

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of)	
Duke Energy Ohio for Authority to)	Case No. 14-841-EL-SSO
Establish a Standard Service Offer)	
Pursuant to Section 4928.143,)	
Revised Code, in the Form of)	
An Electric Security Plan,)	
Accounting Modifications and Tariffs)	
for Generation Service)	

In the Matter of the Application of)	
Duke Energy for Authority to Amend)	Case No. 14-842-EL-ATA
its Certified Supplier Tariff, P.U.C.O.)	
No. 20)	

PREFILED TESTIMONY

OF

HISHAM M. CHOUYEIKI, PH.D., P.E.
RATES AND ANALYSIS DEPARTMENT
MARKET AND ANALYSIS PLANNING

STAFF EXHIBIT ____

October 2, 2014

1 **Employer**

2 1. Q. Please state your name, position, and business address.

3 A. My name is Hisham Choueiki. I am employed by the Public Utilities
4 Commission of Ohio (PUCO or Commission) as a Senior Energy
5 Specialist. My business address is 180 East Broad Street, Columbus, Ohio
6 43215.

7 **Academic Background and Professional Experience**

8 2. Q. Please describe your educational background and professional experience.

9 A. I am a Registered Professional Engineer in Ohio. I hold a Philosophy
10 Doctorate in Industrial and Systems Engineering from The Ohio State
11 University. I currently serve as a Senior Energy Specialist in the Rates and
12 Analysis Department at the Public Utilities Commission of Ohio.

13 I started my career in utility regulation as a Graduate Researcher at the
14 National Regulatory Research Institute while attending graduate school.
15 My tenure at the PUCO commenced when I joined the Forecasting Division
16 as a Senior Utility Rate Analyst. I was later promoted to a Utility Rate
17 Analyst Manager, an Energy Specialist, and finally to my current position.
18 Between 1996 and 1998, I was on sabbatical from the PUCO, and was a
19 Visiting Assistant Professor in the College of Engineering and Petroleum at

1 Kuwait University where I taught operations research, design of
2 experiments, and forecast modeling. At the PUCO, I have contributed to
3 numerous rule-making proceedings in gas, electric, and telephone, co-
4 authored several energy forecasting and telecommunications reports,
5 lectured at the PUCO and at national and international technical
6 conferences in the areas of forecast modeling, design of experiments, and
7 artificial neural networks, and have published in peer-reviewed engineering
8 journals.

9 3. Q. Please describe some of your present responsibilities at the PUCO.

10 A. I am a technical/policy advisor to PUCO Commissioners and Staff on
11 energy related matters. I have other responsibilities; including a) leading
12 the development of empirically valid, and logically consistent, short-term
13 and long-term analytical forecasting models for assessing and
14 characterizing the behavior of energy and economic systems in utility
15 service areas in Ohio, and in the United States, and b) leading the review of
16 the long-term forecast reports of electric distribution utilities in Ohio.

17 I serve as the Ohio member on the Staff Steering Committee in the
18 Organization of PJM States, Inc. (OPSI), the co-chair of the Staff Modeling
19 Work Group in the Eastern Interconnection States Planning Council

(EISPC), and a member of the NARUC international delegates' team that trains other nations on reforming and developing energy markets.

I also serve as a reviewer for several engineering journals; including *IEEE Transactions on Power Systems*, *IEEE Transactions on Neural Networks*, *Computers and Industrial Engineering*, and *European Journal of Industrial Engineering*.

4. Q. Have you testified in previous cases at the PUCO?

A. Yes, I have testified in numerous cases; long-term forecast hearings, telecommunications alternative regulation hearings, telecommunications merger hearings, and, more recently, in Standard Service Offer (SSO) hearings.

Purpose of Testimony

5. Q. What is the purpose of filing this testimony?

A. This testimony is limited in scope. I will present Staff's position in regard to the Duke Energy Ohio (DEO or Company) proposed Price Stability Rider (rider PSR)¹.

¹ Duke Energy Ohio's Electric Security Plan, Page 13 of the Application filed on 5/29/2014.

1 Rider PSR as Proposed – Purpose and Scope

2 6. Q. What is the purpose of including rider PSR in the electric security plan (ESP)?

A. According to the Company, this rider “will serve to mitigate some of the volatility in overall rates that customers pay for generation service.”² The Company is initially proposing to include the revenues and expenses associated with its share³ of the Ohio Valley Electric Corporation (OVEC) generating stations⁴ in rider PSR.

