and Section C.3 of Schedule 8.1 of the PJM Reliability Assurance Agreement; and
- Allows Duke Energy Ohio to terminate its FRR plan due to such State Regulatory Structural Change, subject to any necessary governmental approvals, by providing notice of termination pursuant to Section C.3 of Schedule 8.1 of the PJM RAA at least two months prior to the May 2012 PJM Base Residual Auction.⁸

VIII. GENERATING ASSETS

- A. The Parties agree that Duke Energy Ohio will transfer title, at net book value, to all of its Generation Assets out of Duke Energy Ohio. Such transfer shall occur on or before December 31, 2014, and Duke Energy Ohio commits to using its best commercial efforts to complete the transfer as soon as practicable upon its acceptance of a Commission order approving the Stipulation and upon receipt of necessary regulatory approvals. Staff, or an independent auditor at the Commission's discretion and with costs thereof to be recovered through Rider SCR, shall audit the terms and conditions of the transfer of the Generation Assets to ensure compliance with this Section VIII of the Stipulation and shall also audit Duke Energy Ohio's compliance with R.C. 4928.17 and the Commission's Corporate Separation Rule, O.A.C. 4901:1-37 and any successors to that rule, to ensure that no subsidiary or affiliate of Duke Energy Ohio that owns competitive generation assets has any competitive advantage due to its affiliation with Duke

⁸ The OCC supports the Stipulation. However, the OCC takes no position regarding Section VII.M., or does not support or oppose that paragraph, so that the OCC's support for the Stipulation may not be used as precedent in any other proceeding.

Energy Ohio. The Parties further expressly support Duke Energy Ohio's request for a waiver of the Commission's rule requirements, as set forth in O.A.C. 4901:1-37-09(B), (C), and (D), relating to the sale or transfer of generating assets. The Parties agree that approval of this Stipulation shall constitute the Commission consent required by paragraphs (A) and (E) of that rule, and that no hearing is required under paragraphs (D) and (E) of that rule. Further, the Parties agree that this paragraph provides the Commission Staff with access to books and records in compliance with paragraph (F) of that rule.

- B. Approval of this Stipulation will serve as the Commission's approval of full legal corporate separation (as contemplated by R.C. 4928.17(A) and also known as structural corporate separation) such that the transmission and distribution assets of Duke Energy Ohio will continue to be held by the distribution utility and all of Duke Energy Ohio's Generation Assets shall be transferred to an affiliate. Full legal corporate separation will be implemented as soon as reasonably possible after necessary regulatory approvals are obtained. Following the transfer of the Generation Assets, Duke Energy Ohio shall not without prior Commission approval: 1) provide or loan funds to; 2) provide any parental guarantee or other security for any financing for; and/or 3) assume any liability or responsibility for any obligation of subsidiaries or affiliates that own generating assets, provided however, that contractual obligations arising before the signing of the Stipulation shall be permitted to remain with Duke Energy Ohio without Commission approval for the remaining period of the contract but only to the extent that assuming or transferring such obligations is prohibited by the terms of the

contract or would result in substantially increased liabilities for Duke Energy Ohio if Duke Energy Ohio were to transfer such obligations to its subsidiary or affiliate. On and after the signing of this Stipulation, Duke Energy Ohio shall ensure that all new contractual obligations have a successor-in-interest clause that transfers all Duke Energy Ohio responsibilities and obligations under such contracts and relieves Duke Energy Ohio from any performance or liability under the contracts upon the transfer of the Generation Assets to its subsidiaries. This provision does not restrict Duke Energy Ohio's ability to receive and pass through to the subsidiary(ies) that own the Generation Assets equity contributions from its parent that are in support of the Generation Assets, nor does it restrict Duke Energy Ohio's ability to receive dividends from the subsidiary(ies) that own the Generation Assets and pass through such dividend(s) to its parent. Generation-related costs associated with implementing corporate separation shall not be recoverable from customers. Any subsidiary of Duke Energy Ohio to which Generation Assets are transferred shall not use or rely upon the rating(s) from credit rating agency(ies) for Duke Energy Ohio. If such subsidiary currently does not maintain separate rating(s) from the credit rating agency(ies), then upon transfer of any of the Generation Assets, it shall either seek to establish such rating(s) or shall tie its credit rating to Duke Energy Corp. as soon as practicable but no later than six months following such transfer.

