

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of)	
Duke Energy Ohio, Inc., for an)	Case No. 12-1682-EL-AIR
Increase in Electric Distribution Rates.)	
In the Matter of the Application of)	
Duke Energy Ohio, Inc., for Tariff)	Case No. 12-1683-EL-ATA
Approval.)	
In the Matter of the Application of)	
Duke Energy Ohio, Inc., for Approval)	Case No. 12-1684-EL-AAM
to Change Accounting Methods.)	

SUPPLEMENTAL DIRECT TESTIMONY OF

RICHARD D. HARRELL

ON BEHALF OF

DUKE ENERGY OHIO, INC.

<u> X </u>	Management policies, practices, and organization
<u> X </u>	Operating income
<u> </u>	Rate base
<u> </u>	Allocations
<u> </u>	Rate of return
<u> </u>	Rates and tariffs
<u> </u>	Other

February 19, 2013

TABLE OF CONTENTS

	<u>PAGE</u>
I. INTRODUCTION AND PURPOSE	1
II. OBJECTIONS SUPPORTED BY WITNESS.....	1
III. CONCLUSION	20

ATTACHMENT

RDH-SUPP-1 Responses to STAFF DR-84-001

I. INTRODUCTION AND PURPOSE

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

2 A. My name is Richard D. Harrell, and my business address is 139 East Fourth
3 Street, Cincinnati, Ohio 45202.

4 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

5 A. I am employed by Duke Energy Business Services LLC (DEBS) as Vice President
6 of Field Operations, Midwest region. DEBS provides various administrative and
7 other services to Duke Energy Ohio, Inc., (Duke Energy Ohio or Company) and
8 other affiliated companies of Duke Energy Corporation (Duke Energy).

9 **Q. ARE YOU THE SAME RICHARD D. HARRELL WHO FILED DIRECT**
10 **TESTIMONY IN THESE PROCEEDINGS?**

11 A. Yes.

12 **Q. WHAT IS THE PURPOSE OF YOUR SUPPLEMENTAL DIRECT**
13 **TESTIMONY?**

14 A. The purpose of my testimony is to support several of the Company's objections to
15 certain findings and recommendations contained in the Report by the Staff of the
16 Public Utilities Commission of Ohio (Staff) issued in these proceedings on
17 January 4, 2012, (Staff Report) as they relate to the Company's electric
18 distribution operations.

II. OBJECTIONS SPONSORED BY WITNESS

19 **Q. PLEASE DESCRIBE THE COMPANY'S OBJECTION NO. 11.**

20 A. Duke Energy Ohio objects to Staff's recommended adjustment to the Company's
21 vegetation management program that reduces our operation costs and thus the

1 Company's revenue requirement in these proceedings.

2 **Q. PLEASE EXPLAIN THE COMPANY'S OBJECTION TO STAFF'S**
3 **RECOMMENDATION TO EXCLUDE VEGETATION MANAGEMENT**
4 **EXPENSES.**

5 A. Staff's adjustment to eliminate the Company's increased costs for vegetation
6 management was not justified or even explained in the Staff Report. Vegetation
7 management is a key component of the Company's ability to maintain our reliable
8 service and meet reliability targets. Staff's adjustment to reduce the amount of
9 budget dollars related to vegetation management is unreasonable and directly
10 impacts the Company's ability to maintain reliability. It is inconsistent (at best)
11 for the Public Utilities Commission of Ohio (Commission), on one hand, to
12 require utilities to maintain comprehensive vegetation management programs and
13 meet reliability target indices and, on the other, to allow Staff to arbitrarily
14 eliminate reasonable funding requests for these programs. Staff's adjustment
15 eliminating vegetation management expenses should be ignored, thereby
16 increasing the Company's Operation and Maintenance (O&M) Expense by
17 \$700,000.

18 **Q. IS VEGETATION MANAGEMENT IMPORTANT TO MAINTAINING**
19 **THE COMPANY'S RELIABILITY?**

20 A. Yes. As I explained in my Direct Testimony, Duke Energy Ohio has performed well
21 with respect to our reliability scores and has exceeded the targets established in
22 consultation with Staff pursuant to O.A.C. 4901:1-10-10(B)(2). Vegetation
23 management is a key contributor to maintaining that excellent track record.

1 Adequately funding this program is integral to the Company's ability to continue to
2 provide safe and reliable service to our customers. That is why Staff's
3 recommendation to reduce the Company's vegetation management expense is
4 troubling. It is sending the wrong message.