8 7. Q. Is the proposed Rider PSR limited to the company's share of the OVEC
9 generating stations?

A. No. Witness Henning states that Rider PSR “could be expanded to include similar financial arrangements with other generators to provide further protection for Ohio consumers.”⁵ It is Staff’s opinion, however, that with the most recent filing on September 11, 2014 at the Federal Energy Regulatory Commission (FERC) to sell all of Duke Energy Commercial

2 Direct Testimony of James P. Henning, page 10.

³ Duke Energy Ohio has a 9% share of the OVEC generating stations (Article 1 of the Amended and Restated Inter-Company Power Agreement, 9/10/2010).

⁴ The OVEC generating stations include Kyger 1-5, in Cheshire, Ohio, and Clifty 1-6 near Madison, Indiana (The preamble to the Amended and Restated Inter-Company Power Agreement, 9/10/2010) .

⁵ Direct Testimony of James P. Henning, page 10.

1 Asset Management's (DECAM's) generators⁶ to Dynegy Resource I,
2 expanding rider PSR is no longer an option for the Company.

3 8. Q. What is the term of Rider PSR?

4 A. The Company proposes the term of rider PSR to be the period associated
5 with Duke Energy Ohio's entitlement in the OVEC generating stations.⁷
6 Therefore, unless Duke Energy Ohio transfers to another affiliate, or sells
7 to a third party, its 9% share of the OVEC generating stations during this
8 upcoming ESP period (ESP III)⁸, rider PSR will continue to exist after May
9 31, 2018.

10 **Corporate Separation**

11 9. Q. Did Duke Energy Ohio request a waiver from transferring its ownership in
12 the OVEC generating stations in accordance with Section VIII of the
13 Stipulation and Recommendation Agreement adopted by the Commission
14 in Case No. 11-3549-EL-SSO?

⁶ DECAM owns DECAM Coal Gen & DECAM Gas Gen – details can be found in Case No. EC14-140; Joint Application for Order Authorizing Acquisition and Disposition of Jurisdictional Facilities Under Section 203 of the Federal Power Act of Dynegy Inc., *et al.*

⁷ Duke Energy Ohio's Electric Security Plan, Page 14 of the Application filed on 5/29/2014.

⁸ The term of ESP III will be from June 1, 2015 to May 31, 2018, Page 1 of the Application filed on 5/29/2014.

1 A. No, it did not. According to Company witness Wathen⁹, Duke Energy Ohio
2 does not “directly” own the OVEC generating stations. The Stipulation and
3 Recommendation Agreement adopted by the Commission in Case 11-3549-
4 EL-SSO required the Company to transfer all of the generating assets
5 “directly owned” by Duke Energy Ohio by the end of 2014. Since the
6 OVEC generating stations are not “directly” owned by Duke Energy Ohio,
7 witness Wathen concludes that the requirements in Section VIII of the
8 Stipulation and Recommendation Agreement are not applicable.¹⁰

9 10. Q. Does staff agree with witness Wathen’s conclusion?

10 A. No, staff does not agree with witness Wathen’s conclusion. Whether the
11 Company owns “directly” a generating asset or owns an equity/stock in a
12 generating asset, it is Staff’s opinion that the Company owns entitlement to
13 all energy and capacity that comes out of the generating asset. Section VIII
14 of the Stipulation and Recommendation Agreement that was signed by
15 Staff, the Company, and a large number of interveners in Case no. 11-3549
16 *required* all generation assets to be transferred out of Duke Energy Ohio no
17 later than December 31, 2014. There was no provision in Section VIII of
18 the Stipulation and Recommendation Agreement that specifically excluded

⁹ Direct Testimony of William Don Wathen, Jr., page 11.

¹⁰ *Id.*

1 from the transfer requirement Duke Energy Ohio's entitlement in the
2 OVEC generating stations.

3 11. Q. Should Duke Energy Ohio transfer its entitlement in the OVEC generating
4 stations in accordance with section viii of the stipulation and
5 recommendation agreement adopted by the commission in case no. 11-
6 3549-EL-SSO?

7 A. Yes it should, and prior to December 31, 2014. However, to the extent it
8 can demonstrate to the Commission an inability to transfer or sell its
9 entitlement in the OVEC generating stations prior to December 31, 2014,
10 Duke Energy Ohio should file with the Commission a request for a waiver.
11 This would be similar to the waiver that the Ohio Power Company
12 requested from the Commission on October 4, 2013 in its corporate
13 separation docket.¹¹

14 **Computation of Rider PSR**

15 12. Q. How does Duke Energy Ohio propose to compute the OVEC-related
16 revenues and expenses under the ICPA during the term of the proposed
17 ESP?

