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BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the Application of Duke)
Energy Ohio, Inc., for Authority to)
Establish a Standard Service Offer)
Pursuant to Section 4928.143, Revised) Case No. 17-1263-EL-SSO
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 Ohio, Inc., for Authority to Amend) Case No. 17-1264-EL-ATA
its Certified Supplier Tariff, P.U.C.O. No.)
20.)

In the Matter of the Application of Duke)
Energy Ohio, Inc., for Authority to Defer) Case No. 17-1265-EL-AAM
Vegetation Management Costs.)

VOLUME I

APPLICATION

OF

DUKE ENERGY OHIO, INC.

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APPLICATION

June 1, 2017

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- A. Filing Requirements
- B. Bidding Process Schedule and Timeline
- C. Master Standard Service Offer Supply Agreement
- D. SSO Parts 1 and 2 Application Documents
- E. SSO Bidding Rules
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- K. PIPP Communications Protocols
- L. Notice to Prior Parties
- M. Proposed Newspaper Notice

Testimony:

James P. Henning
Robert J. Lee
William Don Wathen Jr.
James E. Ziolkowski
Scott B. Nicholson
Cicely M. Hart
Donald L. Schneider, Jr.
Retha Hunsicker
Zachary Kuznar
Sarah E. Lawler
Karen M. Hayden
Robert “Beau” H. Pratt
Christian E. Whicker

APPLICATION

I. Introduction

Chapter 4928 of the Ohio Revised Code (R.C.), as amended by the Ohio General Assembly through Amended Substitute Senate Bill 221, requires electric distribution utility (EDU) companies in Ohio to provide a standard service offer (SSO) “of all competitive retail electric services necessary to maintain essential electric service to consumers, including a firm supply of electric generation service,” through either a market rate offer (MRO) or an electric security plan (ESP).¹ Duke Energy Ohio, Inc., (Duke Energy Ohio or the Company) is currently providing an SSO pursuant to an ESP that will expire on May 31, 2018,² and the Company now seeks approval of its next SSO, which will again take the form of an ESP.³

Specifically, pursuant to R.C. 4928.141 and 4928.143 and Ohio Administrative Code (O.A.C.) Chapter 4901:1-35, Duke Energy Ohio respectfully requests that the Public Utilities Commission of Ohio (Commission) approve its proposed ESP for the period between June 1, 2018, and May 31, 2024. As described in this Application, and in the testimony, attachments, and tariffs filed contemporaneously herewith, Duke Energy Ohio’s proposed ESP is consistent with the public policy of this state and addresses a range of issues. Indeed, the proposed ESP appropriately balances the interests of customers, the state, and the Company by, among other things, perpetuating the competitive bidding process (CBP) plan successfully employed in Duke Energy Ohio’s

¹ R.C. 4928.141(A).

² *In the Matter of the Application of Duke Energy Ohio for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan, Accounting Modifications, and Tariffs for Generation Service*, Case No. 14-841-EL-SSO, *et al.* (ESP III), Opinion and Order (April 2, 2015).

³ Consistent with O.A.C. 4901:1-35-04, Duke Energy Ohio has provided notice of this filing via electronic or regular mail delivery to parties of record in its most recent standard service offer filing, Case No. 14-841-EL-SSO, *et al.*, with such notice and this filing being made concurrently.

current ESP, maintaining a transparent and straightforward rate design, allowing for the continued timely recovery of distribution investment, providing a platform for enhancing the customer experience, and enabling retail rate stability and certainty in the state, as well as continued economic development resulting from unfettered, market-based competition for the supply of capacity and energy. Additionally, the ability of retail suppliers to compete for customers is unaffected by this Application.

Duke Energy Ohio submits that the Application and accompanying documents meet the requirements of R.C. 4928.141 and 4928.143 and O.A.C. Chapter 4901:1-35 and, as such, respectfully requests that the Commission approve the proposed ESP, without modification, including all accounting authority and tariff revisions needed to implement the ESP, effective June 1, 2018. Duke Energy Ohio further reserves the right, in its sole discretion, to terminate such plan in the event of a change in any federal or state law, regulation, tariff, or order relevant to SSOs or the provision of generation supply and to submit a new SSO for Commission review.

II. Overview of Application

As detailed below and in the accompanying testimony, Duke Energy Ohio's proposed ESP satisfies the applicable statutory and Commission rule requirements. To ease the Commission's review in this regard, attached hereto as Attachment A is a recitation of the applicable filing requirements, with specific references demonstrating Duke Energy Ohio's compliance with same.

Duke Energy Ohio further submits that the ESP discussed herein advances the policies of this state,⁴ although such policies function only as "guidelines for the

⁴ R.C. 4928.02.

[C]ommission to weigh.”⁵ Significantly, Duke Energy Ohio’s proposed ESP, among other things, ensures the availability of adequate, reliable, and reasonably priced retail electric service; encourages diversity in electricity supplies and suppliers and time-differentiated pricing; recognizes – and supports the development of – the competitive market for retail electric service; protects at-risk populations; and promotes Ohio’s role in the global economy.

In addition to this Application, the Company’s request is supported by the following witnesses. Unless otherwise noted, these individuals are employed by Duke Energy Ohio or an affiliated company:

- James P. Henning, President, Duke Energy Ohio and Duke Energy Kentucky, Inc.
 - Mr. Henning offers testimony as to the overall structure of the ESP and how it advances state policy. He also introduces the other witnesses in these proceedings.
- Robert J. Lee, Principal, CRA International, Inc., d/b/a Charles River Associates
 - Mr. Lee will present testimony on the CBP plan to be administered under the ESP; including, but not limited to, the auction design, parameters, and the selection of winning bids for both the SSO load and the percentage of income payment plan (PIPP) load.
- William Don Wathen Jr., Director, Rates and Regulatory Strategy, Ohio and Kentucky

⁵ *In re Application of Columbus S. Power Co.*, 2011-Ohio-1788, ¶ 62, citing *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 2010-Ohio-134, 125 Ohio St.3d 57, 926 N.E.2d 261, ¶ 39-40.

- Mr. Wathen provides an overview of the proposed ESP. He testifies about the new riders included therein, as well as those that will remain unchanged by this Application. Mr. Wathen also addresses the “better-in-the-aggregate test” and governmental aggregation.
- James E. Ziolkowski, Director, Rates and Regulatory Planning
 - Mr. Ziolkowski offers testimony regarding proposed new riders, riders to be withdrawn, riders to be modified, and continuing riders, as well as additional tariff changes. As a part of those discussions, he also discusses bill impacts.
- Scott B. Nicholson, Manager, Ohio Customer Choice
 - Mr. Nicholson offers testimony regarding the Company’s proposed revisions to its Certified Supplier Tariff and purchase of accounts receivable (POR) program.
- Cicely M. Hart, Director of Distribution Design
 - Ms. Hart provides testimony on the Company’s Distribution Capital Investment Rider (Rider DCI).
- Donald L. Schneider, Jr., General Manager, Advanced Metering Infrastructure (AMI)
 - Mr. Schneider addresses the Company’s AMI deployment and initiatives necessary to enable continued evolution of the metering infrastructure.
- Retha Hunsicker, Vice President, Customer Operations
 - Ms. Hunsicker provides testimony related to enhancements to the Company’s customer information system.

- Zachary Kuznar, Director, CHP Microgrids & Energy Storage Development
 - Mr. Kuznar offers testimony regarding the Company’s proposal in respect of distribution battery technology.
- Sarah E. Lawler, Utility Strategy Director, Midwest
 - Ms. Lawler provides testimony supporting the continuation of an existing tracking mechanism and the methodology being proposed for the Company’s significantly excessive earnings test (SEET).
- Karen M. Hayden, General Manager, Distribution Vegetation Management
 - Ms. Hayden provides testimony on the Company’s vegetation management program and related cost recovery.
- Robert “Beau” H. Pratt, Director, Regional Financial Forecasting
 - Mr. Pratt, through his testimony, provides the financial projections required in connection with the ESP proposal.
- Christian E. Whicker, Director, Compliance
 - Mr. Whicker provides testimony concerning the corporate separation plan and how it is consistent with applicable state policy.

III. Description of the Proposed Electric Security Plan

A. Introduction

Pursuant to R.C. 4928.143(B)(1), an ESP “shall include provisions relating to the supply and pricing of electric generation service... .” The other elements that may also be included in an ESP are detailed in R.C. 4928.143(B)(2) and extend to provisions relating to limitations on bypassability and shopping, distribution service, and incentive ratemaking, among others.

As directed by the General Assembly, the Commission has promulgated rules that provide further specificity regarding the statutory criteria and the substance and filing of an ESP.⁶ In the following parts of this section, Duke Energy Ohio addresses the statutory requirements for the ESP and, where appropriate, includes a discussion of Commission rule requirements applicable to each such statutory requirement.

B. Provisions Relating to the Supply and Pricing of Electric Generation Service

1. Generation Service Supply

As noted above, R.C. 4928.143(B)(1) mandates that an ESP include provisions relating to the supply and pricing of generation service. Duke Energy Ohio proposes to continue procuring all of the supply needed for its SSO customers via a CBP plan, as described herein and in accompanying testimony. For purposes of this discussion, Duke Energy Ohio first addresses the competitive procurement plan for those SSO customers having the statutory right to shop and then addresses the statutorily mandated procurement plan for PIPP customers.

a. Competitive Procurement for SSO Supply

The Company proposes descending-price clock auctions, with the first two auctions to be conducted prior to the delivery year⁷ commencing on June 1, 2018. For subsequent delivery years of the ESP term, Duke Energy Ohio proposes two auctions per delivery year, with the final two auctions conducted prior to the delivery year commencing June 1, 2023, to complete the procurement process for the ESP period. This staggered auction format provides price-smoothing benefits for customers over the long term and encourages efficient pricing of products. Additionally, where possible the

⁶ O.A.C. 4901:1-35-03(C).

⁷ As used herein, the “delivery year” is the PJM Interconnection, L.L.C., planning year that runs from June 1 of one year to May 31 of the following year.

auctions will include a variety of product offerings, so as to attract as many prospective and diverse bidders as possible, thereby ensuring a robust, competitive process. The proposed Bidding Process Schedule Timeline is attached hereto as Attachment B.

To ensure an open, fair, and transparent process, Duke Energy Ohio's CBP plan incorporates provisions for the equal and non-discriminatory exchange of information and application of bidding requirements. In fact, the Company's CBP plan provides that all prospective bidders will be subject to the same pre-bid requirements and all successful bidders must adhere to, and assumes, the same contractual commitments. These requirements are set forth in Attachments D, E, F, and G to this Application.

All bidders will have access to the same information, as the CBP plan incorporates bidder information and training sessions, an active Informational Website, and mock auctions that will be held prior to the time of the first auction. The CBP plan also includes appropriate confidentiality provisions, thus placing all prospective bidders on equal footing. Further, the rules pursuant to which bidding will occur and bids will be evaluated are expressly set forth in this public filing, thus ensuring that no prospective bidder is competitively advantaged or disadvantaged vis-à-vis any other prospective bidder.

The auction product will be an hourly, load-following, full-requirements tranche of the Company's SSO load for full requirements service, where a tranche is equal to 1.00 percent of Duke Energy Ohio's total SSO load obligation (*i.e.*, its non-shopping retail load, excluding PIPP load). Full requirements service consists of energy, capacity, ancillary services, and market-based firm transmission services. A comprehensive description of the products can be found in the Company's proposed Master Standard Service Offer Supply Agreement, a copy of which is attached hereto as Attachment C.

An independent auction manager, CRA International, Inc. d/b/a Charles River Associates (CRA), has been retained to actively design, administer, and oversee the CBP. As confirmed by Duke Energy Ohio witness Robert J. Lee, CRA has substantial experience in designing and implementing competitive bids for generation service and has overseen the CBP plan successfully implemented under Duke Energy Ohio's current ESP, as well as the CBP plans of other EDUs in Ohio.

The CBP plan also contemplates Commission review through the production of a post-auction report and retention of a separate consultant. Further, the CBP plan is predicated upon an auction format that is familiar, accepted, and capable of verification through hindsight review.

b. Competitive Procurement for PIPP Supply

Pursuant to R.C. 4928.54, Duke Energy Ohio's PIPP load will be aggregated and the supply for such aggregated load separately procured via a competitive process. Consistent therewith, Duke Energy Ohio proposes here to continue the competitive process currently used to procure supply for a portion of its PIPP load, which process employs requests for proposal (RFPs) to supply full requirements service. Effective with the delivery year beginning June 1, 2018, such supply will provide for the Company's entire PIPP load. A comprehensive description of the terms and conditions pursuant to which PIPP supply will be provided are contained in the Company's proposed Master PIPP Supply Agreement, a copy of which is attached hereto as Attachment H. Additionally, participants in the RFP process will be subject to the same pre-bid requirements and must adhere to bidding rules similar to those proposed in respect of the SSO auctions. These requirements are contained in Attachments I, J, and K of the Application.

Similar to the CBP plan applicable to SSO load and to realize efficiencies, Duke Energy Ohio has retained CRA to design, manage, and oversee the RFP process. Further, the Company anticipates the involvement of a PUCO-retained consultant in the overall RFP process, consistent with the current RFP process. A proposed RFP timeline is attached hereto as Attachment B.

Duke Energy Ohio witness Lee provides additional detail regarding the CBP plan, PIPP RFP, and related bid documents.

2. Generation Service Pricing

Duke Energy Ohio is currently providing an SSO pursuant to an ESP approved by the Commission on April 2, 2015.⁸ This ESP includes certain bypassable riders applicable to generation service, as identified in the table below.

Current Bypassable Generation Riders	
Rider RC (Retail Capacity)	Recovers cost for capacity supplied to SSO load.
Rider RE (Retail Energy)	Recovers cost for energy supplied to SSO load.
Rider SCR (Supplier Cost Reconciliation)	Reconciles and recovers costs related to competitive auctions for SSO load; conditionally non-bypassable.
Rider AER-R (Alternative Energy Resource)	Recovers costs associated with alternative energy resource requirements.

The Company intends to perpetuate these riders, proposing limited modification only to Rider SCR, as discussed below. Specifically, Duke Energy Ohio proposes to limit costs associated with the procurement of generation supply to SSO supply, recovering all relevant costs associated with the PIPP RFP through a separate, existing rider. Additionally, the Company is proposing to modify Rider SCR to recover payments for excess generation to net metering customers, as more fully discussed below. Significantly, however, Duke Energy Ohio is not proposing any substantive

⁸ ESP III, Opinion and Order, at pg. 50 (April 2, 2015). Unless expressly identified as continuing, either as requested through this Application or due to existing Commission approval, all provisions of the current ESP will expire at the end of the term thereof.

modifications to Rider RC or Rider RE. Additionally, no changes are proposed for Rider AER-R, a rider that will persist consistent with the Commission's approval of the Company's current ESP.⁹

As previously stated, Duke Energy Ohio proposes to recover incremental costs associated with conducting the PIPP RFP, including, but not limited to all costs associated with conducting the RFPs and consultant and audit fees, through Rider UE-ED. Recovering costs through this nonbypassable rider will align cost recovery for this procurement process with the manner in which costs associated with the state-mandated PIPP program are currently recovered. This consistent treatment of PIPP-related costs removes any discrepancy in respect of the administration of the PIPP program and provides for uniform treatment of PIPP-related costs.

Additionally, the Company proposes to modify Rider SCR to recover excess generation credits. Because excess generation kilowatt hours (kWhs) from net metering systems offset kWhs that would otherwise be purchased from competitive SSO suppliers, it is appropriate, under the principles of cost causation, to recover these credits via Rider SCR.

Duke Energy Ohio witnesses William Don Wathen Jr. and James E. Ziolkowski discuss the aforementioned riders.

C. Additional Provisions Relating to the Structure of the ESP

As the Ohio Supreme Court has found, an ESP may include the categories listed in R.C. 4928.143(B)(2). Consistent therewith, the Commission approved for inclusion in the Company's current ESP certain nonbypassable riders, which are identified in the table below.

⁹ Id.

Current Non-Bypassable Riders¹⁰	
Rider UE-GEN (Uncollectible Generation Expense)	Recovers uncollectible generation expense from all retail customers, including shopping customers served by CRES providers participating in Duke Energy Ohio's Purchase of Accounts Receivable (POR) Program. ¹¹
Rider DR-ECF (Economic Competitiveness Fund)	Recovers costs associated with interruptible load, as designated by eligible transmission voltage customers.
Rider DCI (Distribution Capital Investment)	Recovers costs and a return on capital investment integral to maintaining a reliable distribution system.
Rider DSR (Distribution Storm)	Tracks costs associated with major storms as compared to costs otherwise included in base rates.
Rider DDR (Distribution Decoupling)	Adjusts rates between rate cases to mitigate revenue erosion resulting from implementation of energy efficiency measures; not applicable to customers served on Rates DS, DP, and TS.

Of the riders identified above, Duke Energy Ohio proposes to eliminate Rider DR-ECF and the associated interruptible program as obsolete. Through his direct testimony, Company witness Wathen elaborates on the rationale for eliminating this rider and related interruptible program.

Duke Energy Ohio proposes to continue or modify and continue the remaining riders listed above. As discussed by Company witness Scott B. Nicholson, Duke Energy Ohio proposes to continue is POR Program for CRES providers and the associated Rider UE-GEN, in the same form as approved by the Commission in the ESP III Opinion and Order. Rider DCI, Rider DSR, and Rider DDR are discussed in greater detail below, along with the new distribution riders proposed by the Company in the context of this ESP.

