

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the :  
Application of Duke Energy:  
Ohio, Inc., for an :  
Adjustment to Rider AMRP : Case No. 13-2231-GA-RDR  
Rates to Recover Costs :  
Incurred in 2012. :

:

In the Matter of the :  
Application of Duke Energy:  
Ohio, Inc., for Tariff : Case No. 13-2232-GA-ATA  
Approval. :

- - -

PROCEEDINGS

before Mr. Kerry K. Sheets, Attorney Examiner, at the  
Public Utilities Commission of Ohio, 180 East Broad  
Street, Room 11-D, Columbus, Ohio, called at 10 a.m.  
on Thursday, April 3, 2014.

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On behalf of the Applicant.

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On behalf of the OMA Energy Group.

Bruce E. Weston, Ohio Consumers' Counsel  
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On behalf of the Residential Customers of  
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Mike DeWine, Ohio Attorney General  
By Mr. William L. Wright,  
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and Mr. Steven L. Beeler,  
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On behalf of the Staff of the PUCO.

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Thursday Morning Session,  
April 3, 2014.

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EXAMINER SHEETS: The Public Utilities Commission of Ohio has set for hearing at this time and place two cases, Case No. 13-2231-GA-RDR and 12-2232-GA-ATA, in the Matter of Duke Energy's AMRP Rider Case and Tariff Approval Case.

My name is Kerry Sheets. I'm an Attorney Examiner for the Commission, and I have been assigned to hear this case. May I now have the appearances of the parties, please, starting with the company.

MS. KINGERY: Your Honor, Amy Spiller, Elizabeth Watts, and Jeanne Kingery, 139 East Fourth Street, Cincinnati, Ohio, on behalf of Duke Energy Ohio.

EXAMINER SHEETS: Thank you.

Is OCC present?

MR. SERIO: Thank you, your Honor. On behalf of the residential utility customers of Duke Energy, Bruce J. Weston, Consumers' Counsel, by Joseph P. Serio.

EXAMINER SHEETS: Now, OMA.

MS. HUSSEY: Good morning, your Honor. On behalf of OMA Energy Group, Rebecca Hussey,

1 Carpenter Lipps & Leland, 280 North High Street,  
2 Suite 1300, Columbus, Ohio 43215.

3 EXAMINER SHEETS: And staff.

4 MR. LINDGREN: On behalf of the  
5 Commission staff, Ohio Attorney General Mike DeWine,  
6 by Thomas Lindgren and Steven Beeler, 180 East Broad  
7 Street, 6th Floor, Columbus, Ohio 43215.

8 EXAMINER SHEETS: Very good.

9 Do we have any preliminary matters to  
10 take care of this morning?

11 MS. KINGERY: Your Honor, I would like to  
12 make a number of documents exhibits of record, if we  
13 could do that at this time.

14 EXAMINER SHEETS: Good.

15 MS. KINGERY: And it's Duke Energy Ohio  
16 Exhibit 1, I would offer the Prefiling Notice of Duke  
17 Energy Ohio filed for the record on November 27,  
18 2013.

19 And then as Duke Energy Ohio Exhibit 2, I  
20 would offer the application filed on February 27,  
21 2014, and filed the same day.

22 I would also offer the Direct Testimony  
23 of Gary Hebbeler and the direct testimony of Peggy  
24 Laub. So Gary Hebbeler would be Duke Energy Ohio  
25 Exhibit 3, and the direct testimony of Peggy Laub

1 would be Duke Energy Ohio Exhibit 4.

2 And then filed this past Monday on the  
3 31st of March, Duke Energy Ohio Exhibit 5, the  
4 Supplemental Direct Testimony of Ms. Laub.

5 And I would also offer as Joint Exhibit  
6 1, the Stipulation and Recommendation also filed on  
7 March 31.

8 Thank you, your Honor.

9 EXAMINER SHEETS: Very good.

10 (EXHIBITS MARKED FOR IDENTIFICATION.)

11 EXAMINER SHEETS: Are there any other  
12 exhibits to mark from the staff? Do you have any?

13 MR. LINDGREN: Your Honor, I would ask --  
14 offer as Staff Exhibit 1, the comments and  
15 recommendations filed by the staff on March 24, 2014.

16 EXAMINER SHEETS: Very good.

17 (EXHIBIT MARKED FOR IDENTIFICATION.)

18 EXAMINER SHEETS: Now, OCC. Excuse me.

19 MR. SERIO: Your Honor, I did not realize  
20 we were marking our comments, but OCC will make  
21 copies available of the comments that we filed on the  
22 24th as OCC Exhibit 1.

23 EXAMINER SHEETS: Thank you.

24 (EXHIBIT MARKED FOR IDENTIFICATION.)

25 EXAMINER SHEETS: OMA.

1 MS. HUSSEY: Your Honor, I think on your  
2 Bench there should be a stack of documents. The  
3 first will be marked for -- I would request to be  
4 marked as OMA Exhibit 1 the comments of OMA Energy  
5 Group.

