

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 its 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. :

- - -

PROCEEDINGS

before Ms. Christine Pirik and Ms. Katie Stenman,  
Attorney Examiners, at the Public Utilities  
Commission of Ohio, 180 East Broad Street, Room 11-A,  
Columbus, Ohio, called at 2:00 p.m. on Wednesday,  
April 3, 2013.

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APPEARANCES:

Duke Energy Ohio, Inc.  
By Ms. Amy B. Spiller  
Mr. Rocco O. D'Ascenzo  
Ms. Jeanne W. Kingery  
Ms. Elizabeth H. Watts  
139 East Fourth Street  
Cincinnati, Ohio 45202

On behalf of the Company.

Vorys, Sater, Seymour and Pease, LLP  
By Mr. M. Howard Petricoff  
Ms. Gretchen L. Petrucci  
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Columbus, Ohio 43216-1008

On behalf of University of Cincinnati  
and Miami University.

Ohio Partners for Affordable Energy  
By Ms. Colleen L. Mooney  
231 West Lima Street  
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On behalf of the Ohio Partners for  
Affordable Energy.

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By Ms. Kimberly W. Bojko  
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On behalf of the Kroger Company.

Boehm, Kurtz & Lowry  
By Mr. Michael L. Kurtz  
Mr. David Boehm  
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On behalf of the Ohio Energy Group, Inc.

APPEARANCES: (Continued)

Bruce E. Weston,  
Ohio Consumers' Counsel  
By Mr. Terry L. Etter  
Mr. Larry S. Sauer  
Ms. Kyle L. Kern  
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Assistant Consumers' Counsel  
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Columbus, Ohio 43215-3485

On behalf of the Residential Consumers of  
the Duke Energy Ohio, Inc.

Whitt Sturtevant LLP  
By Mr. Andrew J. Campbell  
88 East Broad Street, Suite 1590  
Columbus, Ohio 43215

On behalf of the Interstate Gas Supply.

Mr. Joseph M. Clark  
and Ms. Jennifer L. Lause  
21 East State Street, 19th Floor  
Columbus, Ohio 43215

On behalf of Direct Energy Services, LLC,  
and Direct Energy Business, LLC.

Mike DeWine, Ohio Attorney General  
By Mr. William L. Wright  
Section Chief, Public Utilities Section  
Mr. John H. Jones  
Mr. Ryan O'Rourke  
Mr. Thomas Lindgren  
180 East Broad Street, 6th Floor  
Columbus, Ohio 43215

On behalf of the Staff of the PUCO.

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Wednesday Afternoon Session,  
April 3, 2013.

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EXAMINER STENMAN: At this time the  
Public Utilities Commission of Ohio reconvenes the  
hearing in case Nos. 12-1682-EL-AIR, 12-1683-EL-ATA  
and 12-1684-EL-AAM, which is In the Matter of the  
Application of Duke Energy Ohio, Inc., for an  
Increase in Electric Distribution Rates, for Tariff  
Approval, and for Approval to Change Accounting  
Methods.

I am Katie Stenman and with me is  
Christine Pirik. We are the Attorney Examiners  
assigned to hear this case.

Let's take appearances, starting with the  
company.

MS. WATTS: On behalf of Duke Energy  
Ohio, Amy B. Spiller, Elizabeth H. Watts, Jeanne W.  
Kingery, and Rocco O. D'Ascenzo, 139 East Fourth  
Street, Cincinnati, Ohio.

MS. MOONEY: On behalf of Ohio Partners  
for Affordable Energy, Colleen Mooney, 231 West Lima  
Street, Findlay, Ohio.

MR. ETTER: Your Honor, on behalf of the  
residential consumers, the Office of the Ohio

Consumers' Counsel, Bruce J. Weston, Ohio Consumers' Counsel, Terry L. Etter, Michael J. Schuler, Kyle L. Kern, and Larry S. Sauer, assistant consumers' counsel, 10 West Broad Street, Suite 1800, Columbus, Ohio.

MS. COHN: Good afternoon. On behalf of the Ohio Energy Group, Boehm, Kurtz & Lowry, Michael L. Kurtz, David Boehm, Jody Kyler Cohn, 36 East Seventh Street, Suite 1510, Cincinnati, Ohio.

MR. CLARK: On behalf of Direct Energy Services, LLC, and Direct Energy Business, LLC, Joseph M. Clark and Jennifer L. Lause, 21 East State Street, 19th Floor, Columbus, Ohio.

MR. CAMPBELL: Good afternoon, your Honors. On behalf of Interstate Gas Supply, electric case only, I am Andrew Campbell, Whitt Sturtevant, LLP, 88 East Broad Street, Suite 1590, Columbus, Ohio.