5 **Q. DOES THE COMPANY HAVE ESTABLISHED PROTOCOLS FOR**
6 **VEGETATION MANAGEMENT ALONG OUR DISTRIBUTION LINES?**

7 A. Yes.

8 **Q. PLEASE BRIEFLY DESCRIBE THE VEGETATION MANAGEMENT**
9 **PROTOCOLS FOR VEGETATION MANAGEMENT ALONG**
10 **DISTRIBUTION LINES IN OHIO.**

11 A Duke Energy Ohio has over 8,322 miles of distribution line to manage. These lines
12 are managed on a four-year cycle by circuit, clearing trees to address any vegetation
13 that has grown too close to our lines and thus poses a hazard to the electric facilities
14 or public safety. Vegetation cycles are dynamic and our International Society of
15 Arboriculture (ISA) trained staff evaluates distribution circuit needs in each trim
16 cycle. There are variances to this cycle due to the number of distribution circuits and
17 associated miles that must be trimmed to maintain a four-year cycle. Our staff also
18 assesses new environmental issues such as the tree infestations from Emerald Ash
19 Bore and Asian Longhorn Beetle which are resulting in damage that creates more
20 hazard trees and tree limbs than experienced in previous cycles. Our trim cycle also
21 varies due to complexity of trimming. As example, tree growth resulting from wet
22 growing seasons substantially increases the amount of tree trimming needed.
23 Conversely, a dry growing season works to reduce growth. In addition, each cycle is

1 affected by the species of tree to be addressed in that cycle. For example, fast
2 growing trees such as maple versus slowing growing species such as oak require
3 different levels of maintenance. Other variables impacting costs include new
4 protocols for dealing with communities that restrict distribution trimming along
5 highly traveled roads requiring more traffic control and restricted operating hours to
6 avoid community traffic issues. Our practices also include mowing and herbicide
7 applications to address facility access needs and reduce future costs by reducing new
8 tree growth. The Company also has a hazard tree mitigation program to address
9 trees in proximity to our lines that can cause damage should they fall.

10 **Q. PLEASE EXPLAIN THE DANGER THAT TREES POSE TO**
11 **DISTRIBUTION LINES.**

12 A. Trees are conductors of electricity and those trees that grow near power lines are
13 potentially dangerous hazards. Serious or fatal shocks can occur from working or
14 playing in trees near power lines. Through their normal growth, trees can pose a
15 dangerous hazard to public safety as well as threaten interruption to service. Trees
16 can be energized by coming into contact with overhead power lines, thereby posing
17 a threat to public safety.

18 **Q. DOES DUKE ENERGY OHIO USE OUR OWN CREWS TO PERFORM**
19 **OUR TREE TRIMMING WORK?**

20 A. No. In order to meet vegetation management plan requirements and prudently
21 manage our costs, Duke Energy Ohio supplements our crews with qualified line
22 clearance contract crews to do our vegetation work.

- 1 **Q. WHAT QUALIFICATIONS MUST A PRIVATE CONTRACTOR HAVE**
2 **TO PERFORM TREE TRIMMING FOR DUKE ENERGY OHIO?**
- 3 A. In order for a contractor to work near our power lines, they must be line clearance
4 certified, as mandated by Occupational Safety and Health Administration
5 (OSHA). Some other qualifications that Duke Energy Ohio considers are the
6 financial stability of the contractor, the availability of equipment and labor
7 resources, input from utilities that the prospective contractor is or has been
8 working for, and previous work history with Duke Energy Ohio.
- 9 **Q. ARE THERE MANY OUTSIDE PRIVATE CONTRACTORS WHO ARE**
10 **QUALIFIED TO DO DISTRIBUTION AND TRANSMISSION LINE**
11 **VEGETATION MANAGEMENT WORK IN DUKE ENERGY OHIO'S**
12 **SERVICE TERRITORY?**
- 13 A. No. There are a limited number of contractors who have the proper certification to
14 perform work along distribution lines and transmission line work.
- 15 **Q. DO THE OUTSIDE VENDORS HIRED BY DUKE ENERGY OHIO**
16 **FOLLOW THE COMPANY'S PROTOCOLS FOR TREE TRIMMING?**
- 17 A. Yes. The Company supports established healthy trimming methods outlined by
18 the ISA.
- 19 **Q. DOES DUKE ENERGY OHIO SUPERVISE AND INSPECT TREE**
20 **TRIMMING PERFORMED BY OUR OUTSIDE VENDORS?**
- 21 A. Yes.

1 **Q. PLEASE EXPLAIN HOW THE COMPANY’S COSTS HAVE INCREASED**
2 **WITH RESPECT TO VEGETATION MANAGEMENT.**

3 A. The Company bids work to qualified contractors for vegetation management and
4 is forming longer-term agreements to control contracting costs. Labor,
5 equipment, tools, and herbicide costs continue to increase year over year. Even
6 with aggressive management of costs, our contractors have embedded increases in
7 the areas stated above. All the increases are driven by the need to maintain an
8 equipped and qualified work force that must meet industry and OSHA-required
9 training requirements. Equipment costs such as vehicle operating cost including
10 leases, routine maintenance, and fuel continue to escalate for our contractors.
11 These costs are embedded in the Company’s contracts, and in turn, impact Duke
12 Energy Ohio’s overall vegetation management expense. Vegetation management
13 depends on specialty equipment, such as vegetation chippers, right-of-way
14 mowers, hand-trimming tools, and safe climbing gear, all of which also continue
15 to escalate in cost. Our current contracts have 2 percent escalation clauses to
16 address these increases, producing a known and measurable expense that is
17 predictable and controls cost escalation.