¹⁰ For a comprehensive list of current riders, See Attachment JEZ-1 of the Direct Testimony of James E. Ziolkowski.

¹¹ Rider UE-GEN is not applicable to customers of CRES providers that opt out of the Company's POR Program.

1. Distribution Service

R.C. 4928.143(B)(2)(h) authorizes Duke Energy Ohio to include, in its proposed ESP, provisions regarding single-issue ratemaking, revenue decoupling, incentive ratemaking, and distribution infrastructure and modernization. This statutory provision is complemented by O.A.C. 4901:1-35(C)(9)(g), which sets forth additional criteria. Consistent therewith, Duke Energy Ohio proposes either continuation of existing or implementation of new nonbypassable distribution riders, which are discussed more fully below.

a. Distribution Capital Investment Rider – Rider DCI

Distribution reliability is a core tenet for the Company. It is also critical to the Company's customers, whose expectations regarding reliability continue to evolve with increasing dependence upon sophisticated or more advanced technologies. Maintaining a reliable system is a continuing obligation that Duke Energy Ohio cannot meet absent ongoing capital investment. And without timely recovery of such investment, the Company's financial health and vitality are compromised. Such an outcome would not be consistent with the policies of the state and, instead, would run afoul of Ohio's regulatory compact. In recognition of these factors, the Company sought – and received – Commission approval to implement Rider DCI.¹²

The rationale underlying the initial approval of Rider DCI persists and, as such, the Company proposes here to extend the rider. Importantly, however, Duke Energy Ohio further proposes to modify the structure of the rider to include distribution-related common, general, and intangible plant. In most other respects, Rider DCI will be calculated as it is now. Duke Energy Ohio witness Wathen details the rationale and

¹² ESP III, Opinion and Order, at pp. 71-72 (April 2, 2015).

methodology for modifying and extending Rider DCI and Company witnesses Cicely M. Hart, Donald L. Schneider, Jr., Retha Hunsicker, and Zachary Kuznar address programs intended for inclusion in said rider.

b. Distribution Storm Rider – Rider DSR

Major storms undeniably impact utility companies and the customers they serve. In anticipation of these events, and recognizing the benefit of timely and efficient service restoration, base distribution rates typically include some level of storm costs. Indeed, in the Company's most recent electric distribution base rate case, the Commission approved a stipulation that established an agreed-upon baseline level of storm costs for inclusion in distribution base rates.¹³ But this baseline is neither an average nor an indication of the storm costs that the Company may incur in any one year. Rather, just like the significant weather events that give rise to them, storm restoration costs are unpredictable. And the financial impact to a distribution utility can be substantial. In recognition of the impact – both to the Company and its customers – of major weather events, the Commission authorized Duke Energy Ohio to implement Rider DSR, which annually tracks storm costs against a baseline predicated upon base rates. The mechanism is designed such that the rider is only triggered when the accumulated balance exceeds a certain threshold. As significant weather events remain unpredictable, the need for Rider DSR persists and, as such, the Company seeks to continue the rider. Duke Energy Ohio witness Sarah E. Lawler provides detail on this request.

c. Distribution Decoupling Rider – Rider DDR

The Commission approved the continuation of Rider DDR in its Opinion and Order in ESP III, furthering noting the Company's intention to continue the rider until its

¹³ *In the Matter of the Application of Duke Energy Ohio, Inc., for an Increase in its Electric Distribution Rates*, Case No. 12-1682-EL-AIR, *et al.*, Opinion and Order, at pp. 7 and 16 (May 1, 2013).

next base distribution rate case.¹⁴ On January 31, 2017, Duke Energy Ohio initiated that case.¹⁵ But as the rationale for Rider DDR still exists, the Company proposes to continue Rider DDR. Duke Energy Ohio witness Ziolkowski elaborates on this proposal.

d. PowerForward Rider – Rider PF

The Commission commenced a comprehensive, thoughtful initiative intended, at its core, to enhance the customer experience. Through this timely initiative – PowerForward – the Commission intends “to chart a clear path forward for future grid modernization projects, innovative regulation and forward-thinking policies.”¹⁶ The initiative includes a series of workshops that will conclude in 2017, thereby creating the framework for the continued evolution of the grid and implementation of technological enhancements to provide customers an enhanced and more effective energy experience. So as to enable prompt execution of programs, products, and services that advance the Commission’s presently described vision, Duke Energy Ohio proposes a new PowerForward Rider (Rider PF). This rider, which is similar to those advanced by other Ohio EDUs,¹⁷ would be adjusted commensurate with the implementation of new offerings designed to advance programs, services, and initiatives the Company believes reflective of the current intent of PowerForward. This rider would also recover incremental operating and maintenance (O&M) expenses and incremental capital-related

¹⁴ ESP III, Opinion and Order, at pg. 76 (April 2, 2015).

¹⁵ *In the Matter of the Application of Duke Energy Ohio, Inc., for an Increase in its Electric Distribution Rates*, Case No. 17-0032-EL-AIR, *et al.*, Pre-Filing Notice (January 31, 2017).

¹⁶ “PowerForward – PUCO,” www.puco.ohio.gov/industryinformation/industrytopics/powerforward.

¹⁷ See, e.g., *In the Matter of the Application of The Dayton Power and Light Company for Approval of its Electric Security Plan*, Case No. 16-0395-EL-SSO, Case No. 16-0395-EL-SSO, *et al.*, Amended Stipulation and Recommendation, at pp. 7-8 (March 13, 2017)(recommended approval of a smart grid rider to recover costs associated with a distribution modernization plan to be submitted after the conclusion of the PowerForward initiative) and *In the Matter of the Application of Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan*, Case No. 16-1852-EL-SSO, *et al.*, Application to Amend, at pp. 15-15 (November 23, 2016)(proposing a distribution technology rider for purposes of recovering costs associated with a Distribution Technology Investment Plan).

costs that are not included in Rider DCI or otherwise recovered in electric distribution base rates. Company witness Wathen provides additional discussion of this newly proposed rider.

e. Electric Service Reliability Rider – Rider ESRR

Vegetation management is critical to overall distribution system reliability. Indeed, vegetation management criteria were made more stringent following a blackout in August 2003 that affected more than 50 million people in the northeast United States and Canada.¹⁸ Significantly, vegetation management activities must be performed by individuals properly trained and qualified to work in close proximity to energized power lines. The pool of eligible resources, therefore, is necessarily restricted and the costs to procure such resources influenced by the applicable competitive market. So as to secure the resources necessary to perform required vegetation management activities and contribute to the reliability of the distribution system, Duke Energy Ohio is proposing here a new, nonbypassable Electric Service Reliability Rider (Rider ESRR). Through such rider, the structure which has previously been approved by the Commission,¹⁹ Duke Energy Ohio proposes to recover all O&M costs associated with its vegetation management activities incremental to the costs included in base rates. Additionally, as the Company is exposed to cost fluctuations as determined by a competitive marketplace in

¹⁸ Reliability Standards for the Bulk Electric System of North America, FAC-003-02. See also US-Canadian Power System Outage Task Force, Final Report on the August 14, 2003 Blackout in the United States and Canada: Causes and Recommendations, Recommendation 003-2.

¹⁹ See, e.g., *In the Matter of the Application of Ohio Power Company for Approval of its Electric Security Plan; and an Amendment to its Corporate Separation Plan*, Case No. 08-0918-EL-SSO, *et al.*, Opinion and Order, at pg. 34 (March 18, 2009) (recommending approval of an enhanced vegetation initiative); *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan*, Case No. 11-346-EL-SSO, *et al.*, Opinion and Order, at pp. 64-65 (August 8, 2012) (vegetation initiative approved again); and *In the Matter of the Application of Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to R.C. 4928.143, in the Form of an Electric Security Plan* Case No. 13-2385-EL-SSO, *et al.*, Opinion and Order, at pg. 49 (February 25, 2015) (vegetation initiative approved for a third time).

respect of vegetation management resources, it also seeks authority to defer such incremental O&M costs incurred since January 1, 2017, with the recovery of such deferred amounts through Rider ESRR. Company witnesses Wathen and Karen M. Hayden provide further discussion of this proposal.

f. Regulatory Mandates Rider – RMR

It is undeniable that the laws, regulations, and orders pursuant to which Duke Energy Ohio conducts business, provides utility service, and engages with its customers and suppliers are subject to frequent and, at times, substantial revision. Similarly, new laws, regulations, and orders are regularly enacted or issued, further imposing new criteria or limitation upon the Company. Adherence to new or revised regulation oftentimes carries a financial obligation. To properly and efficiently align the implementation of those processes and procedures necessary to comply with applicable law, regulation, or order with the timely recovery of related costs, Duke Energy Ohio proposes here Rider RMR.²⁰ Through this rider, the Company seeks to recover O&M and capital costs incurred in response to changes to existing or the enactment of new laws, regulations, and orders. Duke Energy Ohio witness Wathen provides detail on this proposal.

²⁰ See, e.g., *In the Matter of the Application of The Dayton Power and Light Company for Approval of Its Electric Security Plan*, Case No. 16-0395-EL-SSO, *et al.*, Amended Stipulation and Recommendation, at pg. 17 (March 13, 2017) (recommending approval of a Regulatory Compliance Rider) and *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Authority to Provide for a Standard Service Offer Pursuant to R.C. 4928.143 in the Form of an Electric Security Plan*, Case No. 14-1297-EL-SSO, Opinion and Order, at pg. 93 (March 31, 2016) (approving Government Directives Rider).

g. Single Issue Ratemaking and Incentive Ratemaking

R.C. 4928.143(B)(2)(h) authorizes, as a component of an ESP, single issue ratemaking and incentive ratemaking.²¹ As the Commission has interpreted this provision, “an ‘incentive’ [is] ‘something that stimulates one to take action, work harder, etc.; stimulus; encouragement.’”²² Consistent with this statutory grant of authority, Duke Energy Ohio is proposing an earnings band that motivates the Company to aggressively manage its operations within certain parameters. This proposal also enables customers to benefit when the Company’s earnings are above a certain threshold return on equity (ROE) and further positions Duke Energy Ohio to attract capital when its earnings are below a certain ROE threshold. Additionally, this proposal, if adopted, would simplify the annual SEET review. Company witness Wathen discusses this proposal in greater detail, including the adjustment mechanism to be implemented through the Incentive Ratemaking Mechanism (Rider IRM).

2. Terms, Conditions, and Charges Related to Bypassability as Would Have the Effect of Stabilizing and Providing Certainty Regarding Retail Electric Service

R.C. 4928.143(B)(2)(d) expressly authorizes an electric utility to include, in its ESP, “[t]erms, conditions, or charges relating to limitations on customer shopping for retail electric generation service [and] bypassability...as would have the effect of stabilizing or providing certainty regarding retail electric service.” Significantly, the Commission has authorized terms and conditions related to unavoidable charges.²³ Such

²¹ See, *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Authority to Provide for a Standard Service Offer Pursuant to R.C. 4928.143 in the Form of an Electric Security Plan*, Case No. 14-1297-EL-SSO, Fifth Entry on Rehearing, at pp. 88-90 (October 12, 2016)(approving Rider DMR for purposes of stimulating the “Companies to focus their innovation and resources on modernizing their distribution systems”).

²² *Id.*, at pg. 90.

²³ See, e.g., *In the Matter of the Application of The Dayton Power and Light Company to Establish a Standard Service Offer in the Form of an Electric Security Plan*, Case No. 12-426-EL-SSO, *et al.*, Opinion

statutory provisions and Commission rules, as well as Commission precedent, therefore, authorize the riders identified herein.

a. Price Stabilization Rider – Rider PSR

In its Opinion and Order in ESP III, the Commission approved a placeholder Rider PSR through the ESP term.²⁴ The Commission further instructed Duke Energy Ohio to seek adjustment of such rider in a future filing.²⁵ Adhering to the Commission's directive, on March 31, 2017, Duke Energy Ohio filed an application to adjust Rider PSR.²⁶ In those proceedings, the Company is also seeking deferral authority effective April 1, 2017. Although adjustment and continuation of such rider is authorized under R.C. 4905.04, R.C. 4905.05, R.C. 4905.06, and R.C. 4909.18, Duke Energy Ohio includes herein a request to continue the rider beyond May 31, 2018.

D. In-the-Aggregate Comparison

Duke Energy Ohio has the burden of proving that its proposed ESP, including its pricing and all terms and conditions, is "more favorable in the aggregate as compared to the expected results that would otherwise apply under section 4928.142 of the Revised Code."²⁷ This comparison is not limited only to those elements of the ESP that can be quantified. Rather, as the Ohio Supreme Court has confirmed, the comparison appropriately takes into consideration the non-quantifiable benefits of an ESP.²⁸ As discussed herein and in the Direct Testimony of Company witness Wathen, the proposed

and Order, at pp. 21-22 (September 4, 2013). *See also In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan*, Case No. 11-346-EL-SSO, *et al.*, Opinion and Order, at pp. 31-33 (August 8, 2012).

²⁴ ESP III, Opinion and Order, at pg. 47 (April 2, 2015).

²⁵ *Id.*

²⁶ *In the Matter of the Application of Duke Energy Ohio, Inc., for Approval to Modify Rider PSR*, Case No. 17-872-EL-RDR, *et al.*, Application (March 31, 2017).

²⁷ R.C. 4928.143(C)(1).

²⁸ *In re Application of Columbus Southern Power Co.*, 128 Ohio St. 3d 402, 2011-Ohio-958 at ¶27.

ESP is more favorable, in the aggregate, than the results that would otherwise apply under R.C. 4928.142.

Turning first to the quantitative comparison, the proposed ESP is necessarily equivalent to the results that would otherwise apply under an MRO. Specific to generation supply for SSO and PIPP load, the proposed ESP employs a CBP plan and RFP process, respectively, that necessarily yield market-based prices. Similarly, generation supply under an MRO would be procured through a competitive plan, also predicated upon market-based prices. There is thus no distinction between the two forms of SSO with regard to generation supply.²⁹ Rider DCI, Rider DSR, Rider DDR, Rider DT, Rider ESRR, Rider RMR, and Rider PSR are also available should the Company provide an SSO in the form of an MRO and, as such, they have no impact on the qualitative comparison and should be excluded.³⁰

With regard to qualitative benefits, the proposed ESP is better, in the aggregate, than the results that would otherwise be expected under R.C. 4928.142. The proposed ESP enables timely investment in the Company's distribution system, appropriate recovery of costs incurred to maintain the system's safety and reliability, and mechanisms to promote continued evolution of the distribution grid, while simultaneously protecting Duke Energy Ohio's financial integrity. Additionally, the

²⁹ See, e.g., *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and the Toledo Edison Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan*, Case No. 10-388-EL-SSO, Opinion and Order, at pg. 44 (August 25, 2010) and *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and the Toledo Edison Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan*, Case No. 12-1230-EL-SSO, Opinion and Order, at pg. 55 (July 18, 2012).

³⁰ *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and the Toledo Edison Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan*, Case No. 12-1230-EL-SSO, Opinion and Order, at pp. 55-56 (July 18, 2012). See also, *In the Matter of the Application of The Dayton Power and Light Company for Approval of Its Electric Security Plan*, Case No. 16-395-EL-SSO, et al., Transcript of Proceeding, Vol. V., at pp. 887-889 (Testimony of Staff witness Patrick Donlon).

proposed ESP enables innovation through a battery storage pilot project and advancement of clean generation resources. The proposed ESP also includes a progressive ratemaking mechanism – not available under an MRO – that fairly aligns the interests of the Company and its customers. The perpetuation of the competitive retail market is further enhanced by the Company’s proposal, as reflected in this Application and supporting testimony. And by avoiding non-market based riders or arrangements, generation-related costs will be established by market forces, which is appropriate in a competitive environment and fair to SSO and PIPP suppliers and CRES providers.

E. Parameters for Testing

Duke Energy Ohio proposes a six-year term for its ESP and, consequently, the plan will be subject to a Commission review, under R.C. 4928.143(E), in its fourth year, which commences on June 1, 2021. Duke Energy Ohio is statutorily permitted to include in its ESP provisions applicable to these subsequent reviews and, consistent therewith, proposes the following parameters.

The first issue to be decided by the Commission in the review required under R.C. 4928.143(E) is whether the ESP “continues to be more favorable in the aggregate and during the remaining term” of the ESP as compared to the expected results under the MRO provisions. The Company submits that the quantitative analysis will be no different than that employed in connection with the initial approval of the proposed ESP as the Company will procure supply for its SSO and PIPP load via market-driven, competitive processes. That is, under the proposed ESP, generation supply pricing is predicated upon the competitive market, just as would be the case under an MRO.

A price comparison is but one aspect of the “in-the-aggregate” test. Pursuant to statute, consideration must also be given to all other terms and conditions of the ESP.

This requirement is applicable whether the “in-the-aggregate” test is being employed prior to the plan’s approval or during the year-four review.³¹ Thus, during the year-four review, the same terms and conditions that are considered for purposes of approving this Application must be factored into the determination of whether the ESP remains more favorable than an MRO. Those terms and conditions are detailed in Section III.D., above.