- C. The Parties expressly agree that full legal corporate separation is in the public interest and, as such, will not intervene in the FERC proceeding to transfer Duke Energy Ohio's Generation Assets to contest, challenge, or in any way oppose the

transfer. Parties are not precluded from intervening in said FERC proceeding for purposes other than those prohibited by this paragraph.⁹

IX. MISCELLANEOUS

- A. The Parties agree that Duke Energy Ohio shall implement Rider RECON as proposed in Duke Energy Ohio's Application and testimony filed in support thereof. The Parties further agree that Rider RECON shall terminate no later than two quarters after the filing of a final entry in the docket initiated by the Commission for purposes of conducting its final audit of Rider PTC-FPP.
- B. Effective January 1, 2012, Duke Energy Ohio shall implement an uncollectible expense rider, Rider UE-GEN, applicable to all retail jurisdictional customers including those taking generation service from a CRES provider, except for those customer accounts designated by CRES providers as not part of Duke Energy Ohio's Purchase of Accounts Receivable (PAR) Program. Rider UE-GEN shall be bypassable by dual-billed customer accounts and customer accounts designated by CRES providers as not part of the PAR Program, but shall be non-bypassable by all other retail customers, including SSO customers and customer accounts designated by CRES providers as part of the PAR Program. Accordingly, uncollectible expense generated by customer accounts of CRES providers that utilize dual billing and customer accounts of CRES providers that utilize consolidated billing but are not designated as part of the PAR program are excluded from Rider UE-GEN and, instead, remain the liability of said CRES provider. Rider UE-GEN will initially be set at zero in these proceedings. Duke

⁹ The OMA supports the Stipulation. However, the OMA takes no position regarding Section VIII.C., or does not support or oppose that paragraph, so that the OMA's support for the Stipulation may not be used as precedent in any other proceeding.

Energy Ohio's initial application to establish a rate for Rider UE-GEN shall be filed in conjunction with Duke Energy Ohio's UE-ED filing. Thereafter, Duke Energy Ohio will file annual applications to adjust Rider UE-GEN in conjunction with and governed by the same review process applicable to adjustments to Rider UE-ED as provided in the March 31, 2009, stipulation approved by the Commission in Case No. 08-709-EL-AIR, *et al.* As with Rider UE-ED, Duke Energy Ohio shall not accrue carrying charges on the monthly unrecovered uncollectible expense balances for which recovery is sought through Rider UE-GEN. Rider UE-GEN shall be in form set forth in Attachment E.

- C. After the effective date of Rider UE-GEN, Duke Energy Ohio shall purchase the customer accounts receivable of CRES providers that designate accounts to participate in the PAR Program at no discount and shall pay such CRES providers for such receivables no later than twentieth day of the month after the month in which the billing occurs. Paragraph 11.6 of Duke Energy Ohio's Supplier Tariff shall be amended as shown in Attachment E to memorialize this change to the PAR Program. Duke Energy Ohio agrees to amend any existing Account Receivables Purchase Agreements with CRES providers participating in the PAR Program to make them consistent with this Section IX.C. of the Stipulation.
- D. Duke Energy Ohio agrees to modify Section XI, Sheet No. 40.4, Paragraph 11.6, and Sheet 26.5, Paragraph 7.5, of its Certified Supplier Tariff and to modify Section III, Sheet No. 22.7, Section 4(d) and Section 10 of its Electric Tariff, and to make any other tariff modifications that are necessary to eliminate the

prohibition against customers enrolling in the PAR Program where such customers have outstanding arrears of more than \$50 or 30 days.

- E. CRES providers may designate which of their customer accounts will be billed using a dual billing method, which of their customer accounts will be billed using consolidated billing but with no purchase of receivables by Duke Energy Ohio, and which of their customer accounts will be billed using consolidated billing with purchase of receivables. Duke Energy Ohio will accommodate different methods of billing and collections by a CRES provider so long as alternative methods of billing and collection are distinguished as sub-accounts to PJM. The responsibility for, and PJM costs related to, creating a PJM sub account shall be that of the CRES providers.
- F. Duke Energy Ohio withdraws its proposed Rider PSM and Advance Southwest Ohio Fund, as well as the funding for same.
- G. The bid documents pursuant to which the auctions will be conducted are those attached as Attachments C through G of Duke Energy Ohio's Application, except as modified herein in Stipulation Attachments C, F, and G.
- H. Duke Energy Ohio withdraws its Rider DR as proposed in these proceedings. Within 45 days of an executed Stipulation in these proceedings, Duke Energy Ohio shall file, in a separate proceeding, for Commission approval of a distribution revenue decoupling mechanism that will adjust rates between rate cases to effectively remove Duke Energy Ohio's through-put incentive, with all parties retaining their rights to due process in such proceeding. The decoupling mechanism to be filed through such application shall not be applicable to Rates

TS, DS, and DP. Nothing in this Stipulation is intended, or shall be interpreted, to signify Parties' agreement with such application. Further, nothing in this Stipulation shall affect Duke Energy Ohio's existing SmartGrid recovery mechanism, which shall continue under Rider DR-IM.