18 **Q. ARE THE AFORMENTIONED COST INCREASES DRIVING THE**
19 **ADJUSTMENT IN THIS CASE TO INCREASE VEGETATION**
20 **MANAGEMENT EXPENSE FOR DUKE ENERGY OHIO?**

21 A. Yes. Duke Energy Ohio’s costs to continue our vegetation management program
22 are increasing. We know we will have more dead trees from infestations because
23 we are already experiencing increased incidents in the field. We know our

1 communities are exercising more jurisdictional control over when and how we
2 manage vegetation. We know our contactor cost will continue to increase. The
3 Company's program is necessary to maintain reliability. Adequate funding is
4 imperative to achieving the Company's goals of providing safe, reliable, and
5 reasonable service for our customers twenty-four hours a day, seven days a week.
6 The increases in vegetation management expenses are known and measurable and
7 unavoidable. Not adequately funding this program is sending the wrong message
8 to utilities and to customers.

9 **Q. DO YOU BELIEVE THE VEGETATION MANAGEMENT EXPENSES**
10 **INCLUDED IN THE COMPANY'S APPLICATION ARE ACCURATE**
11 **AND REASONABLE?**

12 A. Yes. The Company's unadjusted projected test year expense for vegetation
13 management was approximately \$10.3 million. For all the reasons discussed
14 above, the Company proposed an adjustment to the test year expense of \$700,000
15 to reflect anticipated higher costs to meet our safety and reliability objectives
16 associated with this work. Combined, the proposed test period expense for
17 vegetation management was approximately \$11 million. The Company responded
18 to a Staff data request, Staff-DR-84-001, which requested that the Company
19 provide updated actual expenses for the budgeted portion of the test period. The
20 Company supplemented this information after actual data became available for
21 each month. Summing up the individual data responses that provided actual
22 monthly data, the actual total vegetation management expenses incurred by Duke
23 Energy Ohio for all of 2012 was \$11,637,762, substantially more than the

1 requested amount in the Company's test year revenue requirement. Attachment
2 RDH-SUPP-1 is a true and accurate copy of the responses provided to Staff in
3 discovery.

4 **Q. IS THE COMPANY REQUESTING MORE THAN THE \$11 MILLION**
5 **INCLUDED IN OUR TEST YEAR REVENUE REQUIREMENT?**

6 A. No. Although the fact that the "actual" expense for this important work was
7 substantially higher than what was requested and certainly meets Staff's desire to
8 only base adjustments on "known and measurable" changes, the Company is only
9 requesting that the Commission reject Staff's adjustment to the Company's
10 proposed test year expense. Staff's adjustment unreasonably undervalues the
11 Company's vegetation management expense to a level below both the Company's
12 budgeted and adjusted amounts proposed in these proceedings, not to mention
13 below the Company's actual 2012 expense. Staff's recommendation deprives the
14 Company of our actual cost of providing service. As I discussed above,
15 vegetation management is an important component of the Company's ability to
16 meet or exceed our reliability targets in Ohio. In order to maintain the
17 Company's reliability, the program must continue to be adequately funded. There
18 is absolutely no reasoning or justification in the Staff Report to support Staff's
19 reduction in the Company's vegetation management expenses. The Commission
20 should not arbitrarily cut expenses just to arrive at a number for a revenue
21 requirement, especially when the evidence of actual clearly supports the
22 Company's request. Rather, if Duke Energy has a proven track record of
23 maintaining our reliability performance, and foresees that our costs are increasing,

1 the Commission should encourage our utilities to maintain performance, rather
2 than risk declines in reliability because of underfunding.

3 **Q. PLEASE DESCRIBE COMPANY OBJECTION NO. 12.**

4 A. Duke Energy Ohio objects to the Staff's exclusion of the Company's proposed
5 streetlight audit program. Staff's elimination of this program was not discussed in
6 the Staff Report and thus its elimination altogether is arbitrary and unreasonable.

7 **Q. WHAT IS THE STAFF'S OBJECTION TO THE COMPANY'S**
8 **PROPOSED STREETLIGHT AUDIT PROGRAM?**

9 A. The Company has no idea why the Staff eliminated this program. Staff did not
10 offer any explanation to support its adjustment to eliminate this program and thus
11 it is unreasonable, arbitrary and only serves to reduce the Company's revenue
12 requirement as supported in these proceedings.