6 EXAMINER SHEETS: Excuse me, the  
7 comments?

8 MS. HUSSEY: Yes.

9 EXAMINER SHEETS: As Exhibit 1, okay.  
10 (EXHIBIT MARKED FOR IDENTIFICATION.)

11 MS. HUSSEY: OMA Exhibit No. 2 is the  
12 stipulation and recommendation in Case No.  
13 12-1685-GA-AIR.

14 EXAMINER SHEETS: Okay.

15 (EXHIBIT MARKED FOR IDENTIFICATION.)

16 MS. HUSSEY: OMA Exhibit No. 3 is a  
17 letter filed in the 12-1685 to be docketed on May 10,  
18 2013, pertaining to an amendment to the stipulation.

19 EXAMINER SHEETS: This is what I am  
20 holding up here, this exhibit?

21 MS. HUSSEY: Correct.

22 EXAMINER SHEETS: It is marked as Joint  
23 Exhibit 1.

24 MS. HUSSEY: I'm sorry, that's from a  
25 different case. That's from 12-1685.

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(EXHIBIT MARKED FOR IDENTIFICATION.)

MS. HUSSEY: And then OMA Exhibit 4 is actually a part of the prefiling notice but for ease of reference let's mark it as OMA Exhibit 4. It's the PFN Exhibit 4 - Typical Bill Comparison.

EXAMINER SHEETS: Typical Bill Comparison?

MS. HUSSEY: Exactly.

(EXHIBIT MARKED FOR IDENTIFICATION.)

MS. KINGERY: For clarification, Ms. Hussey, is that the prefiling notice in these proceedings?

MS. HUSSEY: It is in these proceedings.

MS. KINGERY: Thank you.

EXAMINER SHEETS: Are there any other preliminary matters?

MS. KINGERY: No, your Honor.

EXAMINER SHEETS: Do you have witnesses to call?

MS. KINGERY: We have one witness to call, Ms. Peggy Laub.

(Witness sworn.)

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PEGGY A. LAUB

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

DIRECT EXAMINATION

By Ms. Kingery:

Q. Ms. Laub, would you please state your  
name and business address for the record.

A. Peggy Laub, 139 East Fourth Street,  
Cincinnati, Ohio 45202.

Q. And do you have before you what has just  
been marked as Duke Energy Ohio Exhibit 4 and Duke  
Energy Ohio Exhibit 5, being your direct and  
supplemental direct testimony?

A. I do.

Q. And did you either prepare that  
testimony, or were you supervising the preparation  
thereof?

A. Yes.

Q. And do you have any corrections or  
amendments to make to that testimony today?

A. Yes, just one minor correction on Exhibit  
5. It's a spelling correction on page 7, the word  
"increase" on line 10 is spelled incorrectly.

Q. Okay. Thank you. And do you have any  
other changes or corrections that you would like to

1 make to your testimony or associated documents?

2 A. Yes, I do. When I was preparing for the  
3 hearing last night, I noticed that the typical bill  
4 comparison in the prefiling notice is -- contains an  
5 error. The increase is showing the total amount of  
6 the AMRP bill instead of just the additional  
7 increase. So -- and it's across all classes so  
8 basically the increase that's shown on there is about  
9 double what it should be so the increases are  
10 actually less than what is shown on those typical  
11 bill comparisons.

12 Q. And if you were to correct all of those  
13 figures, would that have any impact whatsoever on the  
14 rates proposed in this case?

15 A. No.

16 Q. Okay. And with those corrections if I  
17 were to ask you those -- all the questions in Exhibit  
18 4 and Exhibit 5 today, would your answers be the  
19 same?

20 A. Yes.

21 Q. And do you adopt that testimony as your  
22 testimony here today?

23 A. I do.

24 MS. KINGERY: Thank you. The witness is  
25 available for cross-examination.

1 EXAMINER SHEETS: Very well.

2 Let's start with OCC. Do you have any  
3 questions?

4 MR. SERIO: One clarification, your  
5 Honor.

6 - - -

7 CROSS-EXAMINATION

8 By Mr. Serio:

9 Q. So this error that you identified means  
10 that it showed that the increase is double what the  
11 actual increase is?

12 A. That is correct.

13 MR. SERIO: Okay. That's all I have,  
14 your Honor.

15 EXAMINER SHEETS: We will go to OMA.

16 MS. HUSSEY: May I approach? Give you  
17 copies of the exhibits.

18 MS. KINGERY: Ms. Hussey, do you have a  
19 copy for counsel?

20 MS. HUSSEY: I do. I didn't expect so  
21 many people to be here today so I have some others  
22 available.

23 MS. KINGERY: Thank you.

24 - - -

25

CROSS-EXAMINATION

By Ms. Hussey:

Q. Good morning. Thank you for being here. I appreciate it.

In your direct testimony which was filed on February 27, 2014, you mentioned that your current position is the director of rates and regulatory strategy in both the Ohio and Kentucky rates departments; is that correct?

A. That's correct.

Q. Okay. And throughout the period of time when the last gas -- Duke gas distribution rate case was filed and during that case's pendency, you fulfilled the same role?

A. Yes. I -- there was -- we had a title changes within the company; but, yes, it was the same role.

Q. Okay. And that case was 12-1685; is that correct?

A. That's correct.

Q. Okay. Did you offer testimony in that case?

A. I did.

Q. Okay. And did you participate in the negotiations also in that case?

1           A.    I did not. I had some health issues  
2           during that time, so I was not exactly involved in  
3           the settlement discussions.