- I. The Parties recommend that the Commission approve this settlement on or before November 15, 2011, so that Duke Energy Ohio may conduct, in December 2011, its first auction under the CBP for the procurement of supply necessary to serve its SSO load effective January 1, 2012.
- J. Duke Energy Ohio shall conduct collaborative meetings, on or before November 15, 2011, with all interested wholesale suppliers, retail suppliers, and transmission owners to confirm the charges from PJM that shall be paid by Duke Energy Ohio and the charges from PJM that shall be paid by CRES providers.
- K. Duke Energy Ohio shall be permitted to amend its certified supplier tariff, as proposed in its Application and testimony filed in support thereof, as modified herein.
- L. Duke Energy Ohio agrees to withdraw from these proceedings the proposed amendment to Section XIV.C. of its Third Amended Corporate Separation Plan that, if approved, would enable Duke Energy Ohio to provide Special Customer Services, as described in proposed Tariff 19, Sheet 23, Section 6. Duke Energy Ohio expressly reserves the right to seek revision of its Corporate Separation Plan to incorporate this proposal to provide Special Customer Services in a subsequent proceeding. Except as modified herein, Duke Energy Ohio shall be permitted to adopt its Third Amended Corporate Separation Plan, as proposed in its

Application and testimony filed in support thereof. The Parties also recognize that the Third Amended Corporate Separation Plan will be amended to identify additional affiliates and parties to agreements following the anticipated merger of Duke Energy Corporation and Progress Energy, Inc., and the Parties agree not to oppose such amendment. Within ninety days after the effective date of full legal corporate separation, Duke Energy Ohio agrees to file for approval of a Fourth Amended Corporate Separation Plan that will address any issues with the full legal corporate separation.

- M. The Parties agree that the SEET, as provided for under R.C. 4928.143(F), shall be administered to Duke Energy Ohio with an ROE threshold of 15 percent for the term of this ESP. The methodology for applying the SEET is outlined in Attachment H.
- N. During the term of this ESP, transmission voltage customers, whether shopping or non-shopping, with loads in excess of 10 MW at a single site shall have the option to annually nominate any part of their load as being subject to interruption through Duke Energy Ohio. Any such nomination shall have an effective date no earlier than June 1, 2012. For any customer electing to nominate load subject to interruption through Duke Energy Ohio, such load: (1) must be registered with PJM and abide by all of PJM's requirements for the demand response (DR) program chosen by the customer, by March 1 of the upcoming PJM planning year; (2) must not have been previously sold or committed to PJM or another party as a DR resource for the same planning year; and, (3) will have Duke Energy Ohio serve as its curtailment service provider (CSP). The customer

acknowledges that Duke Energy Ohio may use such interruptible load in Duke Energy Ohio's FRR plan and any capacity resource revenues associated with this DR resource will be credited to the economic competitiveness fund (Rider DR-ECF). The interruptible credit for load subject to interruption will be one half of the PJM Net Cost Of New Entry (CONE) on a \$/MW-day basis for the planning year in which the interruptible load is nominated (net CONE equals 2011/2012 = \$160.76, 2012/2013 = \$276.09, 2013/2014 = \$317.95, 2014/2015 = \$342.23 per MW-day). The maximum amount of interruptible load under this program shall be 250 MW in the DEOK zone. The amount of this interruptible credit shall be recoverable by Duke Energy Ohio through Rider DR-ECF. Duke Energy Ohio shall file a separate application to amend Rider DR-ECF.

- O. Duke Energy Ohio agrees to work with interested CRES providers and Commission Staff to jointly develop a secure, web-based system that will provide electronic access to key customer usage and account data that can be accessed via a secure, supplier website that presents the following data and information in a format that can be automatically retrieved, by the CRES provider authorized by the customer, subject to appropriate limitations reflecting legally mandated customer privacy issues, including compliance with protections addressed in the Ohio Administrative Code and specifically including but not limited to Rules 4901:1-10-29, 4901:1-10-24, O.A.C., and any successors to such Rules. The following data and information, in a format that can be automatically retrieved, will be the subject of the web-based system:

- Account Numbers

- Meter numbers
- Names
- Service Address, including zip codes
- Billing Address, including zip code
- Email address (if available)
- Meter Reading Cycle Dates
- Meter Types
- Indicator if Customer has an Interval Meter
- Rate Code Indicator
- Load Profile Group Indicators
- PLC and NSPL values (capacity and transmission obligations)
- 24 months of consumption data (in kWh) by billing period including
- 24 months of demand data (in kW)
- 24 months of interval data
- Indicator if SSO customer
- Identifier as to whether customer is participating in the Budget Billing Plan