13 **Q. PLEASE MORE FULLY DESCRIBE THE PURPOSE OF THE**
14 **STREETLIGHT AUDIT PROGRAM.**

15 A. As I explained in my Direct Testimony, this program is intended to ensure that
16 streetlights attached to Duke Energy Ohio-owned poles continue to be properly
17 maintained and accounted and billed for. The Company does not currently have a
18 program that regularly and continually inspects and tracks pole attachments and
19 streetlights. Moreover, because the Company's inventory/mapping and billing
20 systems were developed separately and independently, the systems do not
21 currently cross reference or share data between and among the systems. It is
22 becoming more frequent that Duke Energy Ohio receives requests from
23 municipalities requesting audits of streetlights to demonstrate their location in the

1 field and for billing purposes. This is requested for a number of reasons,
2 including verifying billing for the municipalities or to maintain a map/inventory
3 of city facilities. Currently, the Company's billing systems and our inventory
4 mapping systems are maintained independently and the Company is not able to
5 match locations of each and every light and fixture itemized on a customer's bills
6 and, consequently, satisfy the requests of our customers. Thus, the only way to
7 provide customers with the information they request is to perform a separate and
8 isolated municipal audit upon request. Performing these isolated audits is time
9 consuming and expensive. Developing a standalone comprehensive continuous
10 improvement program is a more cost effective way to provide this service.

11 **Q. HOW WOULD THIS AUDIT/INSPECTION PROGRAM OPERATE TO**
12 **CORRECT THIS ISSUE?**

13 A. The program would operate similar to the Company's other inspection programs,
14 such as our distribution pole inspection program. The Company intends to divide
15 our service territory into geographic areas so to inspect all of the streetlights on
16 the system once every five years. The inspection would include an inventory
17 audit, notation of geographic coordinates of the facility, and an inspection of the
18 facility for operation. The Company could then use this information to verify
19 and, if necessary, update our mapping and billing records on a continual basis.
20 Fixtures that are in need of replacement or maintenance will be identified and
21 necessary actions taken.

22 **Q. WHY IS SUCH AN AUDIT PROGRAM NECESSARY?**

23 A. The facilities in the field often change and without the Company's knowledge.

1 The Company's streetlight mapping and billing records do not currently
2 communicate with one another, and as a result there may be a timing delay or
3 discrepancy in relocation of facilities in the mapping system and updates to billing
4 records. Moreover, the Company's records may not be reflective of what may be
5 in the field, especially with customer-owned facilities, due to the municipality
6 replacing lighting fixtures, adding new fixtures, or updating fixtures (*e.g.*
7 changing to higher efficiency fixtures entitling them to a different rate structure)
8 without notifying the Company. Sometimes the discrepancy in billing/mapping
9 data could be a result of a mistake by the Company, such as when structures are
10 replaced during emergency situations such as severe storms or car accidents.
11 Also, the Company does not have a program whereby it continually inspects the
12 streetlights for operation and relies upon notification by the municipality as to
13 when fixtures may need to be replaced. The Company's proposal incorporates a
14 comprehensive audit program of all streetlights in the Company's system in a
15 reasonable fashion as a continuous improvement program. The Company would
16 incorporate this audit into other audit programs to minimize costs and the audit
17 would allow the Company to demonstrate to our municipal customers that our
18 records are continually being kept up to date, even with customer-initiated
19 changes. This would eliminate the current process of performing one-off
20 municipal specific audits, which are more expensive. Most importantly, from a
21 customer perspective, this is a service that has been requested by numerous
22 communities in our Ohio service territory. If not for the repeated request by
23 customers, we would not be requesting cost recovery to undertake a routine audit

1 program.

2 **Q. ONCE THE AUDIT IS IN PLACE, WOULD THE COMPANY BE ABLE**
3 **TO UPDATE BOTH OUR BILLING RECORDS AND MAPPING**
4 **RECORDS SO THAT EXACT FACILITY LOCATIONS ITEMIZED ON A**
5 **CUSTOMER BILL COULD BE IDENTIFIED GEOGRAPHICALLY FOR**
6 **THE CUSTOMER?**

7 A. Yes. That is the Company's plan. It is important to understand that going through
8 this audit/inspection process to allow the updating the two systems so that data
9 can be cross referenced would be useless if the audit program was not
10 implemented as a continuous program to be maintained going forward. The
11 purpose of this proposal would be to develop a program where the data is
12 constantly being updated.

13 **Q. DO YOU BELIEVE THE COMPANY'S PROPOSED STREETLIGHT**
14 **AUDIT PROGRAM IS REASONABLE AND THAT THE PROPOSED**
15 **COSTS ARE PRUDENT TO RECOVER IN RATES? .**

16 A. Yes. I believe this has a public benefit of not only making sure the street lighting
17 information is able to be provided to municipal customers in a way that allows
18 them to have confidence that their public safety needs are meet and billing is
19 accurate.