¹¹ Docket number 12-1126 –EL-UNC: In the Matter of the Application of Ohio Power Company for Approval of Full Legal Corporate Separation and Amendment to its Corporate Separation Plan.

1 A. Company witness Wathen proposes the following formulaic approach¹²:

- 2 • Quarterly projected revenues associated with selling Duke
3 Energy Ohio's share of the OVEC generating stations in the
4 PJM energy and capacity markets will be estimated.
- 5 • Quarterly projected fixed and variable expenses billed by
6 OVEC to Duke Energy Ohio will be estimated.
- 7 • The difference between the projected quarterly revenues and
8 expenses will be computed and divided by the projected
9 quarterly MWhs that would be distributed by DEO.
- 10 • To the extent the quarterly projected revenues are larger than
11 the expenses, all distribution customers will be credited the
12 difference via rider PSR. Otherwise, distribution customers
13 will be charged via rider PSR.
- 14 • Rider PSR will be adjusted quarterly to true up or down the
15 projected revenues and expenses to the actual revenues and
16 expenses.

17

¹² Direct Testimony of William Don Wathen, Jr., page 16.

1 **Status of Retail Competition**

2 13. Q. What is the status of electric retail competition in Ohio?

3 A. For over a decade now, the Commission has been transitioning the four
4 electric distribution companies (AEP Ohio, Dayton Power and Light, Duke
5 Energy Ohio, and First Energy) toward a fully-competitive retail-market
6 construct. All distribution customers in the Duke Energy Ohio and First
7 Energy service areas are currently purchasing electricity at competitive
8 rates.¹³ All distribution customers in the AEP Ohio and Dayton Power and
9 Light service areas will be similarly situated on June 1, 2015 and January 1,
10 2016, respectively. These are the two dates when 100% of the SSO loads¹⁴
11 in AEP Ohio's and Dayton Power and Light's service areas will be
12 procured through Commission-administered SSO auctions.

13 14. Q. What is the status of electric retail competition in Duke Energy Ohio's
14 service area?

¹³ 100% of the Standard Service Offer (SSO) loads in Duke Energy Ohio's and First Energy's service areas are being procured through competitive retail auctions that are administered by the Commission. Not only are the resulting SSO rates competitive, they also serve as transparent "prices to compare to" or "benchmarks" for customers who are considering whether to take service from a competitive retail electric service (CRES) provider.

¹⁴ Loads for energy, capacity, and ancillary services.

A. As of June 30, 2014, 76.62%¹⁵ of the MWHs consumed by Duke Energy Ohio customers are being supplied by competitive retail electric service (CRES) providers. The remaining 23.38% are consumed by non-shoppers and are procured via a Commission-administered SSO auction.¹⁶ In other words, all of Duke Energy Ohio's distribution customers currently either shop (individually or via aggregation) for their generation needs or have their electricity needs procured through a Commission-administered SSO auction.

Staff's Recommendation

15. Q. What is staff's recommendation to the commission in regard to the proposed rider PSR?

A. *Staff recommends that the Commission deny the Company's proposed rider PSR.* Duke Energy Ohio has not been in the business of selling electric generation service since January 1, 2012. Staff, therefore, does not see a need for granting rider PSR.

15

<http://www.puco.ohio.gov/emplibrary/files/util/MktMonitoringElecCustSwitchRates/SWITCH%20RATES%20SALES/2014/2Q2014.pdf>

¹⁶ On January 1, 2012, Duke Energy Ohio ceased from selling generation services to any of its distribution customers. Duke Energy Ohio became a “wires only” company on that date and, accordingly, was no longer responsible for selling generation service in its service area.

1 Duke Energy Ohio states that all the MWs generated from the Company's
2 interest in the OVEC generating stations starting on June 1, 2015 (the
3 commencement of ESP III) will not be dedicated to Duke Energy Ohio's
4 customers but rather will be liquidated in the PJM energy and capacity
5 markets.¹⁷ Granting rider PSR shifts the risk associated with the OVEC
6 generating stations to Duke Energy Ohio's customers. The latter is, in
7 Staff's opinion, inconsistent with the Commission's objective of
8 transitioning all Ohio EDUs to a fully-competitive retail-market construct
9 and violates one of the state's policy goals as articulated in §4928.02(H),
10 Revised Code.