Duke Energy Ohio shall use commercially reasonable efforts to add to the existing web system the Load Profile Group Indicators and the customer service addresses by March 1, 2012, but shall complete such additions no later than June 1, 2012. Duke Energy Ohio shall make a commercially reasonable effort to add the other items by June 1, 2013, but agrees to complete the additional data items no later than June 1, 2014, and will work with Commission Staff and interested

CRES providers to stage the implementation of various portions of this website, as possible. Additionally, Duke Energy Ohio shall add an indicator to the pre-enrollment list, noting whether a customer is an SSO customer or is shopping, by no later than June 1, 2012.

Duke Energy Ohio shall recover the actual costs to develop said web-based system, recovery not to exceed \$500,000, on a non-bypassable basis. Duke Energy Ohio shall be permitted to create a regulatory asset for purposes of recording said costs for future recovery through electric distribution rates. The carrying charge on said regulatory asset shall not exceed Duke Energy Ohio's long-term cost of debt from the then most recent distribution rate case (*e.g.*, Case No. 08-709-EL-AIR, *et al.*).

In addition, the following types of data would be provided via EDI transactions:

- 867 Historical Usage (HU) and Historical Interval (HI)
- 867 Monthly Usage (MU) and Monthly Interval (MI) data
- Network Service Peak Load (NSPL) and Peak Load Contribution (PLC) in 867HUs, 867HIs, and 814 Accepted Enrollment Responses
- Meter read cycle and load profile segment information to be in 867HUs no later than 12/31/12, as agreed to in the Ohio EDI Working Group – Change Control #82 (current rate code already included in 867HUs)

Duke Energy Ohio shall confirm that accounts requested together in the same EDI envelope come back together, unless there would be an unnecessary delay for a particular subset of accounts. Duke Energy Ohio shall make available,

upon request, a quarterly updated sync list to CRES providers on a confidential basis showing the accounts that are enrolled with the CRES provider. The list would contain information such as service start date, bill method, NSPL values, and PLC values. Duke Energy Ohio confirms that Validation, Error Detection, and Editing (VEE) rules and processes are now in place and will continue to be applied to raw meter read data before Duke Energy Ohio transmits such usage data to the CRES providers via EDI.

Effective January 1, 2012, Duke Energy Ohio shall increase the required interval meter threshold size requirement from 100kW to 200kW and will make such tariff changes as are necessary to accomplish this result.

Duke Energy Ohio agrees to conduct a collaborative process to discuss the deployment of an electric vehicle (EV) ecosystem that works in tandem with a competitive retail market, including, but not limited to customer education and additional billing system functionality to support various EV deployment programs and charging platforms. All interested persons shall be encouraged to participate in the EV collaborative process. The first such EV collaborative meeting shall occur in the first quarter of 2012 and continue to be held periodically, but not less often than three times a year for the first two years thereafter. At the conclusion of the EV collaborative process, the participants in the EV Collaborative shall prepare a report to the Commission discussing the progress of the collaborative and any recommended regulatory or legislative changes to facilitate the development of an EV ecosystem.

Duke Energy Ohio shall host annual meetings or conference calls with registered CRES providers to discuss supplier coordination issues affecting CRES providers, including but not limited to CRES consolidated billing.

- P. All energy efficiency programs and rebates shall be made available at the same terms and conditions to customers, regardless of whether they purchase generation service from a CRES provider or Duke Energy Ohio. Duke Energy Ohio shall maintain its policy to make SmartGrid meters and data available to all customers on a competitively neutral basis and without regard to their status as a shopping or non-shopping customer.
- Q. Duke Energy Ohio shall provide, from shareholder funds, a one-time economic development/energy efficiency grant of \$50,000 for Industrial Energy Users-Ohio to be distributed among its members.
- R. For the term of this ESP, Duke Energy Ohio will maintain its existing procedures contained in its tariff (*e.g.*, bulking of meters, power factor adjustments, demand ratchets) for metering and calculating billing determinants that are used in the calculation of retail bills.
- S. For the term of this ESP, Duke Energy Ohio will continue the retail Real Time Pricing Program (Rate RTP, Sheet No. 90). Current Customer Base Line (CBL) and Billing Demand History (BDH) values will continue for each customer taking service under RTP as of October 18, 2011, subject to the terms of Rate RTP, as modified to be consistent with this Stipulation.
- T. Duke Energy Ohio agrees to reduce its switching fee, as set forth in Rate CS, Sheet No. 52.2, of its Certified Supplier Tariff, from \$7.00 to \$5.00. Duke

Energy Ohio will make bill-ready billing functional and available as soon as commercially and reasonably practicable, but in no event later than September 30, 2013. In addition, Sheet 52.2 of the Certified Supplier Tariff shall be modified to reduce the per-bill charges for consolidated, bill-ready billing to 50 percent of the existing rate. Duke Energy Ohio agrees to continue its current practice of not imposing a per-bill charge for rate-ready consolidated billing services.