20 **Q. PLEASE DESCRIBE THE COMPANY OBJECTION NO. 18.**

21 A. Duke Energy Ohio objects to Staff's recommendation to eliminate the proposed
22 Rider Facilities Relocation Tariff (Rider FRT). Staff lists several reasons why it
23 believes the Rider should not be approved in these proceedings. On the advice of

1 counsel, I understand that many of the Staff's concerns are issues of a legal nature
2 and raise issues that are either not relevant to the cost recovery proposed by the
3 Company or are beyond the jurisdiction of the Commission to even consider.
4 Nonetheless, I will address the operation-related concerns raised by the Staff. The
5 Staff's reasoning for not recommending Rider FRT is summarized as follows:

- 6 • The Company did not identify what type of public mass transportation
7 project would be eligible under Rider FRT;
- 8 • The Company did not distinguish between projects that should be funded
9 solely by governmental subdivision and projects by the utility in
10 accordance with home rule charter of the Constitution;
- 11 • The Company did not address direct and indirect benefits of
12 transportation projects including economic, social and environmental
13 benefits and does not ensure that appropriate customers are being charged
14 in accordance with cost causation and recovery principals;
- 15 • The Rider is confusing because of the two options for funding; and
- 16 • The Company's proposal of clarity regarding treatment of cost overruns
17 and whether unintended legal liability is created such as future
18 remediation.

19 **Q. IS STAFF'S FIRST CRITICISM THAT THE COMPANY DID NOT**
20 **IDENTIFY THE TYPE OF PROJECT TO BE INCLUDED IN RIDER FRT**
21 **ACCURATE?**

22 A. No. The applicability section of Rider FRT explains the types of relocation
23 projects that could be included for recovery under the Rider as those relocations

1 “directly related to the construction and operation of any mode of mass
2 transportation, including but not limited to, light rail, heavy rail, high-speed rail,
3 street cars, subways, trolleys, trams or buses.” As I explained in my Direct
4 Testimony, the City of Cincinnati’s (City) streetcar project is a type of project to
5 be recovered under Rider FRT. If the City were to elect to not pay for the
6 relocation itself as part of the project, then the City would elect to have the
7 residents in its municipal boundary pay the costs. And then, the Company will
8 file an application with the Commission to set the Rider. If the City agreed to pay
9 for relocation itself, then there would be no need to apply to set the Rider.

10 To the extent Staff’s criticism refers to a perceived failure to identify other
11 potential projects, the Company cannot identify any other specific projects
12 because no such other projects exist at this time. To the extent a future project
13 would be eligible for recovery under the Rider and the municipality elects to use
14 the Rider to recover the costs from its residents, then the Company would apply to
15 the Commission to set the Rider. If the municipality elects to pay for the
16 relocation itself, the Rider will not be impacted and a rate adjustment would not
17 be necessary. As such, the Staff’s criticism that Rider FRT does not identify the
18 types of projects eligible for recovery is simply inaccurate.

19 **Q. IS STAFF’S SECOND CRITICISM THAT THE COMPANY DID NOT**
20 **DISTINGUISH BETWEEN PROJECTS THAT SHOULD BE FUNDED**
21 **SOLELY BY GOVERNMENTAL SUBDIVISION AND PROJECTS BY**
22 **THE UTILITY IN ACCORDANCE WITH HOME RULE CHARTER OF**
23 **THE CONSTITUTION REASONABLE OR ACCURATE?**

1 A. No. Staff's criticism is not reasonable. Upon advice of counsel, Staff's concern
2 regarding projects covered under home rule versus those that should be recovered
3 directly by the political subdivision is misplaced and beyond the jurisdiction of
4 the Commission to even determine. Notwithstanding the fact that I am not a
5 lawyer, the concept of Rider FRT is fairly simple. Rider FRT applies in situations
6 involving mass transportation projects as defined under the applicability section
7 of the Rider and where the municipality is requiring Duke Energy Ohio to move
8 the facilities located in the municipal right-of-way that the Company uses to serve
9 customers. If it is not a right-of-way facility relocation that is required for a
10 municipal mass transportation project, then the Rider does not apply.

11 Now, one could debate whether a particular mass transportation project
12 requiring utility relocation is one that a municipality is required to pay for under
13 Ohio law. Based upon advice of counsel, that is a fact-specific determination that
14 would likely have to be resolved by a court. Moreover, even if the municipality is
15 not required to pay the costs under Ohio law, it may still contractually agree to do
16 so. Rider FRT simply offers the municipality flexibility to pay for the utility
17 relocation costs. Staff's concern is fact specific and requires legal interpretation.