MS. MOHLER: On behalf of the Kroger Company, the law firm of Carpenter, Lipps & Leland, LLP, Kimberly W. Bojko, Mallory M. Mohler, 280 North High Street, Columbus, Ohio.

MS. PETRUCCI: Good afternoon. On behalf of the University of Cincinnati and Miami University, the law firm of Vorys, Sater, Seymour and Pease, M.

1 Howard Petricoff and Gretchen L. Petrucci, 52 East  
2 Gay Street, Columbus, Ohio 43215.

3 MR. JONES: Good afternoon, your Honors.  
4 On behalf of the staff of the Public Utilities  
5 Commission of Ohio, Mike DeWine, Ohio Attorney  
6 General, Ryan O'Rourke and John Jones, 180 East Broad  
7 Street, Columbus, Ohio 43215.

8 EXAMINER STENMAN: Thank you.

9 Before we turn to the Stipulation, we do  
10 have one outstanding motion for protective order that  
11 was filed by the Ohio Consumers' Counsel. It's not a  
12 very specific motion, and I'm wondering if Duke would  
13 have any more information on why it is sought to be  
14 protected, deserving of protective treatment.

15 MS. WATTS: Your Honor, since it is not  
16 my motion, I'm not prepared to address it at this  
17 time.

18 EXAMINER STENMAN: Do you think you will  
19 be able to address it during this hearing, or do you  
20 prefer to file something?

21 MS. WATTS: I prefer to file something.

22 EXAMINER PIRIK: I mean, it is the  
23 company's information that they are trying to  
24 protect.

25 MS. WATTS: Sure.

1 EXAMINER PIRIK: And, honestly, it's a  
2 very small piece of information that, perhaps,  
3 Mr. Wathen could look at today. We would really like  
4 not to have any protective information. I have a  
5 copy of it here if you would like to see this copy.

6 MS. WATTS: Okay. That would be great.

7 Your Honor, can we table this just for a  
8 few moments and come back to it? We might be able to  
9 give you an answer.

10 EXAMINER STENMAN: Okay. I see that we  
11 do have a Stipulation. I notice that there are a  
12 number of parties who not are signatory parties. Is  
13 that correct?

14 MS. WATTS: That's correct, your Honor,  
15 and just in order to be clear on the record, the  
16 parties that are supporting the Stipulation are only  
17 those that have signatures on the page that was  
18 submitted yesterday on the docket.

19 EXAMINER STENMAN: Okay.

20 MS. WATTS: To the extent there are no  
21 signatures appearing on the Stipulation, for the most  
22 part, those parties are either here today to present  
23 their position or do not sign or do not oppose the  
24 Stipulation.

25 I will note with one particular entity,

1           which is Stand Energy -- forgive me, because I go  
2           back and forth between the gas and electric  
3           Stipulation. I have to take that back. Either they  
4           are here in the room to give you their position, or  
5           they do not sign and do not oppose.

6                       EXAMINER STENMAN: Which nonsignatory  
7           parties do we have in the room?

8                       MS. PETRUCCI: On behalf of the  
9           University of Cincinnati and Miami University, we do  
10          not oppose the Stipulation.

11                      EXAMINER STENMAN: Thank you.

12                      MR. CAMPBELL: Interstate Gas Supply does  
13          not oppose the Stipulation.

14                      EXAMINER STENMAN: Anyone else?

15                      MS. WATTS: Your Honor, I was authorized  
16          to represent that NRDS and OEC do not oppose as well.

17                      EXAMINER STENMAN: Okay. We have three  
18          different witnesses. Who wants to call the first  
19          witness?

20                      MS. WATTS: Insofar as my witness is  
21          otherwise detained at the moment, I would be fine  
22          with another witness going forth.

23                      MR. ETTER: Our witness is here so we can  
24          call our witness.

25                      But first, would you like to put the

1 Stipulation in as a Joint Exhibit?

2 MS. WATTS: So, your Honor, we do have a  
3 Stipulation to offer. I ask that be marked as Joint  
4 Exhibit 1.

5 EXAMINER STENMAN: It will be so marked.

6 (EXHIBIT MARKED FOR IDENTIFICATION.)

7 MS. WATTS: Our witness is back. Would  
8 you like to start with him?

9 EXAMINER STENMAN: Sure, we will start  
10 with him.

11 MS. WATTS: We ask to reserve the marking  
12 of Mr. Wathen's testimony until we do that with all  
13 the documents so we know exactly which numbers.

14 EXAMINER STENMAN: Okay.

15 - - -

16 WILLIAM DON WATHEN, JR.

17 being first duly sworn, as prescribed by law, was

18 DIRECT EXAMINATION

19 By Ms. Watts:

20 Q. Mr. Wathen, would you state your name for  
21 the record, please?

22 A. My name is William Don Wathen, Jr.

23 Q. And your employment?

24 A. I work with Duke Energy. My employment  
25 is I'm the director of rates and regulatory strategy

1 for Ohio and Kentucky.