4           Q.    Okay, okay. Let's see, your supplemental  
5           direct testimony at page 2, if you could reference  
6           that. It mentions the distribution rate case  
7           previous to 12-1685 which was 07-589-GA-AIR. Did you  
8           testify in that case or participate in the  
9           negotiations of that case?

10          A.    I do not believe I testified. I was not  
11          in the rates department at that time, but I would  
12          have been an accounting witness so I don't recall,  
13          but I definitely didn't participate in the settlement  
14          discussions.

15          Q.    Okay. What are your responsibilities in  
16          the role of director of rates and regulatory  
17          strategy?

18          A.    In general I provide -- I calculate  
19          revenue requirement calculations for various filings  
20          in both Ohio and Kentucky.

21          Q.    Okay. And given these responsibilities  
22          do you often work with the concepts of revenue  
23          requirements, revenue distribution, revenue  
24          allocation, and revenue requirement calculations?

25          A.    I do revenue requirements. I do not get

1 involved with cost of service or rate design.

2 Q. Okay. Each of the concepts that I just  
3 discussed, they're financial or accounting concepts,  
4 however?

5 A. Yes.

6 Q. Okay. I would like to shift to the  
7 stipulation that was filed in this case on March 31,  
8 2014. I believe it's Joint Exhibit 1. On page 1,  
9 lines 17 to 22, you mention that in your supplemental  
10 direct testimony you'll discuss and demonstrate  
11 that -- excuse me. I'm sorry. This is not the stip.  
12 This is your supplemental direct testimony. My  
13 apologies. I was looking for the line number.  
14 You --

15 A. So I'm sorry. My direct testimony or  
16 supplemental?

17 Q. It's supplemental.

18 A. Okay.

19 Q. Lines 17 to 22 on page 1.

20 A. I have it.

21 Q. Okay. You mentioned that the  
22 stipulation -- you are going to discuss and  
23 demonstrate the stipulation is the product of serious  
24 bargaining among capable, knowledgeable parties; that  
25 the stipulation doesn't violate any important

1 regulatory principle or practice; and that the  
2 stipulation is a just and reasonable resolution of  
3 the issues that, as a package, will benefit rate  
4 payers in the public interest; is that correct?

5 A. That's correct.

6 Q. Okay. Is it your understanding that the  
7 three items to which you assert you're testifying are  
8 the three prongs of the test the Commission has  
9 traditionally relied upon when considering the  
10 reasonableness of the stipulation?

11 A. Yes.

12 Q. Let's focus on the second prong of the  
13 test for a moment. Page 3, lines 18 to 20, of your  
14 supplemental direct testimony, you were asked if the  
15 stipulation violates any regulatory principle or  
16 practice. And you provide answers in two different  
17 contexts. The first is based on advice of counsel  
18 for my understanding that the stipulation complies;  
19 is that correct?

20 A. That's correct.

21 Q. And then the second is that based upon  
22 your experience with regulatory matters, your  
23 involvement in these proceedings, and your own  
24 examination of the stipulation, the stipulation  
25 complies; is that correct?

1           A.     That's correct.

2           Q.     Okay.  Would you say that your role as  
3     director of rates and regulatory strategy qualifies  
4     you to make that second determination?

5           A.     Yes.

6           Q.     Let's move on to the portion of your  
7     testimony that's devoted to discussion about  
8     allocation and requested increase in the case.  Your  
9     testimony mentions that you're familiar with the  
10    comments that were filed by OMA in these proceedings  
11    that are marked OMA Exhibit 1; is that correct?

12          A.     That's correct.

13          Q.     When discussing OMA's comments in your  
14    supplemental direct testimony, that the allocation  
15    included in the application filed in these matters  
16    and the stipulation also filed in these matters, you  
17    reference the stip in 12-1685; is that correct?

18          A.     That's correct.  But can you refer me to  
19    the page you're on?

20          Q.     Oh, sure.  I believe it's page 5,  
21    supplemental direct, lines 8 to 10.

22          A.     Okay.

23          Q.     Okay.  And I've asked -- I've previously  
24    asked to mark as OMA Exhibit 2 the joint stipulation  
25    in 12-1685 and also the letter filed by Duke May 10,

1 2013, correcting certain language in the AMRP  
2 provision of the stipulation. If you can flip to  
3 page 7 of the stipulation in that case, so OMA  
4 Exhibit 2.

5 A. I have it.

6 Q. Okay. May I ask you to read the last  
7 paragraph on -- excuse me, the paragraph from lines 6  
8 to 10 on that page?

9 A. Yes. "The cap for recovery from  
10 residential customers beginning in 2014 shall be  
11 capped at \$2 per customer per month. In 2015,  
12 recovery from residential customers shall be capped  
13 at \$3 per customer per month. And in 2016, the cap  
14 on recovery from residential customers shall be \$4  
15 per customer per month."

16 Q. Okay. And then also on -- beginning  
17 lines 1 through 3, could you just read the first  
18 sentence also as well into the record.