- U. Retail customers in Duke Energy Ohio's territory are permitted to participate in PJM DR programs including through Aggregators of Retail Customers (ARCs) or CSPs and the following conditions apply:
 - i. Duke Energy Ohio retail customer DR capacity may be utilized to satisfy either FRR or non-FRR capacity obligations (such as DR that clears in a PJM RPM auction);
 - ii. The Parties agree that any customer that is already receiving an incentive payment through a reasonable arrangement, including but not limited to EE/PDR, economic development arrangements, unique arrangements, and other special tariff schedules that offer service discounts from the applicable tariff rates and would currently or would like to participate in PJM programs must agree to commit to the electric distribution utility the peak demand response attributes that have cleared in the PJM market in a manner consistent with applicable statutes and rules at no cost to the utility for the duration of the arrangement. This provision shall not be interpreted as modifying the express specific terms of any agreement; and

- iii. Duke Energy Ohio may issue a request for proposal to meet its peak demand reduction mandates under Amended Sub. Senate Bill 221.
- V. The Parties agree that the “Summary of Riders Impacted by the ESP,” attached as Attachment I, provides an accurate recitation of Duke Energy Ohio’s riders for electric distribution, transmission, and generation service, effective January 1, 2012. In this regard, the Parties agree to the elimination Rider RTC (regulatory transition charge) and Rider DRI (distribution reliability investment), as said riders expired for all customers on December 31, 2010.
- W. Duke Energy Ohio shall make all applicable changes to customer or supplier tariffs and to all operational rules or procedures, in order to ensure compliance and consistency with all applicable provisions of this Stipulation.
- X. All Attachments to this Stipulation are incorporated herein and are an integral part of this Stipulation.
- Y. In the event the Commission approves Duke Energy Ohio’s next SSO, and Duke Energy Ohio does not withdraw the application therefor, for the period beginning June 1, 2015, by an order issued on or before March 1, 2015, the Parties agree that the Commission’s approval will function to demonstrate compliance with the requirement, under R.C. 4928.143(E), to compare the prospective results of the ESP detailed herein with the prospective results under the MRO provisions. Nothing in this paragraph shall be interpreted to limit Parties’ rights to object at any time, in whole or in part, to any proposal by Duke Energy Ohio regarding its next SSO.

Z. The Signatory Parties' agreement to this Stipulation, in its entirety, shall not be interpreted in a future proceeding before this Commission as their agreement to only an isolated provision of this Stipulation. The agreement of the Signatory Parties reflected in this document is expressly conditioned upon its acceptance in its entirety and without alteration by the Commission. The Signatory Parties agree that if the Commission or any court of competent jurisdiction rejects all or any material part of this Stipulation, or otherwise materially modifies its terms, all Signatory Parties agree to work in good faith with all other Signatory Parties to achieve a revised stipulation that substantially satisfies the intent of the original agreement or make such other agreements as may be necessary to maintain the economic benefit to each party that would have been achieved had the Stipulation not been so modified. Any such revised stipulation will be filed with the Commission for approval and all Signatory Parties agree to fully support such modifications or agreements. Should the Signatory Parties be unable to reach a modified agreement, any adversely affected Signatory Party shall have the right to file, in this docket and with service to all parties, an application for rehearing, a motion for reconsideration, or a notice withdrawing from the Stipulation.¹⁰ Other Parties agree that they will not oppose or argue against any other Party's application for rehearing or motion for reconsideration that seeks to uphold the original, unmodified Stipulation. If such application or motion is filed, and if the Commission or court does not, on rehearing or reconsideration, accept the Stipulation without material modification within 45 days of the filing of such

¹⁰ Parties have the right, at their sole discretion, to determine what constitutes a "material" part for purposes of withdrawing from the Stipulation.

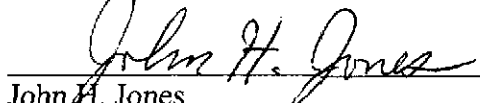
application or motion, then, within 30 days thereafter, the adversely affected Signatory Party may terminate its Signatory Party status without penalty or cost and regain its rights as a non-Signatory Party as if it had never executed the Stipulation by filing a notice with the Commission and the other Signatory Parties. Other Parties agree not to oppose a termination and withdrawal from the Stipulation by any other Party.