R.C. 4928.143(E) also requires the Commission to determine, in year four, whether the prospective effect of the Company’s proposed ESP is substantially likely to lead to significantly excessive earnings. Pursuant to this statutory requirement, the Commission must ascertain the substantial likelihood of Duke Energy Ohio significantly over-earning from June 1, 2021, through the conclusion of the ESP on May 31, 2024. In this regard, the Company’s incentive ratemaking proposal will function such that Duke Energy Ohio will not have significantly excessive earnings during any year of the ESP, including the final three years of the plan. The annual ROE included in this proposal shall be calculated pursuant to the established formula consistently used to administer the SEET to Duke Energy Ohio. Company witness Lawler provides a summary of this formula.

F. Significantly Excessive Earnings Test

R.C. 4928.143(F) requires the Commission to conduct annual reviews of an ESP, for the purpose of determining whether any adjustments to such plan resulted in an EDU’s receipt of significantly excessive earnings.³² The application of the SEET to Duke Energy Ohio has been performed consistent with discrete, Commission-approved

³¹ R.C. 4928.143(C)(standard of review encompasses “pricing and all other terms and conditions”); See also, R.C. 4928.143(E)(standard of review encompasses “pricing and all other terms and conditions).

³² R.C. 4928.143(F) (“With regard to the provisions that are included in an electric security plan under this section, the commission shall consider, following the end of each annual period of the plan, if any such adjustments resulted in excessive earnings...”).

parameters.³³ The Company proposes continuing those same parameters in respect of its next ESP, which parameters have been consistently administered without opposition. Duke Energy Ohio witnesses Wathen and Lawler provide additional detail regarding the SEET.

IV. Rate Structure and Impacts

A. Pro Forma Financial Projections

As set forth in O.A.C. 4901:1-35-03(C)(2), Duke Energy Ohio must provide financial projections of the “effect of the ESP’s implementation upon the electric utility for the duration of the ESP.”³⁴ The Company must also provide sufficient information to enable an understanding of the assumptions used and methodology employed in deriving the pro forma financial projections.

Duke Energy Ohio witness Robert “Beau” H. Pratt testifies as to the financial projections, which are set forth as attachments to his testimony.

B. Rate Impacts

Duke Energy Ohio’s Application must include “[p]rojected rate impacts by customer class/rate schedules for the duration of the ESP, including post-ESP impacts of deferrals, if any.”³⁵ Duke Energy Ohio witness Ziolkowski provides a summary of the estimated rate impacts by rate class and describes how the projected prices were derived.

C. Tariffs

As detailed in the testimony of Company witness Ziolkowski, Duke Energy Ohio proposes to implement new riders under its ESP, as well as modifying certain existing

³³ See, *In the Matter of the Application of Duke Energy Ohio, Inc., for Approval of an Electric Security Plan*, Case No. 08-920-EL-SSO, *et al.*, Opinion and Order, at pp. 21, 39 (December 17, 2008); and ESP II, Opinion and Order, at pp. 35 and 50 (November 22, 2011).

³⁴ O.A.C. 4901:1-35-03(C)(2).

³⁵ O.A.C. 4901:1-35-03(C)(3).

riders. Furthermore, certain riders currently in effect under its existing ESP will terminate while other riders will remain unchanged by the proposed ESP. For a full list of the tariffs that are being proposed in this ESP Application, see attachments to the Direct Testimony of Mr. Ziolkowski.

Company witness Nicholson discusses the minimal revisions to the Certified Supplier Tariff, Sheet No. 20, proposed in these proceedings.

V. Other Filing Requirements

A. Corporate Separation

O.A.C. 4901:1-35-03(C)(4) imposes upon the Company an obligation to describe its current corporate separation plan. Such description must include “the current status of the...plan, a detailed list of all waivers previously issued by the commission to the electric utility regarding its...plan, and a timeline of any anticipated revisions or amendments.”³⁶ Additionally, O.A.C. 4901:1-35-03(F) requires Duke Energy Ohio to demonstrate how its corporate separation plan is consistent with state policy.

Duke Energy Ohio witness Christian E. Whicker discusses the Company’s last approved corporate separation plan³⁷ and further provides a brief overview of the Company’s prior corporate separation plans and the dockets in which they were approved, as well as the pending consideration of an amended plan.³⁸ Duke Energy Ohio has neither sought nor obtained any waivers of its most recently approved corporate

³⁶ O.A.C. 4901:1-35-03(C)(4).

³⁷ ESP II, Opinion and Order, at pg. 51 (November 22, 2011). Subsequent requests to amend the corporate separation plan are pending, either pursuant to order of remand by the Ohio Supreme Court (*In re Application of Duke Energy Ohio, Inc., for Approval of its Fourth Amended Corporate Separation Plan*, 148 Ohio St.3d 510) or Company request (*In the Matter of the Application of Duke Energy Ohio for Approval of the Fourth Amended Corporate Separation Plan*, Case No. 14-0689-EL-UNC).

³⁸ *In the Matter of the Application of Duke Energy Ohio for Approval of the Fourth Amended Corporate Separation Plan*, Case No. 14-0689-EL-UNC.

separation plan. Further, Mr. Whicker discusses the Company's future plans for revision and the consistency of the plan with state policy.

B. Operational Support Plan

O.A.C. 4901:1-35-03(C)(5) requires the Company to state whether its operational support plan has been implemented and whether any problems exist with regard to such implementation. The Commission has previously found that Duke Energy Ohio "has fulfilled its obligations regarding its" Operational Support Plan.³⁹ Notwithstanding this prior determination that the Company has met all applicable requirements relative to its Operational Support Plan, Duke Energy Ohio witness Nicholson addresses said plan in his testimony.

C. Governmental Aggregation

Pursuant to O.A.C. 4901:1-35-03(C)(6), the Company's Application must include a description of how it proposes "to address governmental aggregation programs and implementation of divisions (I), (J), and (K) of section 4928.20 of the Revised Code." Further, the Company must, pursuant to O.A.C. 4901:1-35-03(C)(7), include in its ESP a "description of the effect on large-scale governmental aggregation of any unavoidable generation charge proposed" in the ESP.

As supported by the testimony of Company witness Wathen, Duke Energy Ohio's ESP will not impede the formation of large-scale governmental aggregations. The provisions of R.C. 4928.20(I) are not implicated here as Duke Energy Ohio is not seeking a deferral, under R.C. 4928.144, in respect of its ESP. Similarly, Duke Energy Ohio is not seeking Commission approval of a separate charge for standby service and, consequently, the provisions of R.C. 4928.20(J) are not a consideration for Commission review.

³⁹ ESP III, Opinion and Order, at pg. 83 (April 2, 2015).

Admittedly, Duke Energy Ohio's proposed ESP does include non-bypassable charges. However, those charges will not adversely affect governmental aggregation. Rather, the Company's proposal should function to ease the process of evaluating competitive offers and ensure a vigorous environment in which CRES providers engage. Furthermore, a non-bypassable crediting mechanism removes from customers the dilemma of not switching suppliers in order to continue receiving the credit versus exercising the right to switch suppliers.

D. Advancement of State Policy

Pursuant to O.A.C. 4901:1-35-03(C)(8), the Company must describe how its proposed ESP advances the policies of the state as set forth in R.C. 4928.02. Significantly, these policies function only as guidelines for the Commission to weigh in reviewing the Company's Application. As described in further detail in the Direct Testimony of Company witness James P. Henning, the proposed ESP effectuates state policies. Specifically, Mr. Henning reviews each enumerated state policy and explains how the proposal set forth in this Application advances the goals of the state of Ohio, with reference, as appropriate, to other Company witnesses in these proceedings.

E. Proposed Notice of Publication

Consistent with O.A.C. 4901:1-35-04(B), Duke Energy Ohio attaches hereto as Attachment M its proposed notice of publication regarding the filing of this Application.

F. Direct Testimony

The Commission has required, through O.A.C. 4901:1-35-03(A), that the applicant for an ESP include a complete set of testimony, along with all schedules. Duke Energy Ohio incorporates herein the direct testimony of its witnesses, as identified in Section II, above.

G. Work Papers

The Commission has required, under O.A.C. 4901:1-35-03(G), that each ESP application includes a complete set of work papers, where such work papers are defined as “documents prepared by the electric utility for the application and a narrative or other support of assumptions made... .” The Application is supported by documents prepared in connection therewith, including direct testimony. As applicable, such testimony includes a narrative or other support of assumptions made. As such, the work papers of Duke Energy Ohio witnesses are, to the extent such work papers exist, included as attachments to the testimony of each such witness.

H. Deferral Request

R.C. 4905.13 authorizes the Commission to establish systems of accounts to be kept by public utilities and to prescribe the manner in which these accounts shall be kept. The Federal Energy Regulatory Commission has established a Uniform System of Accounts for electric utilities, which is applicable to Ohio’s regulated electric utilities pursuant to O.A.C. 4901:1-9-05. Consistent with the Commission’s long-standing and widely accepted authority over the books and records of its jurisdictional utilities, Duke Energy Ohio requests herein authority to modify its current accounting procedures to defer income statement recognition of incremental vegetation management costs incurred, as of January 1, 2017. Such incremental amounts are those attributed to contractor labor and would be recovered via the proposed Rider ESRR. Company witness Wathen discusses this request in more detail.

VI. Waivers

Duke Energy Ohio submits that its Application, as supported by the testimony, schedules, and tariffs, complies with R.C. 4928.141 and 4928.143 and the relevant

administrative rules in O.A.C. Chapter 4901:1-35.⁴⁰ However, Duke Energy Ohio respectfully seeks any waivers of any provisions of the rules set forth in O.A.C. Chapter 4901:35 necessary to support the findings requested herein.

VII. Procedural Schedule

Duke Energy Ohio defers to the Commission in the management of its docket. However, recognizing the desire to conduct two competitive auctions for SSO supply and one RFP for PIPP load, with the first such procurement planned to occur in November 2017, the Company respectfully proposes the following procedural schedule for Commission consideration:

- Technical conference: June 13, 2017
- Deadline for motions to Intervene: July 3, 2017
- Testimony on behalf of Intervenors: July 24, 2017
- Deadline for tendering discovery requests served: July 28, 2017
- Testimony on behalf of Staff: August 8, 2017
- Procedural conference: August 11, 2017
- Evidentiary Hearing: August 15, 2017
- Issuance of Opinion and Order: October 18, 2017

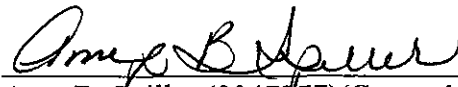
VIII. Conclusion

Duke Energy Ohio respectfully requests that the Commission approve the proposed electric security plan, together with necessary accounting and tariff modifications described herein.

⁴⁰ See Attachment A to this Application, which identifies the various filing requirements and the manner through which Duke Energy Ohio has complied with same.

Respectfully submitted,

DUKE ENERGY OHIO, INC.



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Case No. 17-1263-EL-SSO

Summary of Filing Requirements

The following summary is prepared for reference purposes only. It is not a substantive part of the Application and nothing herein should be interpreted as superseding the Application, the other Attachments to the Application, the testimony of the Company's witnesses, or any attachments thereto.

Ohio Administrative Code 4901:1-35-03(A)

Description of Filing Requirement:

SSO Applications must be case captioned as (XX-XXX-EL-SSO). Ten copies plus an original of the application shall be filed. The application must include a complete set of direct testimony of the electric utility personnel or other expert witnesses. This testimony shall be in question and answer format and shall be in support of the electric utility's proposed application. This testimony shall fully support all schedules and significant issues identified by the electric utility.

Response

See Direct Testimony of:

James P. Henning
Robert J. Lee
William Don Wathen Jr.
James E. Ziolkowski
Sarah E. Lawler
Cicely M. Hart
Robert H. "Beau" Pratt
Christian Whicker
Scott B. Nicholson
Zachary Kuznar
Karen M. Hayden
Donald L. Schneider, Jr.
Retha Hunsicker

Ohio Administrative Code 4901:1-35-03(C)(1)

Description of Filing Requirement:

An SSO application that contains a proposal for an ESP shall comply with the requirements set forth below.

A complete description of the ESP and testimony explaining and supporting each aspect of the ESP.

Response:

See Application and Direct Testimony filed in support thereof.

Ohio Administrative Code 4901:1-35-03(C)(2)

Description of Filing Requirement:

An SSO application that contains a proposal for an ESP shall comply with the requirements set forth below.

Pro forma financial projections of the effect of the ESP's implementation upon the electric utility for the duration of the ESP, together with testimony and work papers sufficient to provide an understanding of the assumptions made and methodologies used in deriving the pro forma projections.

Response:

See Direct Testimony of Robert H. "Beau" Pratt.

Ohio Administrative Code 4901:1-35-03(C)(3)

Description of Filing Requirement:

An SSO application that contains a proposal for an ESP shall comply with the requirements set forth below.

Projected rate impacts by customer class/rate schedules for the duration of the ESP, including post-ESP impacts of deferrals, if any.

Response:

See Direct Testimony of James E. Ziolkowski.

Ohio Administrative Code 4901:1-35-03(C)(4)

Description of Filing Requirement:

An SSO application that contains a proposal for an ESP shall comply with the requirements set forth below.

The electric utility shall provide a description of its corporate separation plan, adopted pursuant to section 4928.17 of the Revised Code, including, but not limited to, the current status of the corporate separation plan, a detailed list of all waivers previously issued by the commission to the electric utility regarding its corporate separation plan, and a timeline of any anticipated revisions or amendments to its current corporate separation plan on file with the commission pursuant to Chapter 4901:1-37 of the Administrative Code.

Response:

See Direct Testimony of Christian Whicker.

Ohio Administrative Code 4901:1-35-03(C)(5)

Description of Filing Requirement:

An SSO application that contains a proposal for an ESP shall comply with the requirements set forth below.

Division (A)(3) of section 4928.31 of the Revised Code required each electric utility to file an operational support plan as a part of its electric transition plan. Each electric utility shall provide a statement as to whether its operational support plan has been implemented and whether there are any outstanding problems with the implementation.

Response:

See Direct Testimony of Scott B. Nicholson.

Ohio Administrative Code 4901:1-35-03(C)(6)

Description of Filing Requirement:

An SSO application that contains a proposal for an ESP shall comply with the requirements set forth below.

A description of how the electric utility proposes to address governmental aggregation programs and implementation of divisions (I), (J), and (K) of section 4928.20 of the Revised Code.

Response:

See Direct Testimony of William Don Wathen Jr.

Ohio Administrative Code 4901:1-35-03(C)(7)

Description of Filing Requirement:

An SSO application that contains a proposal for an ESP shall comply with the requirements set forth below.

A description of the effect on large-scale governmental aggregation of any unavoidable generation charge proposed to be established in the ESP.

Response:

See Direct Testimony of William Don Wathen Jr.

Ohio Administrative Code 4901:1-35-03(C)(8)

Description of Filing Requirement:

An SSO application that contains a proposal for an ESP shall comply with the requirements set forth below.

The ESP Application shall include a detailed account of how the ESP is consistent with and advances the policy of this state as delineated in section 4928.02 of the Revised Code.

Response:

See Direct Testimony of James P. Henning, William Don Wathen Jr., Christian Whicker, and Zachary Kuznar.

Ohio Administrative Code 4901:1-35-03(C)(9)(a)

Description of Filing Requirement:

An SSO application that contains a proposal for an ESP shall comply with the requirements set forth below.

Specific information Division (B)(2) of Section 4928.143 of the Revised Code authorizes the provision or inclusion in an ESP of a number of features or mechanisms. To the extent that an electric utility includes any of these features in its ESP, it shall file the corresponding information in its application.

Division (B)(2)(a) of section 4928.143 of the Revised Code authorizes an electric utility to include provisions for the automatic recovery of fuel, purchased power, and certain other specified costs. An application including such provisions shall include, at a minimum, the information described below:

- (i) The type of cost the electric utility is seeking recovery for under division (B)(2) of section 4928.143 of the Revised Code including a summary and detailed description of such cost. The description shall include the plant(s) that the cost pertains to as well as a narrative pertaining to the electric utility's procurement policies and procedures regarding such cost.
- (ii) The electric utility shall include in the application any benefits available to the electric utility as a result of or in connection with such costs including but not limited to profits from emission allowance sales and profits from resold coal contracts.
- (iii) The specific means by which these costs will be recovered by the electric utility. In this specification, the electric utility must clearly distinguish whether these costs are to be recovered from all distribution customers or only from the customers taking service under the ESP.
- (iv) A complete set of work papers supporting the cost must be filed with the application. Work papers must include, but are not limited to, all pertinent documents prepared by the electric utility for the application and a narrative and other support of assumptions made in completing the work papers.