19 A. "The parties agree that the incremental  
20 increase to the accelerated main replacement program,  
21 AMRP, for residential customers will be capped at \$1  
22 annually on a cumulative basis."

23 Q. Okay. Great. Thank you. And can we all  
24 flip to page 15 of this document. Can you describe  
25 to your knowledge what appears there and on the

1 following pages just for the record?

2 A. Yeah. It is the signature pages for the  
3 parties agreeing to the stipulation.

4 Q. Okay. Great. And if you flip pages, can  
5 you tell me if OMA signed the stipulation?

6 A. They did not.

7 Q. Okay. As you look through the signature  
8 blocks, also did any parties representing solely  
9 commercial customers, natural gas customers, sign the  
10 stipulation?

11 MS. KINGERY: I object. I don't  
12 understand that question. Could you rephrase?

13 MS. HUSSEY: Sure.

14 Q. I am just asking about the parties that  
15 have signed the stipulation, if any of those parties  
16 solely represent nonresidential customers to your  
17 knowledge.

18 EXAMINER SHEETS: What document are you  
19 on?

20 MS. HUSSEY: The stipulation in 12-1685,  
21 the signature blocks, so Exhibit 2 OMA.

22 EXAMINER SHEETS: What page? 15?

23 MS. HUSSEY: 15 and the ones that follow.

24 MS. KINGERY: Objection. I still don't  
25 understand what -- what the word "represent" means in

1 this question.

2 MS. HUSSEY: I'm sorry. Can you read the  
3 question back.

4 (Record read.)

5 A. Kroger Company, in just going through it  
6 Kroger Company is a nonresidential customer.

7 Q. Okay.

8 A. And there's the Greater Cincinnati Health  
9 Council and Cincinnati Bell.

10 Q. Okay. Let's go back. Having recognized  
11 a few moments ago that OMA did not sign the  
12 stipulation, if we could page back to page 7 of the  
13 stipulation.

14 A. I have it.

15 Q. Okay. Where it's stated that the revenue  
16 requirement calculation will be the same as was  
17 approved in prior proceedings.

18 A. Yes.

19 Q. At the bottom.

20 A. Yes.

21 Q. Bottom line. Can you tell me if revenue  
22 requirement calculation is defined in this document?

23 A. In this document it would be my  
24 interpretation that the revenue requirement includes  
25 all the calculations that we particularly have in the

1 AMRP filing including the allocation.

2 Q. Okay. So that's in your understanding.  
3 But this -- the context of the document, is that term  
4 actually defined to your knowledge?

5 A. To my knowledge, it is not.

6 Q. Okay. And I guess if this is not  
7 defined, given the fact that not all of the parties  
8 are regulatory specialists or rate specialists, how  
9 are the parties to know exactly what revenue  
10 requirement calculation means?

11 A. It would be my assumption that the people  
12 representing the parties in these hearings would be  
13 educated about the normal regulatory terms.

14 Q. Okay, okay. So without a definition if  
15 the parties that signed the stipulation didn't know  
16 exactly what they were agreeing to with regard to the  
17 AMRP revenue requirement calculation --

18 MR. SERIO: Objection. Your Honor, that  
19 assumes that the parties that signed didn't know what  
20 it meant and there's absolutely no evidence that  
21 indicates that any of the signatory parties including  
22 OCC did not know what the term meant.

23 EXAMINER SHEETS: You want to say  
24 something?

25 MS. HUSSEY: I could try to rephrase if

1 that would.

2 EXAMINER SHEETS: I'll sustain the  
3 objection.

4 Can you rephrase that?

5 MS. HUSSEY: Sure.

6 Q. (By Ms. Hussey) Without a definition in  
7 the document how would parties that are participating  
8 in the negotiations know what exactly is meant by  
9 revenue requirement calculation?

10 MS. KINGERY: Objection. Asked and  
11 answered.

12 EXAMINER SHEETS: I'll let her answer one  
13 more time.

14 A. Can you repeat the question?

15 MS. HUSSEY: If you can read it back,  
16 that would be fantastic.

17 (Record read.)

18 A. Again, I think that the parties that were  
19 involved in the case were knowledgeable parties and,  
20 therefore, would be familiar with formal regulatory  
21 concepts such as revenue requirement calculation.

22 Q. Okay. So more of an experiential-type  
23 knowledge then?

24 A. Yes.

25 Q. If there is no definition in the document

1 or description in the document of what is  
2 specifically included in that revenue requirement  
3 calculation, how can the allocation be just and  
4 reasonable?

5 A. That allocation has been used for the  
6 last seven years in the AMRP filing. It was approved  
7 in 07-589 and no one to my knowledge has ever argued  
8 against the allegation.

9 Q. Okay. Because of the fact that -- let me  
10 strike that.

11 Let me ask, does the fact that it's been  
12 used throughout time make it just and reasonable?

13 A. I would say that when the parties entered  
14 the stipulation in 07-589, they all agreed it was  
15 just and reasonable.