- AA. Unless the Signatory Party exercises its right to terminate its Signatory Party status as described above, each Signatory Party agrees to and will support the reasonableness of this ESP and this Stipulation before the Commission in these proceedings and to take no position contrary to the support for the reasonableness of the ESP and this Stipulation in any appeal from the Commission's adoption and/or enforcement of this ESP and this Stipulation. The Parties agree that testimony and related exhibits that support this Stipulation will be offered at a hearing, provided that such testimony and related exhibits may be used only for the purpose of the Commission's approval of this Stipulation. At any hearing and in any documents or briefs filed with the Commission in respect of the Stipulation, each Signatory Party agrees to support the Stipulation and to do nothing, directly or indirectly, to undermine the Stipulation or the Commission's approval of it, including through cross-examination or taking positions that are contrary to supporting the Commission's approval of the Stipulation without modification.
- BB. This Stipulation is submitted for purposes of these proceedings only and neither this Stipulation nor any Commission order considering this Stipulation shall be

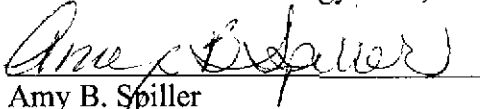
deemed binding in any other proceeding nor shall this Stipulation or any such Order be offered or relied upon by any Party in any proceedings except as necessary to enforce the terms of this Stipulation.

CC. This Stipulation contains the entire agreement between the Parties (including persons who belong to membership organizations that are Parties hereto) and no additional consideration with regard to the above-captioned proceedings has been promised or agreed to by any Party (including persons who belong to membership organizations that are Parties hereto).

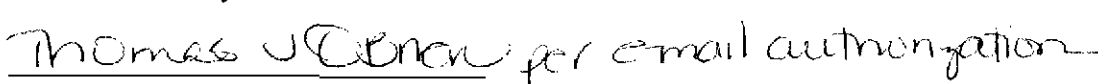
On Behalf of Staff of the Public Utilities Commission of Ohio


John H. Jones
Steven Beeler
Assistant Attorneys General
180 E. Broad Street
Columbus, Ohio 43215


On Behalf of Duke Energy Ohio, Inc.


Amy B. Spiller
Rocco O. D'Ascenzo
Elizabeth H. Watts
Jeanne W. Kingery
Duke Energy Business Services LLC
139 E. Fourth Street, 1303 Main
Cincinnati, Ohio 45202


On Behalf of City of Cincinnati


Thomas J. O'Brien
Bricker & Eckler LLP
100 South Third
Columbus, Ohio 43215


On Behalf of Ohio Partners for Affordable Energy


Colleen L. Mooney
Ohio Partners for Affordable Energy
231 West Lima Street
Findlay, Ohio 45839

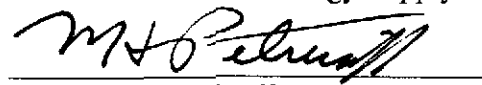
On Behalf of Industrial Energy Users-Ohio


Samuel C. Randazzo
Frank P. Darr
Joseph E. Oliker
McNees Wallace & Nurick LLC
21 E. State Street, 17th Floor
Columbus, Ohio 43215

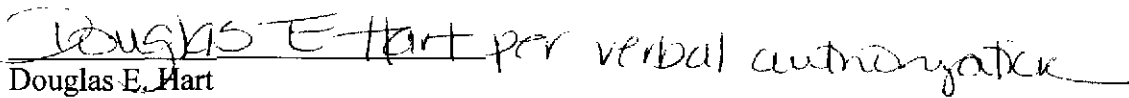
On Behalf of Ohio Energy Group


David F. Boehm
Michael L. Kurtz
Jody Kyler
Boehm, Kurtz & Lowry
36 East Seventh Street, Suite 1510
Cincinnati, Ohio 45202

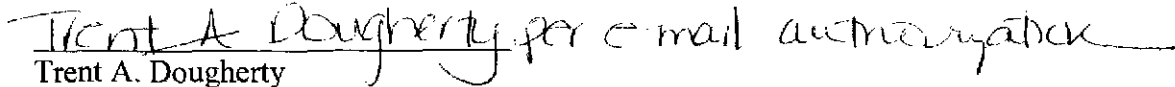
On Behalf of Retail Energy Supply Association


M. Howard Petricoff
Stephen Howard
Vorys, Sater, Seymour, and Pease, LLP
52 East Gay Street
P.O. Box 1008
Columbus, Ohio 43216-1008