2 Q. And, Mr. Wathen, do you have before you a  
3 document that is entitled "Second Supplemental  
4 Testimony of William Don Wathen, Jr., In Support of  
5 Settlement on behalf of Duke Energy, Inc."?

6 A. I do.

7 Q. Is that the testimony you have caused to  
8 be filed in this proceeding?

9 A. It is.

10 Q. If I were to ask you the questions  
11 contained therein, would your answers be the same?

12 A. Yes.

13 Q. And are they truthful, to the best of  
14 your knowledge?

15 A. Yes.

16 Q. Do you have any corrections to that  
17 testimony?

18 A. None that I'm aware of.

19 MS. WATTS: Mr. Wathen is available for  
20 cross-examination.

21 EXAMINER STENMAN: Any cross-examination?

22 MR. ETTER: Yes, your Honor. We have  
23 just a few questions. We have a few questions on  
24 clarification.

25 - - -

CROSS-EXAMINATION

By Mr. Etter:

Q. Good afternoon, Mr. Wathen. If you turn to page 3 of your testimony, on lines 12 and 13 you mention "Revised Language for the Company's Right of Way Tariff." Duke currently has language regarding right-of-way in its tariff, correct?

A. I believe so.

Q. And the current language in the Right of Way Tariff gives Duke some access to customer's property without compensation to the customer to install facilities; isn't that correct?

A. I'm not familiar with the current language.

Q. Okay. Subject to check, would you agree that Duke has language in the Right of Way Tariff?

A. Subject to check.

Q. And basically that gives full access to the company to serve customers and full access only along streets and roads to install facilities that serve other customers, subject to check; is that correct?

A. Yes, subject to check.

Q. And similar language to that is included in the Stipulation; is that correct?



1 A. Yes.

2 Q. And the only changes, as far as you know,  
3 are some grammatical modifications; is that correct?

4 A. I believe there's a new paragraph; that  
5 the first two paragraphs are mostly from the existing  
6 tariff.

7 Q. Thank you. And in the application in  
8 this proceeding, Duke proposed new language for the  
9 tariff that would have given Duke full access to  
10 access to a customer's property to install facilities  
11 that would serve other customers; is that correct?

12 MS. WATTS: Objection. I believe  
13 Mr. Etter is delving into some of the some of the  
14 matters that were the subject of settlement  
15 discussion in this case.

16 MR. ETTER: No, your Honor. I'm just  
17 asking him what is in the application in this  
18 proceeding and doesn't have anything to do with what  
19 was in settlement discussions.

20 EXAMINER STENMAN: The objection will be  
21 overruled, as long as you confine your questions to  
22 outside the scope of settlement.

23 MR. ETTER: Thank you. That's what I  
24 planned to do.

25 A. I didn't review the original application

1           so I'm not real familiar with what was in there right  
2           at the moment.

3                   Q.    Subject to check, the application had  
4           language in it that customers would not have been  
5           given compensation for access to their property for  
6           facilities that would have served other customers; is  
7           that correct?

8                   A.    Subject to check.

9                   Q.    And the language agreed to in the  
10          Stipulation gives Duke or says that Duke will  
11          negotiate with customers for access to their property  
12          to install facilities that serve other customers; is  
13          that correct?

14                  A.    There's -- the language you are referring  
15          to is in a particular situation it does that, yes.

16                  Q.    And customers could be compensated for  
17          access to -- Duke's access to install facilities that  
18          serve other customers; is that correct?

19                  A.    In the situation that's identified in  
20          that paragraph, there is potential compensation to  
21          the customer, yes.

22                  Q.    And if there's no agreement as a result  
23          of negotiations, then the rights of both and Duke and  
24          its customers are preserved in case Duke seeks other  
25          means to gain access to the customer's property; is

1           that correct?

2                   A.    I think you read that very well.  That's  
3           pretty much what it says.

4                   Q.    Thank you.  On page 2 of your testimony,  
5           line 15, you mention "the agreed upon return on  
6           equity of 9.84 percent."  The Stipulation says that  
7           the 9.84 percent return on equity is not to be used  
8           as precedent in any other case except SmartGrid Rider  
9           cases; is that correct?

10                  A.    I think it says it will not be used in  
11           any future electric proceeding except for SmartGrid,  
12           yes.

13                  Q.    So if OCC or PUCO staff or Duke, or any  
14           other party to the Stipulation, wants to propose a  
15           return on equity number other than 9.84 percent in  
16           any electric case other than SmartGrid Rider cases,  
17           they're free to do so, correct?

18                  A.    In any future case, yes.

19                  Q.    In any future cases.  So the Stipulation  
20           does not constrain them in that regard?