16 Q. Okay. And 07-589 was to my understanding  
17 a gas distribution rate case, correct?

18 A. That's correct.

19 Q. And there has been another gas  
20 distribution rate case since 07-589; is that correct?

21 A. Correct.

22 Q. Okay. And was the language used always  
23 the same in 12-1685 as it was in 07-589?

24 A. As regards to the AMRP?

25 Q. Uh-huh.

1           A.    I believe that the 12-1685 had an  
2           abbreviated version, and the parties had the  
3           opportunity to change whatever provisions that they  
4           wanted to change in that case. And then there was  
5           the last statement that I just read about the  
6           procedures and revenue requirement calculation would  
7           remain the same.

8           Q.    Okay. So -- but it is also your  
9           understanding that not all parties to -- or parties  
10          that were involved in the negotiation of 12-1685  
11          signed onto the stipulation; is that correct?

12          A.    That is correct. They did not sign onto  
13          the stipulation, but they were involved with the  
14          proceedings.

15          Q.    Okay. When you or your staff performed  
16          the calculations that are included in the schedules  
17          attached to your application in the case, I believe  
18          that's Exhibit 2, Duke Exhibit 2, correct, which gas  
19          distribution rate case was the source of the data  
20          that was used?

21          A.    There's --

22                MS. KINGERY: Objection. What data? Be  
23          more specific.

24          Q.    The data used in the schedules attached  
25          to the application that were provided as per the

1 application.

2 A. Okay. The schedules for AMRP are just  
3 specific to AMRP. So any dollars that were included  
4 in that base rate case related to AMRP are not  
5 included in that file.

6 Q. Okay. So no data from a base rate case  
7 is included in the AMRP schedules whatsoever?

8 A. The only data that would be in there  
9 there is a savings calculation which takes the  
10 difference between expenses incurred in calendar year  
11 2013 and compares it to the test period but other  
12 than that there's no data in the revenue requirement.

13 Q. Okay. And which distribution rate case  
14 would that be from?

15 A. For the savings calculation?

16 Q. Uh-huh.

17 A. The 12-1685.

18 Q. Okay. You reference page 6 of the  
19 stipulation filed in this case in 13-2231. I'm sorry  
20 I am flipping back and forth between stipulations.  
21 Paragraph 5 on page 6.

22 A. Okay. So I'm in the stipulation 13-2231;  
23 is that correct?

24 Q. Hold on just one second. It's paragraph  
25 3, not 5.

1 A. On page?

2 Q. On page 5.

3 A. Okay.

4 Q. Okay. It says "Duke Energy shall  
5 implement the new 2013 rates for Rider AMRP pursuant  
6 to the terms and conditions in the stipulation in  
7 case 07-589"; is that correct?

8 A. It says for 2014 but, yes.

9 Q. For 2014 rates, excuse me. Given that  
10 2012 is the most recent gas distribution rate case,  
11 why did the parties use the terms and conditions in  
12 the stipulation from 07-589?

13 A. It's part of --

14 MS. KINGERY: May I just ask a clarifying  
15 question? Were you talking about paragraph 3?

16 MS. HUSSEY: Uh-huh.

17 MS. KINGERY: I would object. That was  
18 not an accurate reading of paragraph 3.

19 Q. Would you like to read paragraph 3 into  
20 the record so that it's accurate.

21 A. "Duke Energy Ohio shall implement the new  
22 2014 rates for Rider AMRP pursuant to the terms and  
23 conditions in the stipulation in Case Nos.  
24 07-589-GA-AIR, et al., and 12-1685-GA-AIR, et al."

25 Q. Okay. Thank you. Okay. Does the fact

1 that the revenue requirement calculation that's  
2 discussed in this proceeding has been used -- at  
3 least was used in -- I'm sorry. Strike that. Strike  
4 that. My apologies.

5 Okay. Let's take a look at page 9 of  
6 your supplemental direct testimony. You were asked  
7 to explain how the 2012 rate case stipulation  
8 impacted the allocation of the AMRP revenue  
9 requirement in lines 1 through 3.

10 A. Yes.

11 Q. Okay. And line 4 would you please read  
12 your first sentence into the record.

13 A. "It had no impact on allocation other  
14 than the fact that the continuation of the allocation  
15 factors was integral to the Company's willingness to  
16 accept the residential rate cap in the stipulation  
17 approved in the 2012 Rate Case."

18 Q. Thank you. Are you aware of whether the  
19 company put this in writing anywhere or preserved its  
20 alleged concern regarding confirmation of the  
21 allocation factors on the record in the distribution  
22 rate case in 2012?

23 A. Can you state that again?

24 Q. Sure. Are you aware of whether the  
25 company actually put its concern that's referenced in

1 your provision here into writing or preserved its  
2 concern in the record in the case anywhere in  
3 12-1685?

4 A. I believe it's not in writing. I am sure  
5 it was discussed in the negotiations.

6 Q. Okay, okay. You go on to explain in your  
7 supplemental direct testimony that the Commission  
8 approved the 2012 stipulation in the distribution  
9 rate case with two sets of rider AMRP rates, correct?

10 A. That's correct.

11 Q. Okay. Let me ask given those two sets of  
12 rates, were the parties simply to interpret from the  
13 two sets of rates without any explanation or details  
14 that the allocation would be the same?

15 A. I think the companies that were involved  
16 were aware what the allocation has been through the  
17 past seven years so I would say yes.