Response:

N/A

Ohio Administrative Code 4901:1-35-03(C)(9)(b)

Summary of Filing Requirement

Divisions (B)(2)(b) and (B)(2)(c) of section 4928.143 of the Revised Code, authorize an electric utility to include unavoidable surcharges for construction, generation, or environmental expenditures for electric generation facilities owned or operated by the electric utility. Any plan which seeks to impose surcharge under these provisions shall include the following sections, as appropriate:

- (i) The application must include a description of the projected costs of the proposed facility. The need for the proposed facility must have already been reviewed and determined by the commission through an integrated resource planning process filed pursuant to rule 4901:5-5-05 of the Administrative Code.
- (ii) The application must also include a proposed process, subject to modification and approval by the commission, for the competitive bidding of the construction of the facility unless the commission has previously approved a process for competitive bidding, which would be applicable to that specific facility.
- (iii) An application which provides for the recovery of a reasonable allowance for construction work in progress shall include a detailed description of the actual costs as of a date certain for which the applicant seeks recovery, a detailed description of the impact upon rates of the proposed surcharge, and a demonstration that such a construction work in progress allowance is consistent with the applicable limitations of division (A) of section 4909.15 of the Revised Code.
- (iv) An application which provides recovery of a surcharge for an electric generation facility shall include a detailed description of the actual costs, as of a date certain, for which the applicant seeks recovery and a detailed description of the impact upon rates of the proposed surcharge.
- (v) An application which provides for recovery of a surcharge for an electric generation facility shall include the proposed terms for the capacity, energy, and associated rates for the life of the facility.

Response

N/A

Ohio Administrative Code 4901:1-35-03(C)(9)(c)(i)

Description of Filing Requirement:

An SSO application that contains a proposal for an ESP shall comply with the requirements set forth below.

Division (B)(2)(d) of section 4928.143 of the Revised Code authorizes an electric utility to include terms, conditions, or charges related to retail shopping by customers. Any application which includes such terms, conditions or charges, shall include, at a minimum, the following information:

- (i) A listing of all components of the ESP which would have the effect of preventing, limiting, inhibiting, or promoting customer shopping for retail electric generation service. Such components would include, but are not limited to, terms and conditions relating to shopping or to returning to the standard service offer and any unavoidable charges. For each such component, an explanation of the component and a descriptive rationale and, to the extent possible, a quantitative justification shall be provided.

Response:

See Direct Testimony of James P. Henning, William Don Wathen Jr., Robert J. Lee, James E. Ziolkowski, and Scott B. Nicholson.

Ohio Administrative Code 4901:1-35-03(C)(9)(d)

Description of Filing Requirement:

An SSO application that contains a proposal for an ESP shall comply with the requirements set forth below.

Division (B)(2)(e) of section 4928.143 of the Revised Code authorizes an electric utility to include provisions for automatic increases or decreases in any component of the standard service offer price. Pursuant to this authority, if the ESP proposes automatic increases or decreases to be implemented during the life of the plan for any component of the standard service offer, other than those covered by division (B)(2)(a) of section 4928.143 of the Revised Code, the electric utility must provide in its application a description of the component, the proposed means for changing the component, and the proposed means for verifying the reasonableness of the change.

Response:

N/A

Ohio Administrative Code 4901:1-35-03(C)(9)(e)

Description of Filing Requirement:

An SSO application that contains a proposal for an ESP shall comply with the requirements set forth below.

Division (B)(2)(f) of section 4928.143 of the Revised Code authorizes an electric utility to include provisions for the securitization of authorized phase-in recovery of the standard service offer price. If a phase-in deferred asset is proposed to be securitized, the electric utility shall provide, at the time of an application for securitization, a description of the securitization instrument and an accounting of that securitization, including the deferred cash flow due to the phase-in, carrying charges, and the incremental cost of the securitization. The electric utility will also describe any efforts to minimize the incremental cost of the securitization. The electric utility shall provide all documentation associated with securitization, including but not limited to, a summary sheet of terms and conditions. The electric utility shall also provide a comparison of costs associated with securitization with the costs associated with other forms of financing to demonstrate that securitization is the least cost strategy.

Response:

N/A

Ohio Administrative Code 4901:1-35-03(C)(9)(f)

Description of Filing Requirement:

An SSO application that contains a proposal for an ESP shall comply with the requirements set forth below.

Division (B)(2)(g) of section 4928.143 of the Revised Code authorizes an electric utility to include provisions relating to transmission and other specified related services. Moreover, division (A)(2) of section 4928.05 of the Revised Code states that, notwithstanding Chapters 4905. and 4909. of the Revised Code, commission authority under this chapter shall include the authority to provide for the recovery, through a reconcilable rider on an electric distribution utility's distribution rates, of all transmission and transmission-related costs (net of transmission related revenues), including ancillary and next congestion costs, imposed on or charged to the utility by the federal energy regulatory commission or a regional transmission organization ,independent transmission operator, or similar organization approved by the federal energy regulatory commission.

Any utility which seeks to create or modify its transmission cost recovery rider in its ESP shall file the rider in accordance with the requirements delineated in Chapter 4901:1-36 of the Administrative Code.

Response:

N/A

Ohio Administrative Code 4901:1-35-03(C)(9)(g)

Summary of Filing Requirement

Division (B)(2)(h) of section 4928.143 of the Revised Code authorizes an electric utility to include provisions for alternative regulation mechanisms or programs, including infrastructure and modernization incentives, relating to distribution service as part of an ESP. While a number of mechanisms may be combined within a plan, for each specific mechanism or program, the electric utility shall provide a detailed description, with supporting data and information, to allow appropriate evaluation of each proposal, including how the proposal addresses any cost savings to the electric utility, avoids duplicative cost recovery, and aligns electric utility and consumer interests. In general, and to the extent applicable, the electric utility shall also include, for each separate mechanism or program, quantification of the estimated impact on rates over the term of any proposed modernization plan. Any application for an infrastructure modernization plan shall include the following specific requirements:

- (i) A description of the infrastructure modernization plan, including but not limited to, the electric utility's existing infrastructure, its existing asset management system and related capabilities, the type of technology and reason chosen, the portion of service territory affected, the percentage of customers directly impacted (non-rate impact), and the implementation schedule by geographic location and/or type of activity. A description of any communication infrastructure included in the infrastructure modernization plan and any metering, distribution automation, or other applications that may be supported by this communication infrastructure also shall be included.
- (ii) A description of the benefits of the infrastructure modernization plan (in total and by activity or type), including but not limited to the following as they may apply to the plan: the impacts on current reliability, the number of circuits impacted, the number of customers impacted, the timing of impacts, whether the impact is on the frequency or duration of outages, whether the infrastructure modernization plan addresses primary outage causes, what problems are addressed by the infrastructure modernization plan, the resulting dollar savings and additional costs, the activities affected and related accounts, the timing of savings, other customer benefits, and societal benefits. Through metrics and milestones, the infrastructure modernization plan shall include a description of how the performance and outcomes of the plan will be measured.
- (iii) A detailed description of the costs of the infrastructure modernization plan, including a breakdown of capital costs and operating and maintenance expenses net of any related savings, the revenue requirement, including recovery of stranded investment related to replacement of un-depreciated plant with new technology, the impact on customer bills, service disruptions associated with plan implementation, and description of (and dollar value of) equipment being made obsolescent by the plan and reason for early plant retirement. The infrastructure modernization plan shall also include a description of efforts made to mitigate such stranded investment.

- (iv) A detailed description of any proposed cost recovery mechanism, including the components of any regulatory asset created by the infrastructure modernization plan, the reporting structure and schedule, and the proposed process for approval of cost recovery and increase in rates.
- (v) A detailed explanation of how the infrastructure modernization plan aligns customer and electric utility reliability and power quality expectations by customer class.

Response

See Direct Testimony of James P. Henning, William Don Wathen Jr., Cicely M. Hart, Donald L. Schneider, Jr., Retha Hunsicker, and Zachary Kuznar.

Ohio Administrative Code 4901:1-35-03(C)(9)(h)

Description of Filing Requirement:

An SSO application that contains a proposal for an ESP shall comply with the requirements set forth below.

Division (B)(2)(i) of section 4928.143 of the Revised Code authorizes an electric utility to include provisions for economic development, job retention, and energy efficiency programs. Pursuant to this section, the electric utility shall provide a complete description of the proposal, together with cost-benefit analysis or other quantitative justification, and quantification of the program's projected impact on rates.

Response:

N/A

Ohio Administrative Code 4901:1-35-03(E)

Description of Filing Requirement:

The SSO application shall include a section demonstrating that its current corporate separation plan is in compliance with section 4928.17 of the Revised Code, Chapter 4901:1-37 of the Administrative Code, and consistent with the policy of the state as delineated in divisions (A) to (N) of section 4928.02 of the Revised Code. If any waivers of the corporate separation plan have been granted and are to be continued, the applicant shall justify the continued need for those waivers.

Response:

See Direct Testimony of Christian Whicker.

Ohio Administrative Code 4901:1-35-03(F)

Description of Filing Requirement:

A complete set of work papers must be filed with the application. Work papers must include, but are not limited to, all pertinent documents prepared by the electric utility for the application and a narrative or other support of assumptions made in the work papers. Work papers shall be marked, organized, and indexed according to schedules to which they relate. Data contained in the work papers should be footnoted so as to identify the source document used.

Response:

See Application, Section V.G.

Ohio Administrative Code 4901:1-35-03(G)

Description of Filing Requirement:

All schedules, tariff sheets, and work papers prepared by, or at the direction of, the electric utility for the application and included in the application must be available in spreadsheet, word processing, or an electronic non-image-based format, with formulas intact, compatible with personal computers. The electronic form does not have to be filed with the application but must be made within two business days to staff and any intervening party that requests it.

Response:

See Direct Testimony of James E. Ziolkowski and Scott B. Nicholson. See also, Application, Section V.G.

Ohio Revised Code 4928.143(C)(1)

Summary of Filing Requirement

The burden of proof in the proceeding shall be on the electric distribution utility. ...[T]he commission by order shall approve or modify and approve an application filed under division (A) of this section if it finds that the electric security plan so approved, including its pricing and all other terms and conditions, including any deferrals and any future recovery of deferrals, is more favorable in the aggregate as compared to the expected results that would otherwise apply under section 4928.142 of the Revised Code.

Response

See Direct Testimony of William Don Wathen Jr.

Ohio Revised Code 4928.143(B)(1)

Summary of Filing Requirement

[I]f the proposed electric security plan has a term longer than three years, it may include provisions in the plan to permit the commission to test the plan pursuant to division (E) of this section and any transitional conditions that should be adopted by the commission if the commission terminates the plan as authorized under that division.

Response

See Application, Section III.E.

DEO ESP CBP Schedule

DRAFT -- SUBJECT TO REVISION

[illegible]

Total load

100

100

100

100

001

100

DOD ESP CBP Schedule

ESP	Auction Date	Tranche Target	Load Cap	2017	2018	2019	2020	2021	2022	2023	2024
				1 2 3 4 5 6 7 8 9 10 11 12	1 2 3 4 5 6 7 8 9 10 11 12	1 2 3 4 5 6 7 8 9 10 11 12	1 2 3 4 5 6 7 8 9 10 11 12	1 2 3 4 5 6 7 8 9 10 11 12	1 2 3 4 5 6 7 8 9 10 11 12	1 2 3 4 5 6 7 8 9 10 11 12	1 2 3 4 5 6 7 8 9 10 11 12
September 2017		17		16 months June 2016 - May 2017							
		17	40								
		16									
February 2018		17	40								
		17									
		16									
PIPP RFP 1		100 % PIPP Load		12 months June 2018 - May 2019							
September 2018		16	12	16 months June 2018 - May 2019							
February 2019		16	12	16 months June 2018 - May 2019							
PIPP RFP 2		100 % PIPP Load		12 months June 2019 - May 2020							
September 2019		17	13	16 months June 2019 - May 2020							
February 2020		17	13	16 months June 2019 - May 2020							
PIPP RFP 3		100 % PIPP Load		12 months June 2020 - May 2021							
September 2020		17	13	16 months June 2020 - May 2021							
February 2021		17	13	16 months June 2020 - May 2021							
PIPP RFP 4		100 % PIPP Load		12 months June 2021 - May 2022							
September 2021		16	12	16 months June 2021 - May 2022							
February 2022		15	12	16 months June 2021 - May 2022							
PIPP RFP 5		100 % PIPP Load		12 months June 2022 - May 2023							
September 2022		17	13	16 months June 2022 - May 2023							
February 2023		17	13	16 months June 2022 - May 2023							
PIPP RFP 6		100 % PIPP Load		12 months June 2023 - May 2024							
Total Load				100	100	100	100	100	100	100	100

MASTER STANDARD SERVICE OFFER (“SSO”)

SUPPLY AGREEMENT

BY AND BETWEEN

DUKE ENERGY OHIO, INC.

AND

EACH SSO SUPPLIER SET FORTH ON ATTACHMENT A HERETO

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MASTER STANDARD SERVICE OFFER (“SSO”) SUPPLY AGREEMENT

This Master Standard Service Offer (“SSO”) Supply Agreement (“Agreement”), dated as of [_____, 20__] (“Effective Date”), is by and between Duke Energy Ohio, Inc., an Ohio corporation with offices at 139 East Fourth Street, Cincinnati, Ohio (“Duke Energy Ohio”) and each of the suppliers listed on Attachment A severally, but not jointly, (each an “SSO Supplier” and collectively “SSO Suppliers”). Duke Energy Ohio and each SSO Supplier are hereinafter referred to individually as a “Party” or collectively as the “Parties”).

RECITALS

WHEREAS, Duke Energy Ohio is an Ohio public utility that engages, inter alia, in providing SSO Service within its service territory; and

WHEREAS, the PUCO found that it would serve the public interest for Duke Energy Ohio to secure SSO Supply through a competitive bidding process; and

WHEREAS, on [_____, 20__], Duke Energy Ohio conducted and completed a successful Solicitation for SSO Supply; and

WHEREAS, each SSO Supplier was one of the winning bidders in the Solicitation for SSO Supply; and

WHEREAS, the PUCO has authorized Duke Energy Ohio to contract with winning bidders for SSO Supply to serve SSO Load in accordance with the terms of this Agreement; and

WHEREAS, each SSO Supplier will satisfy its Capacity obligations under the PJM Agreements associated with its respective SSO Supplier Responsibility Share in accordance with the PJM Agreements, including, without limitation, through participation in the base residual auction and incremental auctions administered by PJM; and

WHEREAS, Duke Energy Ohio and the SSO Suppliers desire to enter into this Agreement setting forth their respective obligations concerning the provision of SSO Supply.

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties intending to be legally bound hereby agree as follows:

ARTICLE 1

DEFINITIONS

The following definitions and any terms defined in this Agreement shall apply hereunder.

“Affiliate” means, with respect to any Person, any other Person (other than an individual) that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such Person. For this purpose, “control” means the direct or indirect ownership of fifty percent (50%) or more of the outstanding capital stock or other equity interests having ordinary voting power.

“Ancillary Services” has the meaning set forth in the PJM Agreements.

“Bankrupt” means with respect to any entity, that such entity (i) files a petition or otherwise commences or acquiesces in a proceeding under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it and such petition is not withdrawn or dismissed within thirty (30) days after such filing, (ii) makes an assignment or any general arrangement for the benefit of creditors, (iii) otherwise becomes bankrupt or insolvent (however evidenced), (iv) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets, or (v) is unable to pay its debts as they fall due.

“Bankruptcy Code” means those laws of the United States of America related to bankruptcy, codified and enacted as Title 11 of the United States Code, entitled “Bankruptcy” and found at 11 U.S.C. § 101 et seq.

“Billing Period” means hour ending 0100 on the first day of a calendar month through hour ending 2400 on the last day of the applicable calendar month.

“Billing Statement” has the meaning set forth in Section 6.1(a).

“Business Day” means any day except a Saturday, Sunday or a day PJM declares to be a holiday, as posted on the PJM website. A Business Day shall open at 8:00 a.m. and close at 5:00 p.m. prevailing Eastern Time, unless otherwise agreed to by the Parties in writing.

“Capacity” means “Unforced Capacity” as set forth in the PJM Agreements, or any successor measurement of capacity obligation of an LSE as may be employed in PJM (whether set forth in the PJM Agreements or elsewhere).

“Charge” means any fee, charge, PJM charge, the Energy Share Adjustment if in favor of Duke Energy Ohio, or any other amount that is billable by Duke Energy Ohio to the SSO Supplier under this Agreement.

“Commercial/Industrial Customer” means a Customer taking service under one of Duke Energy Ohio’s non-residential rates (Rate DS, Rate DM, Rate DP, Rate CUR, Rate EH, Rate GSFL, Rate SFL-ADPL, Rate RTP or Rate TS).

“Costs” mean, with respect to the Non-Defaulting Party, all reasonable attorney’s fees, brokerage fees, commissions, PJM charges and other similar transaction costs and expenses reasonably incurred by such Party either in terminating any arrangement pursuant to which it has hedged its obligations or entering into new arrangements which replace this Agreement; and all reasonable attorney’s fees and expenses incurred by the Non-Defaulting Party in connection with the termination of this Agreement as between Duke Energy Ohio and the applicable SSO Supplier.

“Credit Limit” means an amount of credit, based on the creditworthiness of an SSO Supplier or its Guarantor, if applicable, determined pursuant to Section 5.6, granted by Duke Energy Ohio to such SSO Supplier to be applied towards the Total Exposure Amount for such SSO Supplier.

“CRES Supplier” means a Person that is duly certified by the PUCO to offer and to assume the contractual and legal responsibility to provide Standard Service Offer pursuant to retail open access programs approved by the PUCO to Customers who are not SSO Customers of Duke Energy Ohio.

“Cross Default Amount” means an amount equal to five percent (5%) of a Defaulting Party’s or Defaulting Party’s Guarantor’s (as applicable) Tangible Net Worth.

“Customer” means any Person who receives distribution service from Duke Energy Ohio in accordance with the Legal Authorities.