21                  A.    I think it's pretty clear that a party  
22           can advocate any ROE they want to in a further case.

23                       MR. ETTER:  Thank you.  That's all the  
24           questions I have.

25                       EXAMINER STENMAN:  Any questions?

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MS. MOONEY: No questions.  
MR. ETTER: No questions, your Honor.  
MS. COHN: No questions.  
MR. CLARK: No questions.  
MR. CAMPBELL: No questions.  
MS. MOHLER: No questions.  
MS. PETRUCCI: No questions.  
MR. JONES: No questions, your Honor.  
EXAMINER STENMAN: Any redirect?  
MS. WATTS: No, your Honor.

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EXAMINATION

By Examiner Stenman:

Q. Just to be clear, on page 5 of the Stipulation you discuss the 11-974 fuel adjustment proceeding. Will Duke be filing something in that docket in the proceeding indicating that this wraps up those matters?

A. Subject to discussion with counsel, I suppose we will file something to conclude it.

Q. Okay. Then on page 7, the last sentence of Section 3c discusses the use of the straight fixed variable rate.

A. Yes.

Q. Why decoupling and not fixed variable

1 rate? What is this limiting clause here in the  
2 Stipulation?

3 A. One of the parties to the agreement  
4 opposed the straight fixed variable, and we have not  
5 proposed it in this case, so it was an easy  
6 settlement. Since we are not proposing it between  
7 now and the next rate case, it won't be an issue.

8 Q. So Duke has no issues that led  
9 necessarily to the exclusion of the straight fixed  
10 variable?

11 A. That's correct.

12 EXAMINER STENMAN: I don't have anything  
13 else. Thank you.

14 Ms. Watts, do you want to go through the  
15 testimony marking?

16 MS. WATTS: I think that would be great.  
17 If you're ready, I'm ready.

18 EXAMINER STENMAN: Whenever you're ready.

19 MS. WATTS: Your Honor, we would ask that  
20 Duke Energy Ohio's application in this proceeding be  
21 marked as Duke Energy Ohio Exhibit 1. There are 13  
22 volumes to that exhibit, so I would propose they be  
23 marked Duke Energy 1A, B, C all the way up to the  
24 13th volume.

25 I would ask that the Direct Testimony of

1 Julia Janson be marked as Duke Energy Exhibit 2.

2 The Direct Testimony of Keith Butler be  
3 marked as Duke Energy 3.

4 The Direct Testimony of Stephen DeMay  
5 would be Duke Energy Exhibit 4.

6 The Direct Testimony of John Spanos would  
7 be Duke Energy Exhibit 5.

8 The Direct Testimony of Carl J. Council  
9 would be Duke Energy 6.

10 The Direct Testimony of Patricia Mullins  
11 would be Duke Energy 7.

12 The Direct Testimony of Daniel J. Reilly  
13 would be Duke Energy 8.

14 The Direct Testimony of Roger Morin would  
15 be Energy Exhibit 9.

16 The Direct Testimony of Peggy Laub would  
17 be Duke Energy Exhibit 10.

18 The Direct Testimony of James Riddle  
19 would be Duke Energy Exhibit 11.

20 The Direct Testimony of James Ziolkowski  
21 would be Duke Energy Exhibit 12.

22 The Direct Testimony of William Don  
23 Wathen that be during Exhibit 13.

24 The Direct Testimony of Bruce Sailors  
25 would be Duke Energy Exhibit 14.

1                   And the testimony of Richard Harrell  
2                   would be Duke Energy Exhibit 15.

3                   In the interest of keeping all the  
4                   testimony on one continuous listing, I would ask then  
5                   that the Supplemental Testimony of William Don Wathen  
6                   be marked as Duke Energy Exhibit 16.

7                   The supplemental Direct Testimony --  
8                   EXAMINER PIRIK: We were doing A-B-C, so  
9                   13A.

10                  MS. WATTS: Okay.

11                  EXAMINER PIRIK: His direct was 13.

12                  MS. WATTS: Yes.

13                  EXAMINER PIRIK: So his supplemental  
14                  would 13A and second supplemental would be 13B.

15                  MS. WATTS: All right. The Supplemental  
16                  Testimony of Roger A. Morin would be Duke Energy  
17                  Exhibit 9A.

18                  The Supplemental Direct Testimony of  
19                  Peggy A. Laub would be Duke Energy Exhibit 10A.

20                  The Supplemental testimony of Patricia  
21                  Mullins would be Duke Energy 7A.

22                  The Supplemental Direct Testimony of  
23                  Richard Harrell would be Duke Energy Exhibit 15A.

24                  The Direct Testimony of James P. Henning  
25                  would be Duke Energy Exhibit 16.

1                   The Supplemental Direct Testimony of  
2                   James Ziolkowski would be Duke Energy Exhibit 12A.