On Behalf of the Greater Cincinnati Health Council

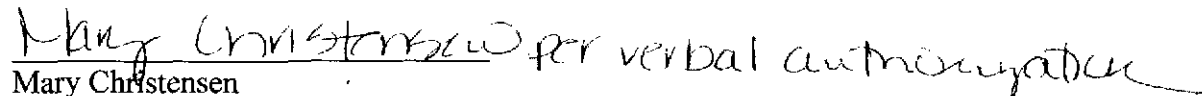

Douglas E. Hart
441 Vine Street, Suite 4192
Cincinnati, Ohio 45202

On Behalf of the Ohio Environmental Council

 Trent A. Dougherty per e-mail authentication

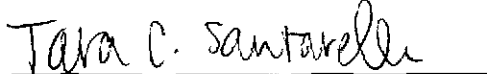
Trent A. Dougherty
Nolan Moser
Ohio Environmental Council
1207 Grandview Avenue, Suite 201
Columbus, Ohio 43212-3449

On Behalf of People Working Cooperatively, Inc.

 Mary Christensen per verbal authentication

Mary Christensen
Christensen & Christensen, LLP
8760 Orion Place, Suite 300
Columbus, OH 43240

On Behalf of Environmental Law & Policy Center

 Tara C. Santarelli

Tara C. Santarelli
Environmental Law & Policy Center
1207 Grandview Ave., Suite 201
Columbus, Ohio 43212

On Behalf of the Office of the Ohio Consumers' Counsel




Jeffrey L. Small
Joseph P. Serio
Melissa R. Yost
Assistant Consumers' Counsel
Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485

On Behalf of Ohio Manufacturers Association


 Lisa G. McAlister

Matthew W. Warnock
Bricker & Eckler LLP
100 South Third Street
Columbus, OH 43215

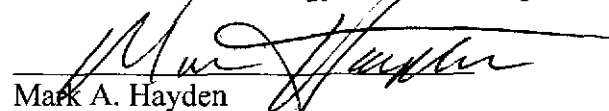
On Behalf of the Kroger Company


Mark S. Yurick, Esq.
Zachary D. Kravitz, Esq.
Chester, Wilcox & Saxbe, LLP
65 East State Street, Suite 1000
Columbus, Ohio 43215-4213

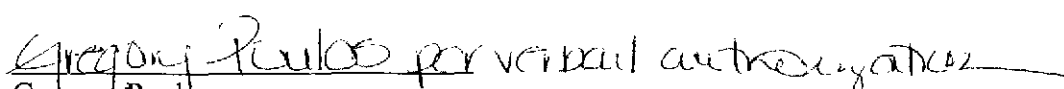
On Behalf of Constellation NewEnergy, Inc. and Constellation Energy Commodities Group, Inc.


M. Howard Petricoff
Michael J. Settineri
Vorys, Sater, Seymour, and Pease, LLP
52 East Gay Street
P.O.Box 1008
Columbus, Ohio 43216-1008

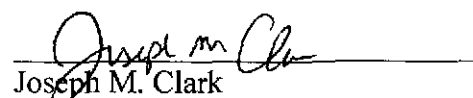
On Behalf of FirstEnergy Solutions Corp.


Mark A. Hayden
FirstEnergy Service Company
76 South Main Street
Akron, OH 44308

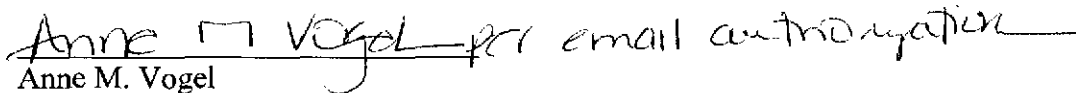
On Behalf of EnerNOC, Inc.


Gregory Poulos
EnerNOC, Inc.
101 Federal Street, Suite 1100
Boston, MA 02110

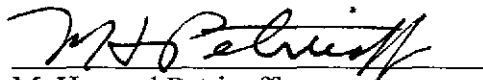
On Behalf of Vectren Retail, LLC d/b/a/ Vectren Source


Joseph M. Clark
Vectren Retail, LLC d/b/a Vectren Source
6641 North High Street, Suite 200
Worthington, OH 43085


On Behalf of AEP Retail Energy Partners LLC


Anne M. Vogel
American Electric Power Service
Corporation
1 Riverside Plaza, 29th Floor
Columbus OH 43215


On Behalf of PJM Power Providers Group


M. Howard Petricoff
Stephen Howard
Vorys, Sater, Seymour, and Pease, LLP
52 East Gay Street
P.O. Box 1008
Columbus, Ohio 43216-1008

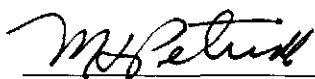
On Behalf of Direct Energy Services, LLC, and Direct Energy Business, LLC


Dane Stinson
Bailey Cavalieri LLC
10 West Broad Street, Suite 2100
Columbus, Ohio 43215