11 Additionally, in Case No. 13-2385-EL-SSO, Staff expressed its opinion that
12 AEP Ohio's similarly proposed Purchased Power Agreement (PPA) rider
13 would force all of AEP-Ohio's distribution customers, including shopping
14 customers, to subsidize AEP-Ohio's generation assets. Duke Energy
15 Ohio's proposed OVEC-related rider is almost identical to what AEP Ohio
16 proposed in its Electric Security Plan¹⁸ that was filed on December 20,
17 2013. Staff recommended that the Commission deny AEP Ohio's proposed

¹⁷ Duke Energy Ohio's Electric Security Plan, Page 13 of the Application filed on 5/29/2014.

¹⁸ In the Matter of the Application of Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to § 4928.143, Revised Code, in the Form of an Electric Security Plan. Case Non 13-2385-EL-SSO.

1 PPA rider. Accordingly, Staff recommends that the Commission deny Duke
2 Energy Ohio's proposed rider PSR.

3 16. Q. Given staff's recommendation to deny rider PSR, who should be assigned
4 the potential rewards associated with Duke Energy Ohio's entitlement in
5 the OVEC generating stations?

6 A. Given Staff's recommendation to deny rider PSR, it is only fair to assign
7 not only the risks but also the rewards associated with that generation to the
8 owners of Duke Energy Ohio. *To accomplish this objective, Staff*
9 *recommends that all expenses and revenues associated with Duke Energy*
10 *Ohio's interests in the OVEC generating stations be excluded from the*
11 *Significantly Excessive Earnings Test (SEET) calculation.*

12 17. Q. What is staff's response to the company's claim that rider PSR will provide
13 a long-term hedge for Duke Energy Ohio customers against market
14 volatility?

15 A. Staff agrees with the Company that the energy prices in the PJM footprint
16 have been quite volatile recently, especially during the polar vortex this
17 past January. The Company claims that rider PSR will provide a hedge for
18 consumers against market volatility. Staff believes that a more effective
19 approach for mitigating price volatility, *and that does not violate any state*

1 *policies*, is via the staggering¹⁹ and laddering²⁰ approach²¹ that the
2 Commission has adopted in administering all past SSO procurement
3 auctions.

4 **Staff's Alternative Recommendations Should the Commission**
5 **Agree with Duke Energy Ohio**

6 18. Q. To the extent the commission agrees with Duke Energy Ohio's request for
7 including rider PSR, does staff have a set of conditions that could mitigate
8 its concerns?

9 A. Yes. If the Commission opts to approve rider PSR, Staff recommends that
10 the Commission condition that approval on terms that could mitigate Staff's
11 concerns. I outline Staff's concerns should the Commission approve rider
12 PSR, and Staff's recommendations for conditional terms to mitigate those
13 concerns below:

14 I) Expanding Rider PSR: Since Duke Energy Ohio has filed an
15 application at FERC to sell all of the DECAM assets to
16 Dynegy Resource I, Staff's concern for expanding rider PSR
17 to include other Duke Energy Ohio owned generation assets

¹⁹ Administering procurement auctions twice a year.

²⁰ Procuring multiple products that are 12 months, 24 months, 36 months, *etc.*

²¹ Staff witness Strom provides an explanation of this approach.

1 is no longer applicable. As for Duke Energy Ohio's interest
2 in the OVEC generating stations, *it is Staff's opinion that*
3 *prior to the Commission granting rider PSR, the Company*
4 *should request in its corporate separation docket a waiver*
5 *from the requirement articulated in Section VIII of the*
6 *Stipulation and Recommendation Agreement.*

7 2) Limiting the Term of Rider PSR: Should the Commission
8 grant Duke Energy Ohio a waiver from the requirement to
9 transfer its interest in the OVEC generating stations to an
10 affiliate, and should the Commission then grant Duke Energy
11 Ohio rider PSR, *Staff recommends that the term of the rider*
12 *should be no longer than the term of ESP III. This would be*
13 *an incentive for Duke Energy Ohio to transfer, as soon as it*
14 *possibly can, its interest in the OVEC generating stations to*
15 *an affiliate or sell to a third party.*

16 3) Rider PSR Expenses: In the formulaic approach that
17 Company witness Wathen proposes in his testimony, the *fixed*
18 and *variable* expenses will be components of a wholesale
19 contract between Duke Energy Ohio and the entity that is
20 managing Duke Energy Ohio's interests in the OVEC
21 generating stations. This contract would be under the