3                   The Supplemental Direct Testimony of  
4                   Daniel Reilly would be Duke Energy Exhibit 8A.

5                   The Supplemental Direct Testimony of  
6                   James Riddle would be Duke Energy Exhibit 11A.

7                   And the Direct Testimony of Steven  
8                   Michael Covington would be Duke Energy Exhibit 17.

9                   I would propose that the Company's  
10                  Objections to the Staff Report -- we could keep with  
11                  going to testimony.

12                  EXAMINER STENMAN: Let's finish the  
13                  testimony.

14                  MS. WATTS: Okay. So the Second  
15                  Supplemental Testimony of William Don Wathen would be  
16                  Duke Energy Exhibit 13B.

17                  The Company's Objections to the Staff  
18                  Report, which were submitted on February 4, would be  
19                  Duke Energy Ohio Exhibit 18.

20                  Then we have three proofs of publications  
21                  that we like to have marked as exhibits.

22                  The proof of publication for February 19  
23                  would be Duke Energy Ohio Exhibit 19.

24                  The proof of publication for March that  
25                  was docketed on March 12 would be Duke Energy Ohio



1 Exhibit 20.

2 And the proof of publication that was  
3 docketed on November 28, 2012 would be Duke Energy  
4 Ohio Exhibit 21.

5 EXAMINER STENMAN: Is that all?

6 MS. WATTS: I believe that's all.

7 EXAMINER STENMAN: Are there any  
8 objections to the admission of Duke Energy Ohio  
9 Exhibits 1 through 21 and all of their various  
10 subparts?

11 All right. Hearing no objections, Duke  
12 Energy Ohio Exhibits 1 through 21 and all the  
13 subparts will be admitted.

14 (EXHIBITS ADMITTED INTO EVIDENCE.)

15 EXAMINER STENMAN: Mr. Etter, would you  
16 like to go next?

17 MR. ETTER: Yes, thank you, your Honor.

18 OCC calls Ms. Beth Hixon.

19 BETH E. HIXON

20 being first duly sworn, as prescribed by law, was  
21 examined and testified as follows:

22 DIRECT EXAMINATION

23 By Mr. Etter:

24 Q. Would you state your name please?

25 A. My name is Beth Hixon.

1 Q. And where are you employed?

2 A. By the Office of the Ohio Consumers'  
3 Counsel.

4 Q. And do you have a copy of the testimony  
5 of Beth E. Hixon, In support of Stipulation, filed on  
6 April 2, 2013?

7 A. Yes, I do.

8 MR. ETTER: And, your Honors, we would  
9 like to the mark that as OCC Exhibit 2A.

10 EXAMINER STENMAN: It will be so marked.

11 (EXHIBIT MARKED FOR IDENTIFICATION.)

12 Q. And was this testimony prepared by you or  
13 on your behalf?

14 A. Yes.

15 Q. And if you were to be asked these  
16 questions today, would you answer in the same manner?

17 A. Yes.

18 Q. And do you believe these responses to be  
19 truthful, to the best of your knowledge?

20 A. Yes, I do.

21 MR. ETTER: We have no further questions,  
22 your Honor, and I tender the witness for  
23 cross-examination.

24 EXAMINER STENMAN: Any questions?

25 MS. MOONEY: No, your Honor.

1 MS. COHN: No, your Honor.

2 MS. WATTS: I have one.

3 - - -

4 CROSS-EXAMINATION

5 By Ms. Watts:

6 Q. Ms. Hicks, turn to page 4 of your  
7 testimony, please. And do you have before you what  
8 has been marked as Joint Exhibit 1?

9 A. Yes.

10 Q. Is that the Stipulation that the parties  
11 have submitted in this case?

12 A. Yes.

13 Q. And are you familiar with that document?

14 A. Yes.

15 Q. Would you turn to page 6 of Joint Exhibit  
16 1, please.

17 A. I have that.

18 Q. Do you see there a provision paragraph  
19 No. 2 that deals with Return on Equity?

20 A. Yes, I do.

21 Q. And would you read, please, the second  
22 sentence in that paragraph?

23 A. The sentence that begins "The ROE  
24 agreed"?

25 Q. Yes.

1           A.    "The ROE agreed upon in this Stipulation  
2           shall not be used as precedent in any future electric  
3           proceeding except for the purpose of determining the  
4           revenue requirement for collection from customers in  
5           proceedings addressing the Company's SmartGrid Rider  
6           (Rider DR-IM)."

7           Q.    Thank you.  Now, looking at page 4 of  
8           your testimony, there's a third bullet that says,  
9           "Duke may not use the stipulated return on equity in  
10          these cases as precedent in any future proceedings."  
11         Do you see that?

12          A.    Yes.

13          Q.    Isn't it the case that the Stipulation  
14          says that the parties may not use the ROE as  
15          precedent as opposed to just Duke?