18 Even if it is determined under a fact-specific situation that the
19 municipality is not obligated to pay for relocation costs, it is my understanding
20 based upon advice of counsel that Ohio law provides alternative methods for the
21 utility to recover its costs through rates that are consistent with Rider FRT.

1 **Q. IS STAFF’S THIRD CRITICISM THAT THE COMPANY DID NOT**
2 **ADDRESS DIRECT AND INDIRECT BENEFITS OF**
3 **TRANSPORTATION PROJECTS INCLUDING ECONOMIC, SOCIAL**
4 **AND ENVIRONMENTAL BENEFITS AND DOES NOT ENSURE THAT**
5 **APPROPRIATE CUSTOMERS ARE BEING CHARGED IN**
6 **ACCORDANCE WITH COST CAUSATION AND RECOVERY**
7 **PRINCIPALS REASONABLE?**

8 A. No. Staff’s concern that Rider FRT does not take into consideration economic
9 development benefits is neither relevant nor material. The utility’s cost to serve
10 its customers does not depend upon the economic development of a community.
11 If a municipality rightfully orders a utility to relocate facilities that are needed to
12 serve the utility’s customers that are currently situated in the municipal right of
13 way, then the utility is incurring a cost. It is that simple. The municipality
14 controls the right of way and the utility must relocate facilities in order to
15 continue to serve its customers. The reason for the municipal-ordered relocation
16 is relevant for purposes of determining legal cost responsibility (*i.e.* who pays for
17 the relocation) as between the municipality directly and the utility’s rates. But
18 whether the project is beneficial in terms of economic development opportunities
19 or not, is absolutely irrelevant as to whether there is a cost created as part of
20 serving customers and how the utility should recover our costs.

21 Similarly, Staff’s concern that the Company’s Rider FRT does not follow
22 cost causation principles is simply false. Rider FRT is precisely the mechanism
23 needed to ensure that cost recovery follows cost causation principles. The

1 Company is proposing for eligible projects to charge the municipality directing
2 the utility facility relocation. The municipality has the ability to determine
3 whether it pays or whether its citizens receiving the direct benefit of the facility
4 relocation should pay. A municipality (or its customers) is only responsible for
5 the relocation costs it causes. No more, no less. Practically speaking, if a
6 neighboring municipality were to cause facility relocation due to a transportation
7 project falling under Rider FRT that will connect to another municipality's
8 transportation project, the second municipality would only pay for the facility
9 relocation costs it causes within its jurisdictional boundaries. It is for the
10 municipalities to coordinate any issues with construction and connections costs in
11 and among themselves. Rider FRT is limited solely to the facility relocation
12 caused by a municipality within its jurisdictional borders.

13 **Q. IS STAFF'S FOURTH CRITICISM THAT THE RIDER IS CONFUSING**
14 **BECAUSE OF THE TWO OPTIONS FOR FUNDING VALID?**

15 A. No. Rider FRT is clear. As I previously stated, for eligible projects where the
16 municipality is obligated to pay, the municipality may: 1) elect to pay Duke
17 Energy Ohio directly; 2) have Duke Energy Ohio paid through a utility
18 assessment of the Company bills within that municipality; or 3) a combination of
19 both. Simply put, either the municipality pays or the citizens of the municipality
20 pay. That determination will be made by the elected officials of the municipality.
21 Again this is no different than the current process, where Duke Energy Ohio
22 directly bills a municipality for facility relocation in those situations where the
23 municipality is obligated to pay, or as advised by counsel, if Duke Energy Ohio

1 were to apply to the Commission for a municipality-specific rider under R.C.
2 4939.06 for an operation cost caused directly by a municipal ordinance.

3 **Q. IS STAFF’S FIFTH CRITICISM THAT THE COMPANY’S PROPOSAL**
4 **LACKS CLARITY REGARDING TREATMENT OF COST OVERRUNS**
5 **AND WHETHER UNINTENDED LEGAL LIABILITY IS CREATED**
6 **SUCH AS FUTURE REMEDIATION VALID?**

7 A. No. Staff’s concerns regarding the lack of clarity regarding how cost over runs
8 will be treated and potential future environmental liability are misplaced. First, as
9 proposed in Rider FRT, Duke Energy Ohio would apply to the Commission to
10 implement the Rider and the Commission will review the costs. Over runs, if any,
11 will be reviewed by the Commission as it reviews all costs under a tracker
12 proceeding. Second, upon advice of counsel, liability issues are not for the
13 Commission to determine. Remediation liability, for example, is governed under
14 either state or federal law. The courts, not the Commission, interpret those laws,
15 and will be tasked with determining liability for environmental remediation.
16 Staff’s concern that Rider FRT does not address such liability is thus unfounded
17 because neither a tariff, nor the Commission, can do so.