“Default Allocation Assessment” has the meaning set forth in the PJM Agreements.

“Default Damages” means direct damages, calculated in a commercially reasonable manner, that the Non-Defaulting Party incurs as a result of an Event of Default by the Defaulting Party. Default Damages may include: (i) the positive difference (if any) between the price of SSO Supply hereunder and the price at which Duke Energy Ohio or the SSO Supplier is able to purchase or sell (as applicable) SSO Supply (or any components of SSO Supply it is able to purchase or sell) from or to third parties including other SSO Suppliers and PJM; (ii) Emergency Energy charges; (iii) additional transmission or congestion charges incurred to purchase or sell SSO Supply; and (iv) Costs.

“Defaulting Party” has the meaning set forth in Section 7.1.

“Delivery Period” means the Original Delivery Period, unless this Agreement is terminated earlier in accordance with the provisions hereof.

“Delivery Point” means the DEOK Residual Aggregate Zone as defined within PJM.

“DEOK Residual Aggregate Zone” means that set of electrical locations, designated by PJM as Pnode ID number 1069452904, determined pursuant to the applicable PJM Tariff, rules, agreements and procedures, representing the aggregate area of consumption for Duke Energy Ohio within PJM and used for the purposes of scheduling, reporting withdrawal volumes, and settling Energy transactions at aggregated load levels, to facilitate Energy market transactions.

“Duke Energy Ohio Indemnified Party” has the meaning set forth in Section 10.1(a).

“Early Termination” has the meaning set forth in Section 2.3.

“Early Termination Date” means, as between Duke Energy Ohio and the applicable SSO Supplier, the date upon which an Early Termination becomes effective as specified in Section 7.2(b).

“Effective Date” has the meaning set forth in the preamble.

“Emergency” means (i) an abnormal system condition requiring manual or automatic action to maintain system frequency, or to prevent loss of firm load, equipment damage, or tripping of system elements that could adversely affect the reliability of an electric system or the safety of persons or property; (ii) a condition that requires implementation of emergency operations procedures; or (iii) any other condition or situation that Duke Energy Ohio, transmission owner(s) or PJM deems imminently likely to endanger life or property or to affect or impair Duke Energy Ohio’s electrical system or the electrical system(s) of other Person(s) to which Duke Energy Ohio’s electrical system is directly or indirectly connected (a “Connected Entity”). Such a condition or situation may include potential overloading of Duke Energy Ohio’s subtransmission or distribution circuits, PJM minimum generation (“light load”) conditions, or unusual operating conditions on either Duke Energy Ohio’s or a Connected Entity’s electrical system, or conditions such that Duke Energy Ohio is unable to accept Energy from the SSO Supplier without jeopardizing Duke Energy Ohio’s electrical system or a Connected Entity’s electrical system.

“Emergency Energy” has the meaning set forth in the PJM Agreements.

“Energy” means electric energy of the character commonly known as three-phase, sixty-hertz electric energy that is delivered at the nominal voltage of the Delivery Point, expressed in MWh.

“Energy Share Adjustment” means for any Billing Period, the monetary amount due to an SSO Supplier or Duke Energy Ohio, as the case may be, in order to reconcile any difference between the Estimated Monthly Energy Share used for the purpose of calculating estimated payments made to such SSO Supplier for a given month and the Final Monthly Energy Share used for calculating the final payments due to the SSO Supplier for such month, as more fully described in Article 6.

“ESP” means an electric security plan approved by the PUCO pursuant to the requirements of R.C.4928.143, for the period beginning June 1, 2018.

“Estimated Monthly Energy Share” means a quantity of Energy expressed in MWh which, for any Billing Period, is the preliminary calculation of the SSO Supplier’s SSO Supplier Responsibility Share.

“Event of Default” has the meaning set forth in Section 7.1.

“Excess Collateral” has the meaning set forth in Section 5.7.

“FERC” means the Federal Energy Regulatory Commission or such succeeding organization.

“Final Monthly Energy Share” means a quantity of Energy expressed in MWh which, for any Billing Period, is the Estimated Monthly Energy Share adjusted for any billing or metering errors found subsequent to the calculation of the Estimated Monthly Energy Share of which PJM is

notified prior to the last date on which PJM issues a settlement statement for a previous operating day for the Billing Period.

“Firm Transmission Service” has the meaning ascribed to “Network Integration Transmission Service” under the PJM Agreements. In the event the PJM Agreements are modified such that “Network Integration Transmission Service” is no longer offered, Firm Transmission Service means the type of transmission service offered under the PJM Agreements that is accorded the highest level of priority for scheduling and curtailment purposes.

“Forward Market Prices” means forward market prices for a specific geographic Market Price Hub, as adjusted by Duke Energy Ohio to reflect impact of load shape.

“Gains” means an amount equal to the present value of the economic benefit to the Non-Defaulting Party, if any, exclusive of Costs, resulting from an Early Termination.

“Governmental Authority” means any federal, state, local, municipal or other governmental entity, authority or agency, department, board, court, tribunal, regulatory commission, or other body, whether legislative, judicial or executive, together or individually, exercising or entitled to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power over a Party to this Agreement.

“Guarantor” means any Person having the authority and agreeing to guarantee an SSO Supplier’s financial obligations under this Agreement, provided that such party meets Duke Energy Ohio’s creditworthiness requirements for SSO Suppliers.

“Guaranty” means the ICT Guaranty or the Total Exposure Amount Guaranty, as applicable.

“ICR Collateral” has the meaning set forth in Section 5.4(d).

“ICRT” has the meaning set forth in Section 5.3.

“ICT Guaranty” means a guaranty, in substantially the form set forth in Attachment D, provided by a Guarantor in favor of Duke Energy Ohio guaranteeing an SSO Supplier’s financial obligations in connection with ICT.

“Indemnification Losses” has the meaning set forth in Section 10.1(a).

“Indemnified Supplier” has the meaning set forth in Section 10.1(b).

“Independent Credit Requirement or ICR” means an amount per Tranche required as security under Section 5.3, to mitigate the risk to Duke Energy Ohio of Energy price movements between the date of an Early Termination caused by an Event of Default by an SSO Supplier and the date the final calculation of Default Damages owing to Duke Energy Ohio under Section 7.2(c) is made.

“Independent Credit Threshold or ICT” means an amount of credit, based on the creditworthiness of an SSO Supplier or its Guarantor, if applicable, determined pursuant to Section 5.4, granted by Duke Energy Ohio to such SSO Supplier to be applied towards the satisfaction of such SSO Supplier’s Independent Credit Requirement.

“Interest Rate” means, for any date, the lesser of (a) the per annum rate of interest equal to the effective federal funds rate as may be published from time to time in the Federal Reserve Statistical Release H.15; or (b) the maximum lawful interest rate.

“Kilowatt or kW” means a unit of measurement of useful power equivalent to 1,000 watts.

“Kilowatt-hour or kWh” means the equivalent of one kilowatt of electric power used over a period of one hour.

“Legal Authorities” means, generally, those federal and Ohio statutes and administrative rules and regulations that govern the electric utility industry in Ohio.

“Letter of Credit” means a standby irrevocable letter of credit in the form set forth in Attachment E, or in such other form as Duke Energy Ohio deems acceptable in its sole discretion, and in each case conforming to all of the requirements specifically set forth in Section 5.9(b).

“LIBOR” means the rates published daily as the London Inter-Bank Offered Rates for U.S. dollar deposits. For discounting purposes, the rates will be converted into a series of monthly rates representing the equivalent forward LIBOR rate from the valuation date to the month of delivery.

“Lighting Customer” means a Customer taking service under Duke Energy Ohio’s lighting rates (Rate SL, Rate SC, Rate NSU, Rate NSP, Rate SE, Rate UOLS, Rate OL or Rate TL).

“Load Serving Entity or LSE” has the meaning set forth in the applicable PJM Agreements.

“Losses” means an amount equal to the present value of the economic loss to the Non-Defaulting Party, if any, exclusive of Costs, resulting from an Early Termination.

“Margin” means, at any time, the amount by which the Total Exposure Amount exceeds the Credit Limit of the SSO Supplier or its Guarantor.

“Margin Call” has the meaning set forth in Section 5.6(e).

“Margin Collateral” has the meaning set forth in Section 5.6(e).

“Mark-to-Market Exposure Amount” means an amount calculated daily for each SSO Supplier reflecting the exposure to Duke Energy Ohio due to fluctuations in market prices for Energy as set forth in Section 5.5.

“Market Price Hub” means a liquid pricing point located within PJM’s geographic footprint.

“Minimum Margin Threshold” means \$100,000.

“Minimum Rating” means a minimum senior unsecured debt rating (or, if unavailable, corporate or issuer rating) as defined in Section 5.4(a).

“MW” means megaWatt.

“MWh” means megaWatt hour.

“NERC” means the North American Electric Reliability Corporation or its successor.

“Non-Defaulting Party” means (i) where an SSO Supplier is the Defaulting Party, Duke Energy Ohio; (ii) where Duke Energy Ohio is the Defaulting Party with respect to an Event of Default, the SSO Supplier to which the applicable obligation was owed.

“Ohio Sales and Use Taxes” has the meaning set forth in Section 12.8.

“Original Delivery Period” has the meaning set forth in Attachment A.

“Other SSO Supply Agreement” has the meaning set forth in Section 7.3(c).

“Party” has the meaning set forth in the preamble to this Agreement, and includes such Party’s successors and permitted assigns.

“Performance Assurance” means collateral in the form of cash, letters of credit, or other security reasonably acceptable to the requesting party.

“Person” means an individual, partnership, joint venture, corporation, limited liability company, trust, association or unincorporated organization, any Governmental Authority, or any other entity.

“PJM” means PJM Interconnection, L.L.C. or any successor organization thereto.

“PJM Agreements” means the PJM OATT, PJM Operating Agreement, PJM RAA and any other applicable PJM manuals or documents, or any successor, superseding or amended versions thereof that may take effect from time to time.

“PJM E-Account” means an account obtainable through PJM which provides access to web-based PJM scheduling, settlement, accounting, marketing and other informational and economic systems.

“PJM OATT or PJM Tariff” means the Open Access Transmission Tariff of PJM or the successor, superseding or amended versions of the Open Access Transmission Tariff that may take effect from time to time.

“PJM Operating Agreement” means the Amended and Restated Operating Agreement of PJM or the successor, superseding or amended versions of the Amended and Restated Operating Agreement that may take effect from time to time.

“PJM RAA” means the Reliability Assurance Agreement Among Load Serving Entities in the PJM Region or any successor, superseding or amended versions of the Reliability Assurance Agreement Among Load Serving Entities in the PJM Region that may take effect from time to time.

“Price” means, with respect to each SSO Supplier, the price in \$/MWh set forth in Attachment A, resulting from Duke Energy Ohio’s Solicitation for the opportunity to provide SSO Supply. The Price is the basis for financial settlement of SSO Supply supplied by an SSO Supplier for SSO Customers under this Agreement.

“PUCO” means the Public Utilities Commission of Ohio, or any successor thereto.

“Residential Customer” means a Customer taking service under Duke Energy Ohio’s residential rates (Rate RS, Rate ORH, Rate TD, Rate TD-13, Rate RS3P or Rate RSLI).

“Seasonal Billing Factor” means a numerical factor, as set forth in Attachment B, one amount applicable during the summer months of June through September, and one amount applicable during the non-summer months of October through May, applied to the Price in accordance with the provisions of Article 6 and thereby used to adjust Duke Energy Ohio’s payments to SSO Suppliers.

“Settlement Amount” means the net amount of the Losses or Gains, and Costs, expressed in U.S. Dollars, which the Non-Defaulting Party incurs as a result of Early Termination, calculated from the Early Termination Date through the end of the Original Delivery Period. For purposes of calculating the Settlement Amount, the quantity of Energy (and other components of SSO Supply) provided for under this Agreement for the period following the Early Termination Date through the remainder of the Original Delivery Period will be determined by the Non-Defaulting Party in a commercially reasonable manner reflecting estimated SSO Load for un-switched customers as of the Early Termination Date based on the then most recent load switching report filed by Duke Energy Ohio with the PUCO as of the Early Termination Date. The calculation of Settlement Amount with respect to an Early Termination shall exclude Default Damages calculated pursuant to Section 7.3(a).

“Solicitation” means the competitive bidding process by which the counterparty, quantity, pricing and other terms of this Agreement are established.

“Special Contract Customers” means Customers that take retail generation service from Duke Energy Ohio under terms and conditions different than the otherwise applicable tariff.

“Specified Indebtedness” with respect to a Party means as of any date, without duplication, (i) all obligations of such Party for borrowed money, (ii) all indebtedness of such Party for the deferred purchase price of property or services purchased (excluding current accounts payable incurred in the ordinary course of business), (iii) all indebtedness created or arising under any conditional sale or other title retention agreement with respect to property acquired, (iv) all indebtedness under leases which shall have been or should be, in accordance with generally accepted accounting principles, recorded as capital leases in respect of which such Party is liable as lessee, (v) the face amount of all outstanding letters of credit issued for the account of such Party (other than letters of credit relating to indebtedness included in indebtedness of such Party pursuant to another clause of this definition) and, without duplication, the unreimbursed amount of all drafts drawn thereunder, (vi) indebtedness secured by any lien on property or assets of such Party, whether or not assumed (but in any event not exceeding the fair market value of the property or asset), (vii) all direct guarantees of indebtedness referred to above of another Party, (viii) all amounts payable in connection with mandatory redemptions or repurchases of preferred stock or member interests or other preferred or priority equity interests and (ix) any obligations of such Party (in the nature of principal or interest) in respect of acceptances or similar obligations issued or created for the account of such Party.

“SSO Customers” means Residential Customers, Commercial/Industrial Customers and Lighting Customers, including Special Contract Customers.

“SSO Load” means the full electricity requirements for SSO Service of SSO Customers.

“SSO Service” means Standard Service Offer service that is not provided by a CRES Supplier.

“SSO Supplier” has the meaning set forth in the preamble.

“SSO Supplier Responsibility Share” means, for each SSO Supplier, the fixed percentage share of the SSO Load for which the SSO Supplier is responsible as set forth in Attachment A.

“SSO Supply” means unbundled Energy, Capacity and Ancillary Services, including, to the extent not expressly assumed by Duke Energy Ohio pursuant to Section 3.2, all transmission and distribution losses and congestion and imbalance costs associated with the provision of such services, as measured and reported to PJM, and such other services or products that an SSO Supplier may be required to provide, by PJM or other Governmental Authority, in order to meet the requirements of SSO Service.

“Standard Service Offer” means a market-based standard service offer provided by Duke Energy Ohio under PUCO tariffs of all competitive retail electric services necessary to maintain essential electric service to Customers, including unbundled Energy, Capacity, Ancillary Services and Firm Transmission Service, including all transmission and distribution losses, congestion and imbalance costs associated with the provision of the foregoing services, other obligations or responsibilities currently imposed or that may be imposed by PJM, as required by Section 4928.141 of the Ohio Revised Code.

“Tangible Net Worth” or “TNW” means total assets less intangible assets and total liabilities. Intangible assets include benefits such as goodwill, patents, copyrights and trademarks, each as would be reflected on a balance sheet prepared in accordance with generally accepted accounting principles.

“Taxes” have the meaning set forth in Section 12.8.

“Term” has the meaning set forth in Section 2.1.

“Termination Payment” has the meaning set forth in Section 7.3(c).

“Total Exposure Amount” means an amount calculated daily for each SSO Supplier reflecting the total credit exposure to Duke Energy Ohio and consisting of the sum of: (i) the Mark-to-Market Exposure Amount arising under this Agreement; (ii) any amount(s) designated as the “mark-to-market exposure amount” (or similar designation) under any Other SSO Supply Agreement; and (iii) the amount designated as the “credit exposure” (or similar designation) under any Other SSO Supply Agreement; less (iv) amounts due to such SSO Supplier pursuant to Section 6.1; provided that in the event the amount calculated for any day is a negative number, it shall be deemed to be zero for such day.

“Total Exposure Amount Guaranty” means a guaranty, in substantially the form set forth in Attachment D, provided by a Guarantor in favor of Duke Energy Ohio guaranteeing an SSO Supplier’s financial obligation with respect to its Total Exposure Amount.

“Tranche” means a fixed percentage share of the SSO Load as determined for the purposes of the Solicitation conducted to procure SSO Supply for the SSO Load.

ARTICLE 2

TERM AND TERMINATION

2.1 Term

The Term of this Agreement shall begin on the Effective Date and extend through and include the end of the Delivery Period (“Term”) unless terminated earlier or extended pursuant to the terms of this Agreement; provided, however, that the provision of SSO Supply by SSO Suppliers will commence on [_____, 20__] at 12:01 a.m. prevailing Eastern Time and end on [_____, 20__].

2.2 Mutual Termination

Duke Energy Ohio and any SSO Supplier may terminate this Agreement at any time during the Term on such terms and under such conditions as they mutually agree.

2.3 Early Termination

This Agreement may be terminated by a Party prior to the end of the Term due to an occurrence of an Event of Default and the declaration of an Early Termination Date by the Non-Defaulting Party pursuant to Section 7.2 (an “Early Termination”).