18 Q. Okay. And you said that it would be  
19 through interpretation that they would have that  
20 understanding, correct?

21 A. Yes.

22 Q. Okay. And if the interpretation would be  
23 necessary, how would the parties know that those  
24 rates would be just and reasonable?

25 MR. SERIO: Objection, your Honor. She

1 can testify to what the company intended, and she can  
2 testify to what a party said if, in fact, she was  
3 present when a party said it. But other than that I  
4 don't think she's qualified to testify as to what any  
5 other signatory party knew or understood during the  
6 course of those discussions.

7 EXAMINER SHEETS: We'll confine the  
8 question to what the company -- the company's point  
9 of view, okay?

10 MS. HUSSEY: Sure.

11 A. Can you restate it?

12 Q. Given what is in the record regarding the  
13 allocation, the fact that you said that an  
14 interpretation is necessary to realize that those  
15 allocations are the same, is there some explicit  
16 evidence that a party would refer to to know whether  
17 those rates are just and reasonable?

18 MS. KINGERY: I object. We are not  
19 retrying the 2012 adjustment case today. We're  
20 talking about whether today's proposed rates are just  
21 and reasonable.

22 MS. HUSSEY: Correct. And -- okay.

23 Q. Given the language that's involved in the  
24 documents that we have that set the stage basically  
25 for this proceeding, we have to reference that

1 document in 12-1685 so that's what I'm necessarily  
2 trying to get at.

3 Let's go on to a different question. I  
4 guess from the company's perspective, if there is no  
5 surety or interpretation was required about the  
6 inputs and the rates being just and reasonable, how  
7 could the parties represent that the stipulation  
8 benefited consumers in the public interest?

9 MS. KINGERY: Objection. There's been no  
10 proof there was any interpretation necessary.

11 EXAMINER SHEETS: I'll sustain the  
12 objection.

13 Let's go on to another question. Please  
14 confine your questions to this case.

15 MS. HUSSEY: Okay.

16 Q. (By Ms. Hussey) Does the inclusion in a  
17 rate base proceeding of caps on increases in specific  
18 rider charges for a certain customer class  
19 automatically mean that the other customer classes'  
20 rates are just and reasonable?

21 MR. SERIO: I am going to object, your  
22 Honor. OMA did not sign the 12-1685 stipulation.  
23 But there has been no showing and there has not been  
24 any claim that OMA was not invited to participate in  
25 settlement discussion, that they didn't get copies of

1 all the settlement documents that were discussed, and  
 2 they had every opportunity to either sign the  
 3 stipulation or challenge the stipulation. There's  
 4 nothing in the record of the 12-1685 case that says  
 5 OMA challenged the stipulation arguing that  
 6 allocations were inappropriate or that the rate caps  
 7 were inappropriate. So it seems to me OMA had the  
 8 opportunity in the 12-1685 case, and by challenging  
 9 it here it's nothing more than a collateral attack of  
 10 what was resolved in the 12-1685 case.

11 MS. HUSSEY: May I respond?

12 EXAMINER SHEETS: Yes.

13 MS. HUSSEY: I think at this point we are  
 14 getting to the heart of whether the charges for  
 15 nonresidential consumers here are just and  
 16 reasonable. I am not trying to say in any way that  
 17 the caps imposed are unreasonable. I'm talking  
 18 strictly about the rates for AMRP that are involved  
 19 in this proceeding and are nonresidential.

20 EXAMINER SHEETS: Yeah. I think he has a  
 21 point, and the company had a prior point too. You  
 22 can't try the previous case again today. You have to  
 23 confine your questions to this case.

24 MS. HUSSEY: Okay.

25 Q. (By Ms. Hussey) Let's turn to the data

1 that's included in the schedules attached to the  
2 application. And actually if you could reference OMA  
3 Exhibit 4 for me.

4 EXAMINER SHEETS: What page -- what  
5 document are you on now?

6 MS. HUSSEY: I am on PFN Exhibit 4 which  
7 is OMA Exhibit 4 in this case which is the typical  
8 bill comparison that was provided in the prefiling  
9 notice.

10 A. I have it.

11 Q. Okay. And you had mentioned earlier, and  
12 forgive me for asking again, that there's a  
13 clarification and that some -- some component of this  
14 prefiling notice bill comparison is different. Can  
15 you tell me which categories or which columns are  
16 different?

17 A. Yes. And this schedule is prepared by  
18 someone else in the department that's a cost of  
19 service expert, but in general I can explain what the  
20 error was. If you look at Column E, you'll notice  
21 that the dollar increase for residential -- all  
22 residential classes says 2.10 and for all  
23 nonresidentials it says 21.94. That was the total  
24 proposed rate. What that rate increase should be for  
25 residentials is roughly probably half of that, a

1     \$1.05, and the same for nonresidential. It's roughly  
2     \$10 because it should have taken the current year  
3     proposed rates and subtracted out the current rates.

4             Q.     Okay. Would the ratios change in columns  
5     F and J based upon those changes to this particular  
6     document?

7             A.     Yes. They will go down.

8             Q.     Okay. Across the board they would go  
9     down.

10            A.     Across the board.

11            Q.     Okay. Would the comparison of the ratio  
12     hold up essentially so residential consumers versus  
13     nonresidential consumers, despite the calculation, it  
14     would still be the same -- the same ratio.