18 **Q. DOES THE CITY OF CINCINNATI HAVE A MUNICIPAL RIGHT-OF-**
19 **WAY ORDINANCE THAT DIRECTS WHO PAYS FOR FACILITY**
20 **RELOCATION?**

21 A. At the time the Company filed our case in these proceedings, no. But now the
22 City does have such an ordinance. The City enacted a right-of-way ordinance in
23 the fall of 2012. The Company and the City disagree as to the applicability and

1 validity of the City's ordinance. Nonetheless, an ordinance now exists and defines
2 City public improvement projects to include a streetcar and also would require
3 right-of-way occupants, as opposed to the City itself, to pay for facility relocation
4 costs related to public improvement projects.

5 **Q. HAVE THERE BEEN ANY RECENT DEVELOPMENTS WITH**
6 **RESPECT TO THE ONGOING NEGOTIATIONS BETWEEN DUKE**
7 **ENERGY OHIO AND THE CITY OF CINCINNATI AS IT PERTAINS TO**
8 **THE STREETCAR AS DESCRIBED IN YOUR DIRECT TESTIMONY?**

9 A. Yes. As of January 30, 2013, Duke Energy Ohio and the City have entered into
10 two agreements addressing the relocation of the facilities to accommodate the
11 construction of the streetcar. Neither agreement resolves the cost responsibility
12 issue. The first agreement is titled a Facility Relocation and Operation
13 Agreement. This agreement is the result of months of negotiations to ensure that
14 Duke Energy Ohio will have reasonable access to our underground facilities once
15 the streetcar is operational. The Company and the City have agreed to numerous
16 operational parameters and protocols, including the appropriate and safe distance
17 for the relocation of the Company's facilities from the streetcar, while ensuring
18 that the Company's personnel, customers, and streetcar patrons are adequately
19 protected. The second agreement is entitled a Cooperation Agreement. This
20 Cooperation Agreement describes the process to resolve the cost responsibility for
21 relocation expenses between the City and Duke Energy Ohio. As it was explained
22 to me, the agreement calls for a declaratory judgment action that is filed in the
23 Hamilton County Court of Common Pleas, to determine the rights and

1 responsibilities under the City's right of way ordinance. The issues are complex
2 and, as I understand, involve legal arguments as to whether or not the City's
3 recently enacted right-of-way ordinance is valid as it pertains to the streetcar and
4 whether or not the City itself should be responsible for the relocation expenses.
5 The Cooperation Agreement also outlines the payment process if Duke Energy
6 Ohio is successful in our challenge and for the depositing of funds by the City to
7 cover the Company's current estimate of relocation costs.

8 **Q. GIVEN THE STATUS OF THE AGREEMENTS WITH THE CITY, IS**
9 **RIDER FRT EVEN NECESSARY?**

10 A. The Company believes it is. The City of Cincinnati's streetcar is but one possible
11 project that could occur and fall under the Rider FRT. The Rider was intended to
12 provide municipalities with flexibility for funding these sorts of projects and for
13 Duke Energy Ohio to obtain cost recovery. With respect to the Cincinnati
14 streetcar, if the Company is not successful in our challenge under the Cooperation
15 Agreement, then Rider FRT could provide the vehicle for recovery of the
16 Company's costs of relocation of these facilities. It is important to note that these
17 facilities are both used and useful and necessary for the Company to provide
18 service to customers in Cincinnati. But for the streetcar, the Company would not
19 have to relocate these facilities.

III. CONCLUSION

20 **Q. WAS ATTACHMENT RDH-SUPP-1 PREPARED BY YOU OR UNDER**
21 **YOUR DIRECTION AND CONTROL?**

22 A. Yes.

- 1 **Q. DOES THIS CONCLUDE YOUR PRE-FILED SUPPLEMENTAL DIRECT**
2 **TESTIMONY?**
- 3 **A. Yes.**

**Duke Energy Ohio
Case No. 12-1682-EL-AIR
Staff Eighty-Fourth Set Data Requests
Date Received: September 14, 2012**

STAFF-DR-084-001

REQUEST:

For Vegetation Management, please provide the actual amounts spent per month during 2012 and provide monthly updates as the amounts become available.

RESPONSE:

See Staff-DR-084-001 attachment.

PERSON RESPONSIBLE: Peggy Laub

Jan - Aug Actauls

Proc 4 New	Account ID CB	Resource3	1	2	3	4	5	6	7	8	Grand Total
Vegetation Management	593000	Allocated Benefits	2,231	2,127	2,285	1,915	1,951	1,961	2,048	1,979	16,497
		Allocated Labor	4,750	3,668	3,637	3,857	4,270	4,861	5,376	3,918	34,336
		Direct Labor	16,431	16,680	18,343	14,361	14,531	15,512	14,477	14,862	125,198
		Direct Purchases	194	27	1,242			101,639	48		103,149
		Employee Expense	4,615	2,519	1,018	1,857	1,375	1,958	735	2,389	16,466
		Materials & Supplies	113	15	5						133
		Other Allocated Cost			165		86	374	100		725
		Outside Services	689,723	915,250	1,192,115	1,099,897	774,979	497,507	555,983	1,062,438	6,787,892
		Transportation	4,611	5,960	3,637	2,847	2,990	2,889	2,967	3,623	29,524
Grand Total			722,668	946,245	1,222,447	1,124,734	800,182	626,701	581,734	1,089,209	7,113,920

**Duke Energy Ohio
Case No. 12-1682-EL-AIR
Staff Eighty-Fourth Set Data Requests
Date Received: September 14, 2012**

STAFF-DR-084-001 SUPP-SEPT.