16          A.    Yes, that's an appropriate correction.

17                 MS. WATTS:  Thank you.  I have nothing  
18          further.

19                 EXAMINER STENMAN:  Any questions, staff?

20                 MR. JONES:  We have no questions, your  
21          Honor.

22                 EXAMINER STENMAN:  Any redirect?

23                 MR. ETTER:  No, your Honor.

24                         - - -

25                                 EXAMINATION

By Examiner Stenman:

Q. Just one quick question. Why not fixed variable rate design when the Commission has approved straight fixed variable before, if you know?

A. Well, I think, as Mr. Wathen said, it's they have not proposed it in this particular case, and I don't believe that there was any intent to prevent the company from doing it in this particular case but to simply not have it, or not have it an issue, until a distribution case would be around.

Q. If it wasn't proposed in this case, is there a reason that it is specifically included in the language of the Stipulation?

MR. ETTER: Your Honor, I think we are getting into negotiations that were going on regarding the Stipulation. Those negotiations are confidential.

EXAMINER STENMAN: Okay. Thank you.

Mr. Etter, you turn for the exhibits.

MR. ETTER: I don't have nearly as many as the company.

OCC would like to move as Exhibit 1, OCC's Objections to the Staff Report filed on February 4, 2013.

As Exhibit 2, the Direct Testimony of

1 Beth E. Hixon filed February 19, 2013.

2 As Exhibit 2A the testimony of Beth E.  
3 Hixon in support of the Stipulation filed on April 2,  
4 2013.

5 As Exhibit 3 the Direct Testimony of  
6 Bruce M. Hayes filed February 19, 2013.

7 As Exhibit 4 the Direct Testimony of  
8 David J. Effron, filed February 19, 2013.

9 As Exhibit 5 the Direct Testimony of  
10 Daniel J. Duann filed, February 19, 2013.

11 As Exhibit 6 the Direct Testimony of  
12 Scott J. Rubin filed February 29, 2013.

13 As Exhibit 7 the Direct Testimony of  
14 Ibrahim Soliman, filed February 19, 2013.

15 As Exhibit 8 the Direct Testimony of  
16 James E. Gould, the confidential version, filed  
17 February 19, 2013.

18 As Exhibit 8A the Direct Testimony of  
19 James E. Gould, the public version, also filed  
20 February 19, 2013.

21 EXAMINER STENMAN: Are there any  
22 objections to the admission OCC Exhibits 1 through 8  
23 and all their subparts?

24 Hearing none, OCC Exhibits 1 through 8  
25 and the subparts will be admitted.

1 (EXHIBITS ADMITTED INTO EVIDENCE.)

2 EXAMINER STENMAN: Mr. Jones, I believe  
3 you are up.

4 MR. JONES: Thank you, your Honor, staff  
5 would call Ross Willis to the stand.

6 (Witness sworn.)

7 MR. JONES: Before I begin, may I  
8 approach the witness, your Honor?

9 EXAMINER STENMAN: Of course.

10 - - -

11 WILLIAM ROSS WILLIS  
12 being first duly sworn, as prescribed by law, was  
13 examined and testified as follows:

14 DIRECT EXAMINATION

15 By Mr. Jones:

16 Q. Would you please state your name for the  
17 record, please?

18 A. I'm William Ross Willis.

19 Q. Where are you employed?

20 A. I am employed by the Public Utilities  
21 Commission of Ohio.

22 Q. What are your job duties and  
23 responsibilities?

24 A. My position is chief of the Rates  
25 Division in the Utilities Department. My

1 responsibilities include all activities and policies  
2 and procedures as it relates to the rates division.  
3 I plan, organize, direct, and develop staff  
4 responsible for rate case investigations and other  
5 financial audits of utilities that are before the  
6 Commission.

7 Q. Did you actively participate in the  
8 settlement discussions that resulted in the Joint  
9 Stipulation and Recommendation filed in this case?

10 A. I did.

11 Q. Would you please identify for the record  
12 the document before you marked as Staff Exhibit 1?

13 A. It's the Staff Report of Investigation.

14 Q. Did you have a part in preparing that  
15 report?

16 A. I did. I had overall responsibility,  
17 point person for the staff within the various  
18 departments of the Commission, and I was directly  
19 responsible for the operating income rate base and  
20 rates and tariff sections of the staff report, and I  
21 accept responsibility for the revenue requirement  
22 schedules set that are here.