15            A.     Yes. I would anticipate that that ratio  
16     would stay the same.

17            Q.     Okay. And forgive me in advance if I  
18     make any errors because I wasn't anticipating this  
19     today but I think you understand. Okay. There was  
20     no comparable document to this provided with your  
21     application; is that correct?

22            A.     That's correct.

23            Q.     The prefiling notice?

24            A.     It generally gets filed with the  
25     prefiling notice.

1 Q. Okay, okay. And could you explain some  
2 of them. Obviously level of use are pretty  
3 self-explanatory but some of the columns that we're  
4 looking at, so 2.10 in Column E is going to be  
5 changed to 1 point something or other?

6 A. That's correct.

7 Q. Is that correct? Okay. And then also in  
8 E we're looking at 21.94, but it's going to be more  
9 like 10 something or other?

10 A. Correct.

11 Q. Okay. All right. And okay. So if we  
12 are looking -- we had mentioned in our comments that  
13 we have done a comparison based upon this particular  
14 document, given the notice today that the numbers  
15 were a little bit different, bear with me, but if we  
16 look in Column E, the actual price from the cap, from  
17 my understanding, the cap being imposed would be more  
18 like a dollar given the fact that it's \$2 and, now,  
19 it really is 1 dollar and something?

20 A. Correct. It will be a dollar and then  
21 adjusted for the gross receipts tax.

22 Q. So it would be just \$1 then.

23 A. It will be like \$1.05 or something like  
24 that because it will be the dollar plus the gross  
25 receipts tax that's associated with it.

1           Q.    Okay.  And nonresidential would be more  
2           along the lines of 10 something or other that  
3           includes the gross receipts?

4           A.    That's correct.

5           Q.    Okay.  Comparing the percent increases in  
6           the total bill which is in column J for residential  
7           firm transportation at 10 Mcf versus nonresidential  
8           firm transportation at 10 Mcf, which I believe are on  
9           pages 1 of 4 and 4 of 4, the data seems to represent  
10          at least a percent increase for residential firm  
11          transportation of 4.9 percent; is that correct for  
12          total bill impacts?

13          A.    Yes, before the correction.

14          Q.    Right.  Okay.  And then also if you flip  
15          to page 4 of 4, nonresidential firm transportation,  
16          the percent increase in column J is 18.1 percent; is  
17          that correct?

18          A.    That's correct.

19          Q.    Okay.

20                MS. KINGERY:  Objection.  Just for  
21          clarification of the record that's before the  
22          correction again.

23                THE WITNESS:  Before the correction, yes.

24          Q.    Okay.  Did you -- when you mentioned  
25          earlier that the ratios would stay the same, does

1       that apply in this circumstance?

2               A.    No.   That 18 percent -- I would expect  
3       that 18 percent to go down to more like 9 percent.

4               Q.    Okay.   And what about the other  
5       percentage?

6               A.    The same way, I would expect it to be  
7       almost cut in half.

8               Q.    Okay.   So we're still looking at the same  
9       overall ratio when you compare the percent increase  
10      of residential total bill impact to nonresidential  
11      total bill impact.

12              A.    That's correct.

13              Q.    Okay.   So despite the fact that the data  
14      has been changed a little bit as to what's  
15      represented, we still have it appears a comparison  
16      where the nonresidential customer bills increase on a  
17      total basis is about 3.6 more times than residential  
18      customers; is that correct?

19              MR. SERIO:   Your Honor, I am going to  
20      pose an objection.   The Commission already approved  
21      those allocation factors.   To the extent in this  
22      proceeding there is a difference, that difference was  
23      approved by the Commission in the 12-1685 case, so  
24      any attack of the reasonableness or unreasonableness  
25      of those allocation factors is a collateral attack to

1 a decision that the Commission made in the 12-1685  
2 proceeding.

3 MS. KINGERY: And I'll join in that  
4 objection.

5 EXAMINER SHEETS: Any comment?

6 MS. HUSSEY: I would only comment that as  
7 has been represented on the record several times now  
8 OMA did not join in that stipulation.

9 MR. SERIO: But, again, your Honor, OMA  
10 had the opportunity to challenge the stipulation and  
11 question those allocations. There's nothing on the  
12 record that says OMA did that and there's nothing on  
13 the record that says OMA is alleging that they didn't  
14 have the opportunity to do that in the 12-1685 case.  
15 If they had the opportunity and they chose not to,  
16 then an attack now is a collateral attack.

17 MS. KINGERY: And indeed the record in  
18 12-1685, were we to look at it, I believe would show  
19 that there was no concern, there was no issue raised  
20 by any party about the allocation for AMRP.

21 EXAMINER SHEETS: I'll have to sustain  
22 their objections. You need to move on to another  
23 line of questioning.

24 MS. HUSSEY: Okay. We've exhausted my  
25 lines of questioning at this point, so I'm not going

1 to be moving on, but at this point I would like to  
2 say thank you and request that OMA Exhibits 1, 2, 3,  
3 and 4 be admitted into the record.