REQUEST:

For Vegetation Management, please provide the actual amounts spent per month during 2012 and provide monthly updates as the amounts become available.

RESPONSE:

See Attachment Staff-DR-084-001 SUPP SEPT.

PERSON RESPONSIBLE: Peggy Laub

Case No. 12-1682-EL-AIR
Staff-DR-84-001 SUPP SEP Attachment
Page 1 of 1

September Actuals			
			Accounting Period CMD
Proc 4 New	Account ID CB	Resource3	9
Vegetation Management	593000	Allocated Benefits	1,971
		Allocated Labor	4,555
		Direct Labor	14,029
		Direct Purchases	-124,649
		Employee Expense	1,352
		Outside Services	744,991
		Transportation	2,281
Grand Total			644,529

**Duke Energy Ohio
Case No. 12-1682-EL-AIR
Staff Eighty-Fourth Set Data Requests
Date Received: September 14, 2012**

STAFF-DR-084-001 SUPP-OCT

REQUEST:

For Vegetation Management, please provide the actual amounts spent per month during 2012 and provide monthly updates as the amounts become available.

RESPONSE:

See Attachment Staff-DR-084-001 SUPP OCT.

PERSON RESPONSIBLE: Peggy Laub

Case No. 12-1682-EL-AIR
Staff-DR-84-001 SUPP OCT Attachment
Page 1 of 1

October Actuals

Process Level 05 Name	Account CB	Resource Type Level 03 Description	10
DISTRI VEGETATION	0593000	Allocated Benefits	1,915
		Allocated Labor	4,783
		Direct Labor	13,211
		Direct Purchases	6
		Employee Expense	153
		Materials & Supplies	0
		Outside Services	1,123,247
		Transportation	2,593
Grand Total			1,145,908

**Duke Energy Ohio
Case No. 12-1682-EL-AIR
Staff Eighty-Fourth Set Data Requests
Date Received: September 14, 2012**

STAFF-DR-084-001 SUPP-NOV

REQUEST:

For Vegetation Management, please provide the actual amounts spent per month during 2012 and provide monthly updates as the amounts become available.

RESPONSE:

See Attachment Staff-DR-084-001 SUPP NOV.

PERSON RESPONSIBLE: Peggy Laub

Case No. 12-1682-EL-AIR
Staff-DR-84-001 SUPP NOV Attachment
Page 1 of 1

November Actuals

Process Level 05 Name	Account CB	Resource Type Level 03 Description	10
DISTRI VEGETATION	0593000	Allocated Benefits	3,308
		Allocated Labor	6,544
		Direct Labor	13,988
		Direct Purchases	8,299
		Employee Expense	1,236
		Materials & Supplies	0
		Outside Services	1,050,869
		Transportation	2,206
Grand Total			1,086,449

**Duke Energy Ohio
Case No. 12-1682-EL-AIR
Staff Eighty-Fourth Set Data Requests
Date Received: September 14, 2012**

STAFF-DR-084-001 SUPP-DEC

REQUEST:

For Vegetation Management, please provide the actual amounts spent per month during 2012 and provide monthly updates as the amounts become available.

RESPONSE:

See Attachment Staff-DR-084-001 SUPP DEC.

PERSON RESPONSIBLE: Peggy Laub

Case No. 12-1682-EL-AIR
Staff-DR-84-001 SUPP DEC Attachment
Page 1 of 1

December Actuals

Process Level 05 Name	Account CB	Resource Type Level 03 Description	12
DISTRI VEGETATION	0593000	Allocated Benefits	7,234
		Allocated Labor	7,573
		Direct Labor	15,325
		Direct Purchases	-101,456
		Employee Expense	6,039
		Materials & Supplies	0
		Other Allocated Cost	10,078
		Outside Services	1,701,159
		Transportation	1,004
Grand Total			1,646,956

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

2/19/2013 2:42:36 PM

in

Case No(s). 12-1682-EL-AIR, 12-1683-EL-ATA, 12-1684-EL-AAM

Summary: Testimony Supplemental Direct Testimony of Richard D. Harrell electronically filed by Ms. Elizabeth H Watts on behalf of Duke Energy Ohio, Inc.