23 Q. Does the report represent the results of  
24 the staff's investigation in the case?

25 A. It does.



1 Q. Was the Staff Report filed in this case  
2 docket?

3 A. It was. It was filed on January 4, 2013.

4 Q. Would you please identify for the record  
5 the document before you marked as Staff Exhibit 2A.

6 A. The is my prefiled testimony in support  
7 of the Joint Exhibit and Recommendation.

8 Q. Was your testimony prepared by you or at  
9 your direction?

10 A. It was prepared by myself.

11 Q. Do you have any corrections or changes to  
12 make to your testimony?

13 A. I do not.

14 Q. If I were to ask you the same questions  
15 that are contained in Staff Exhibit 2A, would your  
16 answers be the same?

17 A. Yes.

18 Q. Have the revenue requirement schedules in  
19 the Staff Report of Investigation changed as a result  
20 of settlement in this case?

21 A. Some schedules have changed, and I have  
22 attached those to Staff Exhibit 2A.

23 Q. Does the revenue requirement schedules  
24 attached to the your testimony accurately reflect  
25 those changes in support of the Stipulation?

1 A. They do.

2 Q. Does the Stipulation in this case, Joint  
3 Exhibit 1, satisfy the Commission's three-part test?

4 A. It does.

5 Q. Does staff support the Stipulation and  
6 recommend its adoption and approval by the  
7 Commission?

8 A. Yes.

9 MR. JONES: Your Honor, Mr. Willis is  
10 available for cross?

11 EXAMINER STENMAN: Thank you.

12 Any questions.

13 MS. MOONEY: No, your Honor.

14 MR. ETTER: Just one, your Honor.

15 - - -

16 CROSS-EXAMINATION

17 By Mr. Etter:

18 Q. On page 4 of your testimony, line 8, you  
19 mention that the settlement "establishes a  
20 \$4.4 million baseline for major storms." What does  
21 the word "baseline" mean?

22 A. Baseline is a term that I use that 4.4 is  
23 an annual recovery that's built into the base rate  
24 for major storms.

25 MR. ETTER: That's all the questions I

1 have. Thank you.

2 EXAMINER STENMAN: Thank you.

3 MS. WATTS: No questions your Honor.

4 EXAMINER STENMAN: Any redirect?

5 MR. ETTER: No, your Honor, but I do have  
6 other exhibits to mark for the record, please.

7 EXAMINER STENMAN: Okay.

8 MR. JONES: I'd like to have marked for  
9 identification the Prefiled Testimony of William Ross  
10 Willis filed on March 19, 2013 as Staff Exhibit 2.

11 EXAMINER STENMAN: It will be so marked.

12 MR. JONES: If I could have the Prefiled  
13 Testimony of Robert P. Fadley that was prefiled on  
14 March 19, 2013 marked as Staff Exhibit 3.

15 EXAMINER STENMAN: Was it filed on the  
16 19th or the 20th? I am seeing in the docket card on  
17 March 20.

18 MR. JONES: I have a docket card that  
19 says March 19.

20 EXAMINER STENMAN: There are two  
21 different dates. My mistake.

22 MR. JONES: Your Honor, I would like the  
23 Prefiled Testimony of Patrick J. Donlon filed  
24 March 19, 2013, marked as Exhibit 4.

25 I'd like to have the Prefiled Testimony

1 of Mary Alice Sutton that was filed on March 19,  
2 2013, marked as Staff Exhibit 5.

3 I'd like to have the Prefiled Testimony  
4 or Marchia Rutherford filed March 19, 2013, marked as  
5 Staff Exhibit 6.

6 I'd like to have the Prefiled Testimony  
7 of John L. Berringer filed on March 19, 2013, as  
8 Staff Exhibit 7.

9 I would like to have the Prefiled  
10 Testimony of Jeffrey Hecker filed March 19, 2013,  
11 marked as Staff Exhibit 8.

12 I'd like to have the Prefiled Testimony  
13 of a Tricia J. Smith filed in this docket on  
14 March 20, 2013, as Staff Exhibit 9.

15 I would like to have the Prefiled  
16 Testimony of Tornain Matthews filed on March 20,  
17 2013, marked as Staff Exhibit 10.

18 I would like to have the Prefiled  
19 Testimony of Judy Sarver filed in the docket on March  
20 20, 2013, as Staff Exhibit 11.

21 I'd like to have the Prefiled Testimony  
22 of S. Nichole Crocker filed in this docket on  
23 March 20, 2013, marked as Staff Exhibit 12.

24 I would like to have the Prefiled  
25 Testimony of Joseph P. Buckley filed in this docket

1 on March 20, 2013, marked as Exhibit 13.

2 I would like to have the Prefiled  
3 Testimony of David M. Lipthratt filed in this docket  
4 on March 20, 2003, marked as Staff Exhibit 14.

5 I would like to have the Prefiled  
6 Testimony of Matthew D. Snider filed in this docket  
7 on March 30, 2013, marked as Staff Exhibit 15.

8 Finally, I'd like to have the Prefiled  
9 Testimony of Kerry J. Adkins filed on March 20, 2013,  
10 marked that as Staff Exhibit 16.