2.4 Termination of SSO Plan

Duke Energy Ohio may, in its sole discretion, terminate its ESP due to changes in any Ohio state law that, in any way, relates to or addresses generation supply or Duke Energy Ohio’s obligation as the provider of last resort for all retail electric service customers in its service territory. Upon termination of the ESP, Duke Energy Ohio may terminate this Agreement with respect to any supply not yet delivered under this Agreement. Duke Energy Ohio shall exercise such right of termination by providing written notice to an SSO Supplier.

2.5 Effect of Termination

The applicable provisions of this Agreement shall continue in effect and survive the termination of this Agreement to the extent necessary to provide for final accounting, billing, billing adjustments, resolution of any billing disputes, realization of any collateral or other security, set-off, final payments, or payments pertaining to liability and indemnification obligations arising from acts or events that occurred in connection with this Agreement during the Term.

ARTICLE 3

GENERAL TERMS AND CONDITIONS

3.1 SSO Supplier's Obligations to Provide SSO Supply and Other Obligations

Each SSO Supplier hereby agrees, severally, but not jointly, as follows:

(a) during the Delivery Period, such SSO Supplier shall sell, deliver and provide SSO Supply on a firm and continuing basis in order to meet its SSO Supplier Responsibility Share, in accordance with this Agreement and the PJM Agreements;

(b) (i) except with respect to Capacity, each SSO Supplier's obligation under Section 3.1(a) will result in physical delivery of SSO Supply and not financial settlement; (ii) the quantity of SSO Supply that such SSO Supplier must deliver will be determined by the requirements of the SSO Load, which may be different than the amount indicated in the Solicitation; and (iii) this Agreement does not provide for an option by such SSO Supplier with respect to the quantity of SSO Supply to be delivered;

(c) in connection with the provision of SSO Supply at the Delivery Point, each SSO Supplier shall be responsible for, in proportion to its SSO Supplier Responsibility Share, all costs and expenses in Attachment F, PJM billing statement line items, identified as the responsibility of the SSO Supplier, and any other costs and expenses related to transmission and Ancillary Services, unless expressly indicated otherwise in this Agreement;

(d) during the Term, each SSO Supplier is responsible, at its sole cost and expense, for any changes in PJM products and pricing required for the delivery of its SSO Supplier Responsibility Share, including all other costs and expenses related to transmission and Ancillary Services in connection with the provision of SSO Supply in proportion to its SSO Supplier

Responsibility Share, except for any changes to products or the pricing of such products that are the responsibility of Duke Energy Ohio pursuant to Section 3.2;

(e) each SSO Supplier is responsible for all transmission and distribution losses and congestion and imbalance costs incurred to supply its SSO Supplier Responsibility Share;

(f) each SSO Supplier shall be at all times during the Delivery Period (i) a member in good standing of PJM; (ii) qualified by PJM as a “Market Buyer” and “Market Seller” pursuant to the PJM Agreements, and (iii) qualified as a PJM “Load Serving Entity;”

(g) each SSO Supplier shall be responsible, and be liable, to PJM for the performance of its LSE obligations associated with the provision of SSO Supply under this Agreement;

(h) each SSO Supplier shall have and maintain, throughout the Delivery Period, FERC authorization to make sales of Energy, Capacity, and Ancillary Services at market-based rates within PJM;

(i) each SSO Supplier shall deliver SSO Supply to the Delivery Point under this Agreement free and clear of any and liens, security interests, claims and encumbrances or any interest therein or thereto by any Person; and

(j) each SSO Supplier shall be solely responsible for any auction revenue rights applicable to the SSO Load that may be allocated to it. Duke Energy Ohio shall have no obligation to such SSO Supplier for auction revenue rights or financial transmission revenue rights.

3.2 Duke Energy Ohio’s Obligation to Take SSO Supply and other Obligations

Duke Energy Ohio hereby agrees as follows:

(a) during the Delivery Period, Duke Energy Ohio shall purchase and accept the SSO Supply provided by an SSO Supplier pursuant to Section 3.1 at the Delivery Point and shall make payment to the SSO Supplier based on the Price;

(b) during the Delivery Period, Duke Energy Ohio shall be a member in good standing of PJM;

(c) during the Delivery Period, Duke Energy Ohio shall be responsible for the provision of Firm Transmission Service from the Delivery Point;

(d) Duke Energy Ohio shall be responsible, at its sole costs and expense, for:

i. charges and credits assessed under, Schedule 1A (Transmission Owner Scheduling, System Control and Dispatch Services), Schedule 2 (Reactive Supply and Voltage Control from Generation or Other Sources Services), “Network Integration Transmission Service (NITS)” under the PJM Agreements, and Schedule 12 (Transmission Enhancement Charge) of the PJM Tariff, Generation Deactivation, and Generation Deactivation Refund;

ii. other non-market-based costs, fees or charges imposed on or charged to Duke Energy Ohio by FERC or a regional transmission organization, independent transmission operator, or similar organization approved by FERC; and

iii. such services and schedules as they may be modified or superseded from time to time;

(e) Duke Energy Ohio will be responsible for (i) metering, billing and delivery with respect to SSO Customers (and SSO Suppliers will have no responsibility with respect thereto) and (ii) distribution services (and SSO Suppliers will have no responsibility with respect thereto); and

(f) Duke Energy Ohio shall be responsible, at its sole cost and expense, for the provision of any renewable energy resource requirement as set forth in Ohio Rev. Code Ann. Sections 4928.64 and 4928.65 and regulations promulgated in respect thereto.

3.3 PJM E-Accounts

Each SSO Supplier and Duke Energy Ohio shall work with PJM to establish any PJM E-Accounts necessary for such SSO Supplier to provide SSO Supply. Each SSO Supplier may manage its PJM E-Accounts in its sole discretion; provided such SSO Supplier acts in accordance with the standards set forth in the PJM Agreements.

3.4 Reliability Guidelines

Each Party agrees to adhere to the applicable operating policies, criteria and guidelines of the NERC, PJM, their successors, and any regional and sub-regional requirements.

3.5 Regulatory Authorizations

(a) Duke Energy Ohio and each SSO Supplier shall obtain and maintain throughout the Delivery Period all regulatory authorizations necessary to perform their respective obligations under this Agreement.

(b) Each SSO Supplier shall cooperate in good faith with Duke Energy Ohio in any

regulatory compliance efforts as may be required to maintain the ongoing legitimacy and enforceability of the terms of this Agreement and to fulfill any regulatory reporting requirement associated with the provision of SSO Supply before the PUCO, FERC or any other Governmental Authority.

3.6 PJM Member Default Cost Allocation

In the event PJM imposes a Default Allocation Assessment upon Duke Energy Ohio relating to a default during the Term, Duke Energy Ohio may, in its sole discretion, invoice each SSO Supplier, based on its SSO Supplier Responsibility Share, for amounts determined, in Duke Energy Ohio's sole discretion, to be properly payable by such SSO Supplier from the Default Allocation Assessment and each SSO Supplier shall pay such amounts within three (3) Business Days after receipt of such invoice, subject to the dispute resolution procedures set forth in Article 11.

3.7 Status of SSO Supplier

In order to meet Duke Energy Ohio's service obligations under Legal Authorities, it is the intent of the Parties that each SSO Supplier shall be deemed a LSE for the duration of the Delivery Period pursuant to the PJM Agreements and Legal Authorities.

3.8 Sales for Resale

All SSO Supply provided by an SSO Supplier to Duke Energy Ohio shall be sales for resale, with Duke Energy Ohio reselling such SSO Supply to SSO Customers.

3.9 Transfer of PJM Charges and Credits

Duke Energy Ohio and each SSO Supplier agree to use PJM's e-Suite Transfer Tool to transfer certain PJM charges and credits consistent with the terms of this Agreement. Each SSO Supplier agrees that the PJM billing line items set forth on Attachment G hereto shall be transferred to Duke Energy Ohio via PJM's e-Suite Transfer Tool. Duke Energy Ohio shall have the right to modify at any time the billing line items currently listed on Attachment G. Each SSO Supplier shall authorize and approve, via the PJM e-Suite Transfer Tool, a new billing line item transfer or modification of an existing billing line item transfer within ten (10) Business Days of Duke Energy Ohio initiating a new transfer or modifying an existing transfer. Notwithstanding the

provisions of Section 3.2, Duke Energy Ohio shall have no obligation to an SSO Supplier for its failure to timely authorize and approve a PJM billing line item transfer or modification thereto.

ARTICLE 4

SCHEDULING, FORECASTING AND INFORMATION SHARING

4.1 Scheduling

(a) Each SSO Supplier shall schedule SSO Supply and make all necessary arrangements for the delivery of SSO Supply through the PJM Office of Interconnection pursuant to the PJM Agreements.

(b) Duke Energy Ohio will provide to each SSO Supplier and to PJM all information required by PJM for the purpose of calculating each SSO Supplier's SSO Supply obligations, including the magnitude of each SSO Supplier's SSO Supply obligation, as required by the PJM Office of Interconnection.

4.2 Load Forecasting

Duke Energy Ohio shall not be required to provide to any SSO Supplier any load forecasting services.

4.3 Disconnection and Curtailment by Duke Energy Ohio

Duke Energy Ohio shall have the right, without incurring any liability to any SSO Supplier, to disconnect (or otherwise curtail, interrupt or reduce deliveries from) the SSO Suppliers or to disconnect (or otherwise curtail, interrupt or reduce deliveries to) any Customer whenever Duke Energy Ohio determines in its discretion acting in good faith that such a disconnection, curtailment, interruption or reduction is necessary to facilitate construction, installation, maintenance, repair, replacement or inspection of any of Duke Energy Ohio's facilities; or due to any other reason affecting the safe and reliable operation of any of Duke Energy Ohio's or a Customer's facilities, including Emergencies, forced outages or potential overloading of any of Duke Energy Ohio's transmission or distribution circuits, potential damage to the Customer's facilities or any risk of injury to persons, or when Duke Energy Ohio is directed by PJM. Duke Energy Ohio shall not show any preference for any Affiliate in connection with any such disconnection, curtailment or reduction.

4.4 Loss of Service to SSO Customers

The Parties agree and acknowledge that service to SSO Customers may be lost due to storms, weather, accidents, breakage of equipment or other events beyond the reasonable control of Duke Energy Ohio affecting the transmission and distribution facilities of Duke Energy Ohio. No Party will have any liability to any other Party for the occurrence of such events. In no event will a loss of service to a Customer affect a Party's obligation to make any payments then due or becoming due with respect to performance rendered prior to such loss of service.

4.5 PJM Requirements

The Parties acknowledge and agree that, as members of PJM, each of them is bound by the PJM Agreements and any other operating instructions, policies and procedures set forth by PJM. Each SSO Supplier acknowledges and agrees that it will cooperate with Duke Energy Ohio and PJM as the applicable balancing authority and reliability coordinator so that Duke Energy Ohio will be in compliance with all PJM emergency operations procedures, which include procedures pertaining to minimum and maximum generation Emergencies, and measures requiring involuntary Customer participation, such as supply voltage reduction and full interruption of Customer load by either manual or automatic means.

4.6 Compliance with Governmental Directives

Each SSO Supplier acknowledges and agrees that Duke Energy Ohio may need to act in response to directives by a Governmental Authority that may affect SSO Supply or SSO Load. Each SSO Supplier agrees to cooperate fully with Duke Energy Ohio in order to comply with such directives.

ARTICLE 5

CREDIT AND PERFORMANCE SECURITY

5.1 Applicability

Each SSO Supplier agrees that it will meet the creditworthiness standards of this Article 5 at all times during the Term and will inform Duke Energy Ohio immediately of any changes in its credit rating or financial condition. Without limiting the foregoing, each SSO Supplier shall, upon the written request of Duke Energy Ohio, affirmatively demonstrate to Duke Energy Ohio in a manner satisfactory to Duke Energy Ohio its compliance with the creditworthiness standards set forth hereunder. Duke Energy Ohio may establish less restrictive creditworthiness standards under this Article 5 in a non-discriminatory manner.

During the Term, each SSO Supplier or its Guarantor, if applicable, that has been granted an Independent Credit Threshold or a Credit Limit agrees to provide as soon as practicable (i) after the end of each fiscal year, complete annual audited financial statements (including footnotes), and (ii) after the end of each fiscal quarter, complete quarterly unaudited financial statements (including footnotes). If such financial statements are readily and timely available from the SSO Supplier's website or other public website such as www.sec.gov, then this requirement shall be deemed to be satisfied.

5.2 Creditworthiness Determination

Duke Energy Ohio will determine the creditworthiness of an SSO Supplier or its Guarantor, if applicable, whether organized under the laws of the United States or organized under the laws of a foreign jurisdiction, based on its most recent senior unsecured debt rating (or, if unavailable, its corporate or issuer rating). Duke Energy Ohio will have full discretion, without liability or recourse to such SSO Supplier or its Guarantor, if applicable, to evaluate the evidence of creditworthiness submitted by such SSO Supplier or Guarantor. Duke Energy Ohio may re-evaluate the creditworthiness of an SSO Supplier or Guarantor from time to time, including whenever it becomes aware of an adverse change in such SSO Supplier's or Guarantor's credit standing. In addition, the SSO Supplier may petition Duke Energy Ohio to re-evaluate its creditworthiness whenever an event occurs that the SSO Supplier reasonably believes would improve the determination made by Duke Energy Ohio of its or its Guarantor's creditworthiness. Duke Energy Ohio's credit re-evaluation must be completed as soon as practicable, but in no event

longer than thirty (30) days after receiving a fully documented request. Duke Energy Ohio shall provide the rationale for its determination of the Credit Limit and any resulting security requirement and such determination shall be deemed final and conclusive. Duke Energy Ohio shall perform its credit re-evaluation and associated security calculation in a non-discriminatory manner. Each SSO Supplier or its Guarantor shall provide unrestricted access to its audited financial statements; however, if audited financial statements are not available, Duke Energy Ohio may specify other types of financial statements that will be accepted. If Duke Energy Ohio determines in its sole discretion that it is unable to adequately assess an SSO Supplier's or Guarantor's creditworthiness or the credit rating of an SSO Supplier or its Guarantor is insufficient, such SSO Supplier shall be required to post ICR Collateral in accordance with Section 5.4(d) and Margin Collateral in accordance with Section 5.7.

5.3 Independent Credit Requirement

The Independent Credit Requirement ("ICR") per Tranche ("ICRT") that will be required of each SSO Supplier under this Agreement will initially be the sum of the amounts set forth on Attachment C-1 at the inception of the Original Delivery Period for each Tranche and will decline throughout the Term in accordance with the schedule set forth on Attachment C-1.

5.4 Independent Credit Threshold

Each SSO Supplier that qualifies under the following criteria will be granted an Independent Credit Threshold ("ICT").

(a) For an SSO Supplier or its Guarantor that has been organized under the laws of the United States, the following requirements must be satisfied in order for such SSO Supplier to be granted an ICT:

i. the SSO Supplier or its Guarantor, as applicable, must (1) be rated by Standard & Poor's Rating Services ("S&P"), Moody's Investors Service, Inc. ("Moody's") or Fitch, Inc. ("Fitch"), and (2) have a minimum senior unsecured debt rating (or, if unavailable, corporate or issuer rating) of at least "BB" from S&P, "Ba2" from Moody's, or "BB" from Fitch (a "Minimum Rating"). If the SSO Supplier or its Guarantor is rated by only two rating agencies and the ratings are split, the lower rating will be used. If the SSO Supplier or its Guarantor is rated by three rating agencies and the ratings are split, the lower of the two highest ratings will be used; provided that, in the event that the two highest ratings are common, such common rating will be

used. If the SSO Supplier and an Affiliate(s) are both winning bidders in the Solicitation for the provision of SSO Supply, then the SSO Supplier or its Guarantor, as applicable, and the Affiliate(s) will proportionally share the maximum level of the ICT using the highest rating as determined for the SSO Supplier or its Guarantor, as applicable, and the Affiliate(s). The maximum level of the ICT will be determined based on the following table:

Credit Rating of the SSO Supplier or its Guarantor			Maximum Independent Credit Threshold (calculated as the lesser of the percentage of TNW and the applicable Independent Credit Threshold Cap below)	
S&P	Moody's	Fitch	Percentage of TNW	Independent Credit Threshold Cap
A- and above	A3 and above	A- and above	16%	Not applicable
BBB+	Baa1	BBB+	10%	Not applicable
BBB	Baa2	BBB	10%	Not applicable
BBB-	Baa3	BBB-	8%	Not applicable
BB+	Ba1	BB+	2%	\$3,000,000
BB	Ba2	BB	1%	\$1,500,000
BB- and below	Ba3 and below	BB- and below	0%	\$0

ii. for SSO Suppliers having a Guarantor, the maximum level of the ICT that can be granted based on an ICT Guaranty will be determined in accordance with subsection (i) above, with reference to the credit rating of the Guarantor.

The ICT granted to the SSO Supplier will not exceed the amount of the ICT Guaranty. The ICT Guaranty tendered by the SSO Supplier to satisfy the ICT requirement arising under this Section 5.4 shall be a separate guaranty from the Total Exposure Amount Guaranty, if any, tendered by the SSO Supplier to satisfy any requirement for a Credit Limit to cover the Total Exposure Amount arising under Section 5.6; provided, however, that a single Guaranty may be provided if such Guaranty is for an unlimited amount.