4 EXAMINER SHEETS: Any objections?

5 MS. KINGERY: I am going to object with  
6 regard to OMA Exhibit 4 to the extent that there is  
7 highlighting that has been added to this document on  
8 pages 1 and 4. Those highlights were not part of the  
9 original document.

10 MS. HUSSEY: My apologies. Those were  
11 for ease of speaking.

12 MS. KINGERY: If this is to be a copy of  
13 pages from the prefiling notice that Duke Energy  
14 submitted, it was not submitted like this, so at  
15 least we need to have the record reflect that this is  
16 not an exact copy of what was submitted.

17 MS. HUSSEY: Okay. It's my understanding  
18 that also is part of Duke Exhibit No. 5 -- or, excuse  
19 me, Duke Exhibit No. 1, so to the extent that needs  
20 to be relied upon without any highlighting, it's  
21 present there, correct?

22 MS. KINGERY: Yes, it is.

23 EXAMINER SHEETS: Okay. We've noted that  
24 highlighting for the record. I'll go ahead and admit  
25 OMA's exhibits at this time into evidence.

1 (EXHIBITS ADMITTED INTO EVIDENCE.)

2 MS. KINGERY: And I would move for  
3 admission of Duke Energy Ohio Exhibits 1 through 5  
4 and Joint Exhibit 1.

5 EXAMINER SHEETS: I'll admitted those  
6 into evidence as well.

7 (EXHIBITS ADMITTED INTO EVIDENCE.)

8 MR. SERIO: I would move OCC Exhibit 1  
9 into the record.

10 EXAMINER SHEETS: Very well. I'll admit  
11 those and I'll admit the staff's too.

12 MR. LINDGREN: Thank you.

13 (EXHIBITS ADMITTED INTO EVIDENCE.)

14 MS. KINGERY: Your Honor, may I have --

15 EXAMINER SHEETS: Did you have any  
16 questions on?

17 MS. KINGERY: May I have a moment to  
18 confer with my witness?

19 EXAMINER SHEETS: Sure.

20 MS. KINGERY: Thank you.

21 (Off the record.)

22 EXAMINER SHEETS: Let's go back on the  
23 record.

24 MS. KINGERY: Your Honor, we have nothing  
25 further. Thank you.

1 EXAMINER SHEETS: Very well. Are there  
2 any other questions today of this witness?

3 You're excused.

4 THE WITNESS: Thank you.

5 EXAMINER SHEETS: And we have no other  
6 witnesses to call?

7 MS. KINGERY: Your Honor, Mr. Hebbeler  
8 had filed prefiled testimony, but Ms. Hussey had  
9 represented to me prior at the hearing that they  
10 would not need to cross-examination Mr. Hebbeler, so  
11 he is not present today.

12 EXAMINER SHEETS: Very good. All right.  
13 What I'll do is let's go off the record briefly and  
14 I'll explain.

15 (Discussion off the record.)

16 EXAMINER SHEETS: Do we want closing  
17 statements now?

18 MS. KINGERY: I don't think -- Duke  
19 doesn't need to unless other parties are going to.

20 EXAMINER SHEETS: Any other parties?

21 MR. SERIO: I just have a very brief one.

22 EXAMINER SHEETS: No closing statements  
23 and --

24 MR. LINDGREN: Excuse me, sir, Mr. Serio.

25 MR. SERIO: Your Honor, a very brief one,

1 I would repeat again what OCC stated previously, the  
 2 12-1685 case gave all the parties that intervened an  
 3 opportunity to participate in the settlement  
 4 discussions. No party objected to the stipulation.  
 5 The Commission approved the allocation factors in the  
 6 12-1685 case, and any attack of the allocation  
 7 factors from the 12-1685 case is a collateral attack  
 8 on the decision the Commission previously made.

9 EXAMINER SHEETS: Thank you.

10 MS. KINGERY: And I would -- OCC having  
 11 spoken I'll add just a little bit more and that is  
 12 that this system for recouping the cost of the AMRP  
 13 work has been in place for many years, and the  
 14 allocation between residential and nonresidential at  
 15 this level has been in place and approved by this  
 16 Commission since at least 2007. And there's been no  
 17 evidence, no discussion, no argument by any party  
 18 until today that this allocation is unreasonable or  
 19 unjust. It has been approved by the Commission and  
 20 should be approved again.

21 EXAMINER SHEETS: Thank you. Nothing  
 22 more to be said, I will consider the case submitted  
 23 on the record and thank you all for coming.

24 (Thereupon, the hearing was concluded at  
 25 10:51 a.m.)

CERTIFICATE

I do hereby certify that the foregoing is  
a true and correct transcript of the proceedings  
taken by me in this matter on Thursday, April 3,  
2014, and carefully compared with my original  
stenographic notes.

Karen Sue Gibson, Registered  
Merit Reporter.

(KSG-5843)

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**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**4/22/2014 12:38:00 PM**

**in**

**Case No(s). 13-2231-GA-RDR, 13-2232-GA-ATA**

Summary: Transcript in the matter of Duke Energy Ohio, Inc. hearing held on 04/03/14 electronically filed by Mrs. Jennifer Duffer on behalf of Armstrong & Okey, Inc. and Gibson, Karen Sue Mrs.