11 EXAMINER STENMAN: Are there any  
12 objections to the admission of Staff Exhibits 1  
13 through 16?

14 MR. ETTER: No objections.

15 (EXHIBITS ADMITTED INTO EVIDENCE.)

16 EXAMINER STENMAN: We also a Joint  
17 Exhibit 1 before. Any objection to Joint Exhibit 1?

18 MR. ETTER: No.

19 MS. WATTS: No objection.

20 EXAMINER STENMAN: Joint Exhibit 1 will  
21 be admitted at this time before we forget.

22 (EXHIBIT ADMITTED INTO EVIDENCE.)

23 Are there any other parties that need to  
24 mark an exhibit or have objections?

25 I would like to have marked as OPAE

1 Exhibit 1 OPAC's Objections to the Staff Report,  
2 filed on February 4, 2013.

3 EXAMINER STENMAN: Any objection to the  
4 admission of OPAC Exhibit 1?

5 Hearing none, OPAC Exhibit 1 will be  
6 admitted.

7 (EXHIBIT ADMITTED INTO EVIDENCE.)

8 EXAMINER STENMAN: Going back to the  
9 motion for protective order filed by OCC, do we have  
10 a clarification on that motion for protective order?

11 MS. WATTS: I do, your Honor. Not having  
12 the original, I can't tell when we asked for  
13 protection for this whether it was the whole page  
14 when we submitted it. There are several columns that  
15 could be released to the public. But the first five  
16 columns are the subject of an agreement with a  
17 government entity wherein we both agreed to maintain  
18 confidentiality with respect to these numbers.

19 EXAMINER STENMAN: With respect to  
20 Columns 3 and 5, those are in the public record.

21 MS. WATTS: The third column is in the  
22 public record?

23 EXAMINER STENMAN: That's not right?

24 MS. WATTS: All right. I defer to your  
25 better understanding of what's in the record right

1 now.

2 EXAMINER STENMAN: Columns 3 and 5 are  
3 in the public record, so you're still maintaining  
4 that 1, 2, and 4 are confidential?

5 MS. WATTS: Yes.

6 EXAMINER STENMAN: I understand you have  
7 an agreement with a governmental agency that will not  
8 be spoken on the record, but we can assume who that  
9 would be, but I don't understand the confidentiality  
10 of the first column.

11 MS. WATTS: Your Honor, with that  
12 clarification, the first column can be in the public  
13 record as well.

14 EXAMINER STENMAN: Okay.

15 EXAMINER PIRIK: Then is there any end to  
16 the agreement with this governmental entity, or is  
17 this something where this docket will continue  
18 because we will be considering motions for protective  
19 order to maintain that?

20 MS. WATTS: I think that will be the  
21 case, your Honor. As far as I know, there is no end  
22 to the agreement. It just requires we maintain that  
23 confidentiality in perpetuity.

24 EXAMINER STENMAN: Having considered the  
25 arguments of the parties, obviously, column 1 will be

1 filed in the open record.

2 Since OCC filed this document, you need  
3 to be responsible for filing an appropriately  
4 redacted form of this document that has column 1 in  
5 the public record.

6 With respect to columns 2 and 4, the  
7 "True Value" And "Taxable Value" contained in the  
8 exhibits in the Testimony of James E. Gould, and that  
9 is Schedule JEG-C-3.8a, those two columns, 2 and 4,  
10 filed under seal on February 19, 2013 will be  
11 protected as they do contain trade secret  
12 information.

13 Pursuant to 4901-1-24(F), the protective  
14 order will be granted for a period of 18 months and  
15 will automatically expire after 18 months. If Duke  
16 wishes to extend protective treatment, they will be  
17 responsible for filing a motion to extent protective  
18 treatment.

19 Is there anything else we need to talk  
20 about today?

21 MS. WATTS: Nothing more on behalf of the  
22 company, your Honor.

23 MR. JONES: Your Honor, I would like to  
24 move the admission of our exhibits, though. Did we  
25 do that part? I introduced them, but I didn't move



1           for admission. Did I miss something?

2                       EXAMINER STENMAN: I admitted them.

3                       Hearing nothing else, we are adjourned.

4                       (The hearing adjourned concluded at 2:52

5           p.m.)

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CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Wednesday, March 3, 2013, and carefully compared with my original stenographic notes.

---

Rosemary Foster Anderson,  
Professional Reporter and  
Notary Public in and for  
the State of Ohio.

My commission expires April 5, 2014.

(RFA-71946)

- - -

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

Summary: Transcript in the matter of Duke Energy Ohio, Inc. hearing held on 04/03/13 electronically filed by Mrs. Jennifer Duffer on behalf of Armstrong & Okey, Inc. and Anderson, Rosemary Foster Mrs.