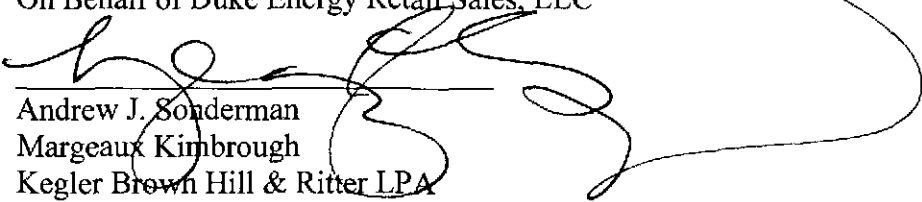
On Behalf of Miami University and the University of Cincinnati


M. Howard Petricoff
Special Assistant Attorney General
Vorys, Sater, Seymour, and Pease, LLP
52 East Gay Street
P.O. Box 1008
Columbus, Ohio 43216-1008

On Behalf of COMPETE Coalition

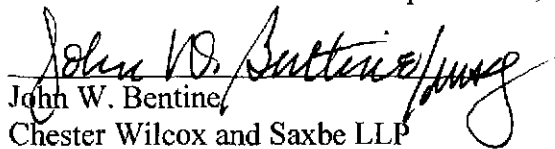

William L. Massey / M. Howard Petricoff
Covington & Burling, LLP
1201 Pennsylvania Ave., NW
Washington, DC. 20004

On Behalf of Duke Energy Retail Sales, LLC



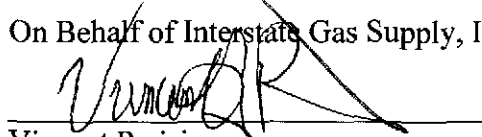
Andrew J. Sonderman
Margeaux Kimbrough
Kegler Brown Hill & Ritter LPA
Capitol Square, Suite 1800
65 East State Street
Columbus, Ohio 43215

On Behalf of American Municipal Power, Inc.




John W. Bentine
Chester Wilcox and Saxbe LLP
65 East State Street, Suite 1000
Columbus, Ohio 43215

On Behalf of Interstate Gas Supply, Inc.



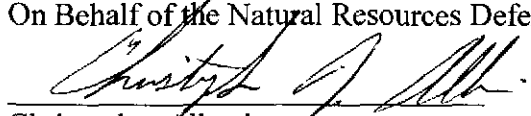
Vincent Parisi
Matthew White
Interstate Gas Supply, Inc
6100 Emerald Parkway
Dublin OH 43016

On Behalf of Exelon Generation Company, LLC



M. Howard Petricoff
Lija Kaleps- Clark
Vorys, Sater, Seymour, and Pease, LLP
52 East Gay Street
P.O. Box 1008
Columbus, Ohio 43216-1008

On Behalf of the Natural Resources Defense Council



Christopher Allwein
Williams, Allwein and Moser, LLC
1373 Grandview Ave., Suite 212
Columbus, Ohio 43212

On Behalf of Wal-Mart Stores East, LP and Sam's East, Inc.

Richard Chamberlain per verbal authorization

Richard Chamberlain
6 Northeast 63rd St, Suite 400
Oklahoma City, OK 73105

On Behalf of Cincinnati Bell Inc.

Douglas E. Hart per verbal authorization

Douglas E. Hart
441 Vine Street, Suite 4192
Cincinnati, OH 45202

On Behalf of Council of Smaller Enterprises

Matthew R. Cox per verbal authorization

Matthew R. Cox
McDonald Hopkins
41 South High Street
Suite 3550
Columbus, OH 43215

The following parties in these proceedings take no position with regard to the Stipulation:

On Behalf of Columbus Southern Power Company and Ohio Power Company

Matthew Satterwhite per email authorization

Matthew Satterwhite
Erin Miller
American Electric Power Service Corporation
1 Riverside Plaza, 29th Floor
Columbus OH 43215

On Behalf of Dominion Retail, Inc.

Barth E. Royer per verbal authorization

Barth E. Royer
Bell & Royer Co., LPA
33 South Grant Avenue
Columbus, Ohio 43215-3927

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

9/28/2012 5:04:15 PM

in

Case No(s). 11-0346-EL-SSO, 11-0348-EL-SSO, 11-0349-EL-AAM, 11-0350-EL-AAM

Summary: Motion Motion to Strike Portions of Ohio Power's Application for Rehearing and Memorandum Contra by the Office of the Ohio Consumers' Counsel and the Appalachian Peace and Justice Network electronically filed by Ms. Deb J. Bingham on behalf of Grady, Maureen R. Ms.