(b) For an SSO Supplier or its Guarantor that has not been organized under the laws of the United States, the following requirements must be satisfied in order for such SSO Supplier to be granted an ICT:

i. the SSO Supplier must supply such evidence of creditworthiness as to provide Duke Energy Ohio with comparable assurances of creditworthiness as applicable above for SSO Suppliers that have been organized under the laws of the United States; or

ii. the Guarantor of an SSO Supplier must supply such evidence of creditworthiness as to provide Duke Energy Ohio with comparable assurances of creditworthiness as applicable above for Guarantors of SSO Suppliers that have been organized under the laws of the United States. Duke Energy Ohio may reject such Guarantors that do not meet the creditworthiness requirements.

(c) All SSO Suppliers or Guarantors of SSO Suppliers that have not been organized under the laws of the United States must, in addition to all documentation required elsewhere in this Section 5.4, supply the following to Duke Energy Ohio as a condition of being granted an ICT:

i. for an SSO Supplier: (1) a legal opinion of counsel qualified to practice in the foreign jurisdiction in which the SSO Supplier is organized that (A) the SSO Supplier is duly incorporated and existing in such foreign jurisdiction; (B) this Agreement is the binding and enforceable obligation of the SSO Supplier in such foreign jurisdiction and does not violate any local law or the SSO Supplier's organizational or governing documents; and (C) all authorizations, approvals, consents, licenses, exemptions or other requirements of governmental, judicial or public bodies in such foreign jurisdiction have been obtained, and all execution formalities have been duly completed, necessary for the enforcement and validity of this Agreement and the performance by the SSO Supplier of its obligations hereunder; and (2) the sworn certificate of the corporate secretary (or similar officer) of such SSO Supplier that the Person executing this Agreement on behalf of the SSO Supplier has the authority to execute this Agreement and that the governing board of such SSO Supplier has approved the execution of this Agreement. Duke Energy Ohio will have full discretion, without liability or recourse to the SSO Supplier, to evaluate the sufficiency of the documents submitted by the SSO Supplier; or

ii. for the Guarantor of an SSO Supplier: (1) a legal opinion of counsel qualified to practice in the foreign jurisdiction in which the Guarantor is organized that (A) the Guarantor is duly incorporated and existing in such foreign jurisdiction; (B) the ICT Guaranty is

the binding and enforceable obligation of the Guarantor in such foreign jurisdiction and does not violate any local law or the Guarantor's organizational or governing documents; and (C) all authorizations, approvals, consents, licenses, exemptions or other requirements of governmental, judicial or public bodies in such foreign jurisdiction have been obtained, and all execution formalities have been duly completed, necessary for the enforcement and validity of the ICT Guaranty and the performance by the Guarantor of its obligations thereunder; and (2) the sworn certificate of the corporate secretary (or similar officer) of such Guarantor that the Person executing the ICT Guaranty on behalf of the Guarantor has the authority to execute the ICT Guaranty and that the governing board of such Guarantor has approved the execution of the ICT Guaranty. Duke Energy Ohio will have full discretion, without liability or recourse to the Guarantor or the SSO Supplier, to evaluate the sufficiency of the documents submitted by such Guarantor.

(d) SSO Suppliers who do not qualify for an ICT or whose ICT plus the amount of any cash or Letter of Credit already posted in accordance with Section 5.9 to satisfy its aggregate ICR under this Agreement and any Other SSO Supply Agreement (the "ICR Collateral") does not meet its aggregate ICR under this Agreement and any Other SSO Supply Agreement, must post ICR Collateral at the time of or prior to the Effective Date to the extent its aggregate ICR under this Agreement and any Other SSO Supply Agreement exceeds its ICT.

5.5 Mark-to-Market Credit Exposure Methodology

To calculate the Mark-to-Market Exposure Amount for each SSO Supplier, the following mark-to-market credit exposure methodology will be used. At the time the Solicitation is completed, the Mark-to-Market Exposure Amount for each SSO Supplier shall be set equal to zero. Subsequently, the differences between the prevailing market prices on a valuation date and the market prices in effect on the date the Solicitation is completed will be used to calculate the Mark-to-Market Exposure Amounts for each SSO Supplier, as described further in Attachment C-2. The total Mark-to-Market Exposure Amount will be equal to the sum of the Mark-to-Market Exposure Amounts for each Billing Period, or portion thereof, remaining during the Original Delivery Period. Forward Market Prices will be determined with reference to publicly available market price quotations obtained by Duke Energy Ohio, as adjusted by Duke Energy Ohio to more closely approximate the price impact of serving a requirements load which reflects hourly

variations due to customer usage patterns. Such adjustment is further described in Attachment C-2. However, if market price quotations are not publicly available, Forward Market Prices will be determined by Duke Energy Ohio using any method which Duke Energy Ohio deems appropriate and which reasonably reflects forward market pricing conditions in PJM. The Mark-to-Market Exposure Amount may also be adjusted on a monthly basis to reflect changes in expected SSO Load by means of a volume adjustment factor, if such changes are material to the result of the calculation. The Mark-to-Market Exposure Amount will be stated on a present value basis by discounting using the then-prevailing LIBOR rate. The methodology for calculation of the Mark-to-Market Exposure Amount is illustrated in the example (using hypothetical numbers) in Attachment C-2.

5.6 Credit Limit

The following criteria constitute Duke Energy Ohio's creditworthiness requirements for the SSO Suppliers to cover the Total Exposure Amount:

(a) For SSO Suppliers to be granted a Credit Limit without delivering a Total Exposure Amount Guaranty or other Performance Assurances acceptable to Duke Energy Ohio, in the case of an SSO Supplier organized under the laws of the United States, the SSO Supplier must (1) be rated by S&P, Moody's or Fitch, and (2) have a minimum senior unsecured debt rating (or, if unavailable, corporate or issuer rating) equal to the Minimum Rating. If the SSO Supplier is rated by only two rating agencies and the ratings are split, the lower rating will be used. If the SSO Supplier is rated by three rating agencies and the ratings are split, the lower of the two highest ratings will be used; provided that, in the event that the two highest ratings are common, such common rating will be used. If the SSO Supplier and an Affiliate(s) are both winning bidders in the Solicitation for the provision of SSO Supply, then the SSO Supplier or its Guarantor, as applicable, and the Affiliate(s) will proportionally share the maximum level of the Credit Limit using the highest rating as determined for the SSO Supplier or its Guarantor, as applicable, and the Affiliate(s). The maximum level of the Credit Limit to cover the Total Exposure Amount will be determined based on the following table:

Credit Rating of the SSO Supplier or its Guarantor			Maximum Credit Limit (calculated as the lesser of the percentage of TNW and the applicable Credit Limit Cap below)	
S&P	Moody's	Fitch	Percentage of TNW	Credit Limit Cap
A- and above	A3 and above	A- and above	16%	\$60,000,000
BBB+	Baa1	BBB+	10%	\$50,000,000
BBB	Baa2	BBB	10%	\$40,000,000
BBB-	Baa3	BBB-	8%	\$30,000,000
BB+	Ba1	BB+	2%	\$5,000,000
BB	Ba2	BB	1%	\$2,500,000
BB- and below	Ba3 and below	BB- and below	0%	\$0

The SSO Supplier will be required to post cash or a Letter of Credit for the Margin due Duke Energy Ohio as set forth in Section 5.7 of this Agreement.

(b) For SSO Suppliers delivering a Total Exposure Amount Guaranty, in the case of a Guarantor organized under the laws of the United States, the maximum level of the Credit Limit to cover the Total Exposure Amount that could be granted based on the Total Exposure Amount Guaranty will be determined in accordance with subsection (a) above, with reference to the credit rating of the Guarantor, except that the Credit Limit granted to the SSO Supplier will not exceed the amount of the Total Exposure Amount Guaranty.

(c) For an SSO Supplier or Guarantor, if applicable, that has not been organized under the laws of the United States, the following standards will apply:

i. the SSO Supplier must supply such evidence of creditworthiness as to provide Duke Energy Ohio with comparable assurances of creditworthiness as applicable above for SSO Suppliers that have been organized under the laws of the United States; or

ii. if the SSO Supplier is providing a Total Exposure Amount Guaranty, the Guarantor of an SSO Supplier must supply such evidence of creditworthiness as to provide Duke Energy

Ohio with comparable assurances of creditworthiness as applicable above for Guarantors of SSO Suppliers that have been organized under the laws of the United States. Duke Energy Ohio may reject such Guarantors that do not meet the creditworthiness requirements.

(d) All SSO Suppliers or Guarantors of SSO Suppliers, if applicable, that have not been organized under the laws of the United States must, in addition to all documentation required elsewhere in this Section 5.6, supply the following to Duke Energy Ohio:

i. For an SSO Supplier: (1) a legal opinion of counsel qualified to practice in the foreign jurisdiction in which the SSO Supplier is organized that (A) the SSO Supplier is duly incorporated and existing in such foreign jurisdiction; (B) this Agreement is the binding and enforceable obligation of the SSO Supplier in such foreign jurisdiction and does not violate any local law or the SSO Supplier's organizational or governing documents; and (C) all authorizations, approvals, consents, licenses, exemptions or other requirements of governmental, judicial or public bodies in such foreign jurisdiction have been obtained, and all execution formalities have been duly completed, necessary for the enforcement and validity of this Agreement and the performance by the SSO Supplier of its obligations hereunder; and (2) the sworn certificate of the corporate secretary (or similar officer) of such SSO Supplier that the Person executing this Agreement on behalf of the SSO Supplier has the authority to execute this Agreement and that the governing board of such SSO Supplier has approved the execution of this Agreement. Duke Energy Ohio will have full discretion, without liability or recourse to the SSO Supplier, to evaluate the sufficiency of the documents submitted by the SSO Supplier; or

ii. For the Guarantor of an SSO Supplier: (1) a legal opinion of counsel qualified to practice in the foreign jurisdiction in which the Guarantor is organized that (A) the Guarantor is duly incorporated and existing in such foreign jurisdiction; (B) the Total Exposure Amount Guaranty is the binding and enforceable obligation of the Guarantor in such foreign jurisdiction and does not violate any local law or the Guarantor's organizational or governing documents; and (C) all authorizations, approvals, consents, licenses, exemptions or other requirements of governmental, judicial or public bodies in such foreign jurisdiction have been obtained, and all execution formalities have been duly completed, necessary for the enforcement and validity of the Total Exposure Amount Guaranty and the performance by the Guarantor of its obligations thereunder; and (2) the sworn certificate of the corporate secretary (or similar officer) of such Guarantor that the Person executing the Total Exposure Amount Guaranty on behalf of the

Guarantor has the authority to execute the Total Exposure Amount Guaranty and that the governing board of such Guarantor has approved the execution of the Total Exposure Amount Guaranty. Duke Energy Ohio will have full discretion, without liability or recourse to the Guarantor or the SSO Supplier, to evaluate the sufficiency of the documents submitted by such Guarantor.

(e) For an SSO Supplier with a Total Exposure Amount Guaranty, the SSO Supplier will be granted a Credit Limit up to the amount of the Total Exposure Amount Guaranty, but not exceeding the Credit Limit shown in the table above. The Total Exposure Amount Guaranty shall be provided to Duke Energy Ohio on or prior to the Effective Date, but may be modified in any amended or substitute Total Exposure Amount Guaranty provided to Duke Energy Ohio during the Term. The SSO Supplier, however, may not increase or substitute its Total Exposure Amount Guaranty for the purpose of increasing its applicable Credit Limit during the time period after Duke Energy Ohio has made a demand of the SSO Supplier to cover Margin (a "Margin Call") but before the SSO Supplier has provided Duke Energy Ohio with cash credited to a deposit account of Duke Energy Ohio or a Letter of Credit in accordance with Section 5.9, in each case in an amount equal to the Margin (the "Margin Collateral"). Notwithstanding anything herein to contrary, the SSO Supplier may increase the amount of its Total Exposure Amount Guaranty after satisfying a Margin Call. Upon Duke Energy Ohio's receipt of an amended or substitute Total Exposure Amount Guaranty increasing the amount of the Total Exposure Amount Guaranty, the SSO Supplier may request a return of Margin Collateral in accordance with Section 5.7. The SSO Suppliers will be required to post cash or a Letter of Credit for the Margin due Duke Energy Ohio as set forth in Section 5.7 of this Agreement.

(f) Under no circumstances shall the Credit Limit plus any other credit limit granted to the SSO Supplier or its Guarantor under any Other SSO Supply Agreement exceed the Credit Limit hereunder.

5.7 Posting Margin Collateral and Return of Excess Collateral

If at any time and from time to time during the Delivery Period, Margin exists with respect to an SSO Supplier, then Duke Energy Ohio on any Business Day may make a Margin Call of such SSO Supplier; provided however that Duke Energy Ohio may not make a Margin Call unless the Margin exceeds the Minimum Margin Threshold. Upon receipt of a Margin Call, the applicable SSO Supplier shall provide to Duke Energy Ohio Margin Collateral, which shall comprise of cash

or a Letter of Credit. The Margin Collateral shall be in the amount equal to the Margin less the amount of any Margin Collateral already posted by the SSO Supplier in which Duke Energy Ohio has a first priority, perfected security interest to secure the obligations of the SSO Supplier under this Agreement and any Other SSO Supply Agreement. For the avoidance of doubt, any ICR Collateral posted pursuant to Section 5.4 shall not constitute Margin Collateral.

If an SSO Supplier receives a Margin Call from Duke Energy Ohio by 1:00 p.m. prevailing Eastern Time on a Business Day, then such SSO Supplier shall post Margin Collateral the following Business Day if posting cash and the second Business Day following the Margin Call if posting a Letter of Credit, unless in each case Duke Energy Ohio agrees in writing to extend the period to provide Margin Collateral. If the SSO Supplier receives a Margin Call after 1:00 p.m. prevailing Eastern Time on a Business Day, whether posting cash or a Letter of Credit, then the SSO Supplier must post Margin Collateral on the second Business Day following the Margin Call unless Duke Energy Ohio agrees in writing to extend the period to provide Margin Collateral. Duke Energy Ohio will not unreasonably deny a request for a one-day extension of such period.

Margin Collateral being held by Duke Energy Ohio that is not needed to satisfy the Margin ("Excess Collateral"), will be returned to the SSO Supplier upon receipt of a written request from the SSO Supplier; provided, however, that the SSO Supplier may not request Excess Collateral until such Excess Collateral exceeds the Minimum Margin Threshold. If the SSO Supplier posted cash and notice is received by Duke Energy Ohio by 1:00 p.m. prevailing Eastern Time on a Business Day, the Excess Collateral will be returned by the following Business Day and if the SSO Supplier posted cash and notice is received by Duke Energy Ohio after 1:00 p.m. prevailing Eastern Time on a Business Day, the Excess Collateral will be returned by the second Business Day following the date of notice. If the SSO Supplier posted a Letter of Credit, the Excess Collateral shall be returned on the next Business Day following the Business Day on which the amendment to the Letter of Credit is received from the issuing bank, unless in each case the SSO Supplier agrees in writing to extend such period for returning the Excess Collateral. The SSO Supplier will not unreasonably deny a request for a one-day extension of the period for returning the Excess Collateral.

5.8 Grant of Security Interest; Remedies

To secure its obligations under this Agreement, the SSO Supplier hereby grants to Duke Energy Ohio a present and continuing security interest in, and lien on (and right of setoff against), its right, title and interest, whether now owned or hereafter acquired or arising, in (i) all deposit accounts in the name of Duke Energy Ohio or partially in the name of Duke Energy Ohio or held for the benefit of Duke Energy Ohio and all funds credited to any and all of the foregoing, (ii) all securities, instruments (including promissory notes), money (each of the foregoing terms as defined in the UCC), cash and other tangible property delivered to and held by Duke Energy Ohio (or its agents or custodians) and (iii) all proceeds (as defined in the UCC) of any and all of the foregoing. The SSO Supplier agrees to take such action as reasonably required to create and perfect Duke Energy Ohio's first priority security interest in, and lien on (and right of setoff against), such collateral and any and all proceeds resulting therefrom or from the liquidation thereof. Upon or at any time after the occurrence or deemed occurrence and during the continuation of an Event of Default where an SSO Supplier is the Defaulting Party or an Early Termination Date (whether or not such SSO Supplier was the Defaulting Party), Duke Energy Ohio may do any one or more of the following in any order: (i) exercise any of the rights and remedies of Duke Energy Ohio, including the right to set-off and liquidation, against any and all ICR Collateral, Margin Collateral or other collateral of such SSO Supplier in the possession of Duke Energy Ohio, whether held in connection with this Agreement or any Other SSO Supply Agreement, including any such rights and remedies under law then in effect, free from any claim or right of any nature whatsoever of such SSO Supplier; and (ii) draw on any outstanding Letter of Credit provided by such SSO Supplier. Duke Energy Ohio will apply the proceeds of the collateral realized upon the exercise of such rights or remedies to reduce such SSO Supplier's obligations under this Agreement and under any Other SSO Supplier Agreement, and such SSO Supplier shall remain liable for any amounts owing to Duke Energy Ohio after such application, subject to Duke Energy Ohio's obligation to return any surplus proceeds remaining after all such obligations are satisfied in full.

All notices, demands or requests regarding credit requirements and credit-related security or deposit transfers shall be sent in accordance with Section 12.2.