1 jurisdiction of the FERC. As a result, if the Commission
2 believed that any *fixed* or *variable* expense items in the
3 contract were not prudent, the Commission would have to file
4 at FERC challenging these expense items, and the burden of
5 proof would be on the Commission to demonstrate its case. A
6 *method to mitigate this concern would be for Duke Energy*
7 *Ohio to accept that all expense items (fixed and variable*
8 *expenses) in the contract will be audited annually by Staff (or*
9 *by an outside consultant representing Staff) and for the*
10 *Company to accept a Commission's finding to the extent there*
11 *is a disagreement between the Company and Staff and a*
12 *hearing is conducted.*

13 4) Rider PSR Revenues: Similar to the expenses, all the
14 revenues from Duke Energy Ohio's interest in the OVEC
15 generating stations will be components in the wholesale
16 contract. Staff is concerned that the company would not have
17 the incentive to use a profit-maximizing bidding strategy
18 when liquidating the energy and capacity associated with its
19 interest in the OVEC generating stations on behalf of its
20 distribution customers that are carrying all of the risk. A
21 *method to mitigate this concern is for Staff to periodically*

1 *monitor/evaluate the bidding strategies used for the OVEC*
2 *generating stations with those used by other generation*
3 *owners in PJM.*

4 5) Loss of a Potential SSO Supplier: In his testimony, Company
5 witness Wathen states that rider PSR is competitively neutral;
6 neither CRES providers nor *wholesale suppliers* will be
7 impacted by this rider.²² Staff disagrees with this competitive
8 neutrality concept. Staff's concerns are two-fold. First, there
9 is a concern that future SSO auctions in Ohio (post May 31,
10 2015) could potentially result in higher prices than otherwise
11 might be obtained. This is because about 200 MWs²³ of
12 economic generation would be excluded from participating as
13 competitive supply in these auctions. Second, Staff is
14 concerned that to the extent the Commission grants
15 permission to the 200 MWs of OVEC supply to participate in
16 SSO auctions, other wholesale suppliers might be
17 discouraged from bidding for tranches as they would be

²² Direct Testimony of William Don Wathen, Jr., page 15.

²³ Duke Energy Ohio's 9% interest in the OVEC generating stations represents about 200 MWs. Assuming a non-shopping load in Duke Energy Ohio's service area of about 1,000 MWs, the Company's interest in the OVEC generating stations represents about 20 tranches (an amount that is significant enough to impact the results of an SSO auction).

1 competing, in one sense, with “subsidized” generation. *Staff*
2 *is unable at this time to make a recommendation that would*
3 *resolve this dilemma but thought that the Commission should*
4 *be aware of it. The only way to avoid the dilemma pertaining*
5 *to OVEC capacity participating in SSO auctions is to accept*
6 *Staff’s recommendation to deny rider PSR. The OVEC*
7 *capacity will then be free to participate or not participate in*
8 *SSO auctions, just like all other capacity.*

9 **Summary and Recommendations**

10 19. Q. Would you summarize your recommendations?

11 A. *Staff recommends that the Commission deny Duke Energy Ohio’s proposed*
12 *rider PSR. Duke Energy Ohio has not been in the business of selling the*
13 *electricity commodity since January 1, 2012. The Company simply*
14 *distributes electricity to all customers in its service area. Duke Energy*
15 *Ohio distribution customers have either been shopping for their electricity*
16 *needs or opting not to shop and having their electricity needs procured in*
17 *Commission-administered SSO auctions. It took the Commission over a*
18 *decade to transition all four electric utilities into a competitive retail-market*
19 *construct. Granting any generation-related riders for Duke Energy Ohio*
20 *would be a move in the opposite direction.*

1 Finally, should the Commission agree with Duke Energy Ohio and grant
2 them rider PSR during the term of the proposed ESP, Staff recommends
3 that the necessary conditions outlined above be adopted by the
4 Commission.

5 20. Q. Does this conclude your testimony?

6 A. Yes, it does. However, I reserve the right to submit supplemental testi-
7 mony as described herein, as new information subsequently becomes avail-
8 able or in response to positions taken by other parties.

CERTIFICATE OF SERVICE

This is to certify that the foregoing Testimony of Hisham M. Choueiki has been served upon all of the parties of record in Case No. 14-841-EL-SSO by electronic and/or U.S. mail, postage pre-paid mail this 2nd day of October, 2014.

/s/Steven L. Beeler

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Case No(s). 14-0841-EL-SSO, 14-0842-EL-ATA

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