5.9 Acceptable Forms of Security

At each SSO Supplier's option, the following are deemed to be acceptable for posting Margin Collateral or ICR Collateral, if required:

- (a) Cash credited to a deposit account of Duke Energy Ohio; and
- (b) A Letter of Credit, which shall state that such Letter of Credit will renew automatically for successive one-year or shorter periods, until terminated upon at least ninety (90) days' prior written notice from the issuing financial institution. If Duke Energy Ohio receives notice from the issuing financial institution that the Letter of Credit is being cancelled, the SSO Supplier will be required to provide a substitute Letter of Credit from an alternative bank satisfying the requirements in this Section 5.9. The receipt of the substitute Letter of Credit must be effective as of the cancellation date and delivered to Duke Energy Ohio thirty (30) days before the cancellation date of the original Letter of Credit. If the SSO Supplier fails to supply a substitute Letter of Credit as required, then Duke Energy Ohio will have the right to draw on the existing Letter of Credit and to hold the amount as Margin Collateral or ICR Collateral, as applicable.

The Letter of Credit shall be issued by a U.S. commercial bank with total assets of at least \$5 billion having a general long-term senior unsecured debt rating of A- or higher as rated by S&P or A3 or higher as rated by Moody's or other financial institution reasonably acceptable to Duke Energy Ohio and shall permit presentation at a bank located in the United States of America.

If at any time the bank or other financial institution from which an SSO Supplier has obtained a Letter of Credit fails to meet the foregoing conditions, the SSO Supplier will immediately notify Duke Energy Ohio and, within one (1) Business Day of the failure of the financial institution to meet the required conditions, obtain a suitable Letter of Credit from another bank or other financial institution that meets those standards, unless such period is extended in writing by Duke Energy Ohio. For avoidance of doubt, SSO Supplier may elect to substitute a cash deposit for the Letter of Credit within the time frame specified herein.

Notwithstanding anything in this Agreement to the contrary, Duke Energy Ohio may exercise any rights or claims to any collateral posted, delivered or pledged to them under this Agreement, before, after, concurrently with, or to the exclusion of, any other collateral posted, delivered or pledged prior to applying any cash collateral against, or making a drawing under any

letter of credit in respect of, any liabilities of the SSO Supplier hereunder or its Guarantor under the guaranty to Duke Energy Ohio or any of them.

5.10 Reporting; Maintenance of Creditworthiness

(a) Each SSO Supplier must promptly notify Duke Energy Ohio of any change in its or its Guarantor's credit rating or financial condition. The SSO Supplier or Guarantor must also furnish evidence of an acceptable credit rating or financial condition upon the request of Duke Energy Ohio.

(b) If the lowest credit rating (whether corporate or issuer rating or unsecured senior debt rating) used to determine the SSO Supplier's ICT or its Credit Limit adversely changes, Duke Energy Ohio will require ICR Collateral or Margin Collateral from such SSO Supplier in accordance with Sections 5.4, 5.6 and 5.7. The additional security must be in a form acceptable to Duke Energy Ohio, as specified in Section 5.9.

5.11 Interest on Cash Held by Companies

Duke Energy Ohio will pay simple interest calculated at the lower of the Interest Rate or 6% per annum on all cash held by Duke Energy Ohio pursuant to this Agreement. If applicable, each Billing Period the SSO Supplier will prepare a statement of interest amounts due from Duke Energy Ohio. The statement will be sent to Duke Energy Ohio within three (3) Business Days after the end of the Billing Period via overnight mail or other expeditious means. Duke Energy Ohio will make interest payments on the first Business Day after the fifth (5th) day of each calendar month.

5.12 No Endorsement of SSO Supplier

Duke Energy Ohio's determination of an SSO Supplier's creditworthiness pursuant to the process set forth in this Article 5 will not be deemed to constitute an express or implied warranty or guarantee of any kind with respect to the financial or operational qualifications of such SSO Supplier. Duke Energy Ohio will treat all SSO Suppliers in a non-discriminatory manner and shall provide no preference to any SSO Supplier.

ARTICLE 6

BILLING, PAYMENT AND NETTING

6.1 Invoice Statement

Subject to Section 6.2, Duke Energy Ohio and each SSO Supplier shall pay all amounts due to each other hereunder in accordance with the following provisions:

(a) For each Billing Period, Duke Energy Ohio will prepare and provide an invoice to each SSO Supplier, which will show (i) amounts due to the SSO Supplier equal to the Price multiplied by the applicable Seasonal Billing Factor multiplied by the Estimated Monthly Energy Share, (ii) the Energy Share Adjustment from such Billing Period, if any, and (iii) all Charges due to Duke Energy Ohio incurred during the Billing Period (the "Billing Statement").

(b) Duke Energy Ohio will determine the total amount payable by one Party to the other Party by netting the aggregate amounts due and owing to one Party against the aggregate amounts due and owing to the other Party, with the Party, if any, owing the greater aggregate amount paying the other Party the difference between the amounts owed. For any amounts due and owing Duke Energy Ohio, Duke Energy Ohio will specify in each Billing Statement how the amounts will be allocated among the SSO Suppliers. In the case of the Energy Share Adjustment, the allocation will be based on the respective SSO Loads of Duke Energy Ohio.

(c) The Billing Statement will be sent to each SSO Supplier within six (6) Business Days after the end of the Billing Period.

(d) Duke Energy Ohio or the SSO Supplier, as the case may be, will make payment on or before the twentieth (20th) day of each calendar month. If such day falls on a Saturday, Sunday or any other day which is a legal holiday or a day on which banking institutions are closed, payment will be due the following Business Day. All such payments shall be made by electronic transfer to an account designated in writing by each respective Party.

(e) All payments shall be subject to adjustment for any arithmetic errors, computation errors, or other errors, provided that the errors become known within one (1) year of the earlier of (i) the end of the Term or (ii) the Early Termination Date.

(f) Overdue payments shall accrue interest at the Interest Rate from, and including, the due date, but excluding date of payment.

(g) If a good faith dispute arises between Duke Energy Ohio and the SSO Supplier

regarding a Billing Statement, the disputing Party shall be obligated to pay only the undisputed portion of the Billing Statement, if any, no later than the due date and shall present the dispute in writing and submit supporting documentation to the non-disputing Party within one hundred twenty (120) calendar days from the date of the Billing Statement in dispute. Billing Statement disputes must be addressed promptly, and in accordance with the dispute resolution procedures set forth in Article 11. Upon resolution of a Billing Statement dispute, any payments made to either Party will include interest at the Interest Rate on the payment payable from the date that notice of a Billing Statement dispute was received by the non-disputing Party.

(h) Notwithstanding anything to the contrary contained in this Section 6.1, the determination of the allocation among SSO Suppliers of amounts due and owing to Duke Energy Ohio, as set forth in a Billing Statement, will be final and binding, absent manifest error.

6.2 PJM Billing; Third Party Billing

(a) Duke Energy Ohio and each SSO Supplier shall direct PJM to invoice Duke Energy Ohio and such SSO Supplier for PJM charges and credits relating to such SSO Supplier's and Duke Energy Ohio's rights and obligations under this Agreement. If PJM is unable to invoice charges or credits in accordance with the foregoing sentence, Duke Energy Ohio shall rectify such PJM invoice discrepancy in the Billing Statement sent pursuant to Section 6.1.

(b) The Parties agree that the PJM invoice may change from time to time. Allocation of any charges that are reflected in a PJM invoice that are not included on or are inconsistent with Attachment F will be determined pursuant to Sections 3.1(c), 3.1(d), 3.1(e), 3.2(d) and 12.6.

(c) Duke Energy Ohio shall have no obligation to authorize or initiate a billing adjustment or resettlement under PJM rules, regulations, or agreements for any SSO Supplier. However, in the event Duke Energy Ohio authorizes or initiates any such billing adjustment or resettlement, such adjustment or resettlement shall be conducted pursuant to applicable FERC-approved tariffs.

(d) Duke Energy Ohio shall have no obligation to provide meter data to PJM on any interval less than an hourly interval.

(e) Duke Energy Ohio shall have no responsibility for billing between an SSO Supplier and any other third party. Duke Energy Ohio shall be solely responsible for billing SSO Customers for SSO Supply.

ARTICLE 7

BREACH AND DEFAULT

7.1 Events of Default

An “Event of Default” shall mean with respect to a Party (the “Defaulting Party”) the occurrence of any of the following:

(a) the failure of the Defaulting Party to make, when due, any payment required pursuant to this Agreement (including under Section 6.2) if such failure is not remedied within two (2) Business Days after receipt of written notice of non-payment, and provided the payment is not the subject of a good faith dispute as described in Section 6.1;

(b) any representation or warranty made by the Defaulting Party herein is false or misleading in any material respect when made;

(c) the failure of the Defaulting Party to perform any material obligation set forth in this Agreement (other than events that are otherwise specifically covered in this Article 7 as a separate Event of Default) if such failure is not remedied within two (2) Business Days after written notice;

(d) the Defaulting Party becomes Bankrupt;

(e) with respect to an SSO Supplier, the failure of the Defaulting Party to provide Margin Collateral, or with respect to Duke Energy Ohio, the failure of the Defaulting Party to return Excess Collateral, in each case pursuant to Section 5.7;

(f) failure of the Defaulting Party to comply with its obligations pursuant to Article 5 (except to the extent constituting a separate Event of Default under Section 7.1(e)) if such failure is not remedied within three (3) Business Days after receipt of written notice of such failure;

(g) the failure of the Defaulting Party to comply with the requirements of Sections 3.1(f), 3.1(g), 3.1(h) and 3.5, as applicable, if such failure is not remedied within three (3) Business Days of such failure;

(h) PJM has declared the Defaulting Party to be in default of any provision of any PJM Agreement, which default prevents the Defaulting Party’s performance hereunder, if such failure is not remedied within three (3) Business Days after written notice;

(i) PJM holds Duke Energy Ohio responsible for the provision of all or any portion of SSO Supply to meet the Defaulting Party’s SSO Supplier Responsibility Share under this Agreement;

(j) the occurrence and continuation of: (i) a default, event of default or other similar condition or event in respect of the Defaulting Party or its Guarantor, if applicable, under one or more agreements or instruments, individually or collectively, relating to Specified Indebtedness in an aggregate amount of not less than the applicable Cross Default Amount, which results in such Specified Indebtedness becoming immediately due and payable; (ii) a default by the Defaulting Party or its Guarantor, if applicable, in making on the due date therefor one or more payments in respect of any obligation under contract or at law, individually or collectively, in an aggregate amount of not less than the applicable Cross Default Amount; or (iii) a default, event of default or other similar condition or event by the Defaulting Party under any Other SSO Supply Agreement or by its Guarantor under any guaranty with respect to any Other SSO Supply Agreement; and

(k) with respect to a Defaulting Party's Guarantor, if any, (i) any representation or warranty made by such Guarantor in connection with this Agreement or any related Guaranty is intentionally or unintentionally false or misleading in any material respect when made or when deemed made or repeated; (ii) the failure of such Guarantor to make any payment required or to perform any other material covenant or obligation in any Guaranty made in connection with this Agreement and such failure is not remedied within three (3) Business Days after written notice; (iii) the failure of such Guarantor's Guaranty to be in full force and effect (other than in accordance with its terms) prior to the satisfaction of all obligations of the Defaulting Party under this Agreement without the written consent of Duke Energy Ohio; (iv) such Guarantor repudiates, disaffirms, disclaims, or rejects, in whole or in part, or challenges the validity of the Guaranty; or (v) such Guarantor becomes Bankrupt.

7.2 Remedies Upon an Event of Default

If an Event of Default shall have occurred and be continuing, the Non-Defaulting Party shall have the right to:

(a) immediately suspend performance upon written notice to the Defaulting Party; provided, however, that if an SSO Supplier is the Non-Defaulting Party, such SSO Supplier may only suspend performance if the default of the Defaulting Party constitutes an Event of Default under Sections 7.1(a) or (d);

(b) declare an Early Termination and designate by written notice an Early Termination Date which shall be no earlier than the day such designation notice is effective and no later than

twenty (20) calendar days after such notice is effective; provided, however, that if an SSO Supplier is the Non-Defaulting Party, such SSO Supplier may only declare an Early Termination if the default of the Defaulting Party constitutes an Event of Default under Section 7.1(a) or (d);

(c) calculate and receive from the Defaulting Party payment for any Default Damages which the Non-Defaulting Party incurs as of the date of the event giving rise to the Event of Default, until the earlier of; (i) the Early Termination Date (if applicable); (ii) the date the Event of Default has been cured by the Defaulting Party; or (iii) the date the Non-Defaulting Party waives such Event of Default;

(d) withhold any payments due to the Defaulting Party under this Agreement as a set-off against any Default Damages, or Termination Payment, as applicable, the Defaulting Party is entitled to receive;

(e) draw down, liquidate, set-off against, or demand payment under, any Guaranty, ICR Collateral and Margin Collateral; and

(f) exercise any other remedies at law or in equity.

7.3 Default Damages; Settlement Amount; Termination Payment

(a) **Default Damages.** Subject to Section 7.3(e), the Defaulting Party shall pay Default Damages on or before three (3) Business Days after receipt of an invoice therefor. The invoice shall include a written statement explaining in reasonable detail the calculation of such amount. Neither Party will be liable for Default Damages if this Agreement is terminated by a Governmental Authority.

(b) **Settlement Amount.** If the Non-Defaulting Party has declared an Early Termination Date pursuant to Section 7.2(b), the Non-Defaulting Party shall have the right to (i) accelerate all amounts owing between the Defaulting Party and the Non-Defaulting Party and to liquidate and terminate the undertakings set forth in this Agreement as between the Defaulting Party and the Non-Defaulting Party; and (ii) withhold any payments due to the Defaulting Party under this Agreement pending payment of the Termination Payment. The Non-Defaulting Party will calculate, in a commercially reasonable manner, the Settlement Amount with respect to the Defaulting Party's obligations under the Agreement and shall net the Settlement Amount in the manner provided for in Section 7.3(c).

(c) **Termination Payment.** The Non-Defaulting Party will calculate a single payment

(the "Termination Payment") by netting out (i) the sum of the Settlement Amount under this Agreement payable to the Defaulting Party, plus (a) similar settlement amounts payable to the Defaulting Party under any other agreements between Duke Energy Ohio and the applicable SSO Supplier for the provision of SSO Supply or similar service (each, an "Other SSO Supply Agreement") being terminated due to the event giving rise to the Event of Default plus, (b) at the option of the Non-Defaulting Party, any Performance Assurance then available to the Non-Defaulting Party under this Agreement or Other SSO Supply Agreements and actually received, liquidated and retained by the Non-Defaulting Party, plus (c) any or all other amounts due to the Defaulting Party under this Agreement and, at the option of the Non-Defaulting Party, Other SSO Supply Agreements, and (ii) the sum of the Settlement Amount under this Agreement payable to the Non-Defaulting Party, plus (a) similar settlement amounts payable to the Non-Defaulting Party under any Other SSO Supply Agreement being terminated due to the event giving rise to the Event of Default plus, (b) at the option of the Non-Defaulting Party, any Performance Assurance then available to the Defaulting Party under this Agreement or Other SSO Supply Agreements and actually received, liquidated and retained by the Defaulting Party, plus (c) any or all other amounts due to the Non-Defaulting Party under this Agreement and, at the option of the Non-Defaulting Party, Other SSO Supply Agreements.

The Termination Payment will be due to or due from the Non-Defaulting Party as appropriate; provided, however, that if an SSO Supplier is the Defaulting Party and the Termination Payment is due to such SSO Supplier, Duke Energy Ohio will be entitled to retain a reasonable portion of the Termination Payment, which may be equal to the entire amount of the Termination Payment, as a security for additional amounts that may be determined to be due and owing by such SSO Supplier as Default Damages; and further provided that any previously attached security interest of Duke Energy Ohio in such retained amounts will continue. If the Termination Payment has been retained by Duke Energy Ohio as security for additional amounts that may be determined to be due and owing by the SSO Supplier, and if, upon making a final determination of Default Damages and payment therefor, the Termination Payment, or any portion thereof, is to be made to the SSO Supplier, Duke Energy Ohio will pay interest at the Interest Rate on the Termination Payment amount being made to the SSO Supplier for the period of such retention.

(d) **Notice of Termination Payment.** As soon as practicable after calculation of the

Termination Payment, notice must be given by the Non-Defaulting Party to the Defaulting Party of the amount of the Termination Payment and whether the Termination Payment is due to or due from the Non-Defaulting Party. The notice shall include a written statement explaining in reasonable detail the calculation of such amount. Subject to Section 7.3(e), the Termination Payment must be made by the Party that owes it within three (3) Business Days after such notice is received by the Defaulting Party.

(e) **Disputes With Respect to Default Damages or Termination Payment.** If the Defaulting Party disputes the Non-Defaulting Party's calculation of the Default Damages or Termination Payment, in whole or in part, the Defaulting Party must, within three (3) Business Days of receipt of the Non-Defaulting Party's calculation of the Default Damages or Termination Payment, provide to the Non-Defaulting Party a detailed written explanation of the basis for such dispute. Any dispute under this Section 7.3(e) shall be subject to the dispute resolution procedures in Article 11; provided, however, that if the Default Damages or Termination Payment is due from the Defaulting Party, the Defaulting Party must first provide Performance Assurance to the Non-Defaulting Party in an amount equal to the Default Damages or Termination Payment, as the case may be.

7.4 SSO Supplier Right to Assume

If an SSO Supplier defaults in its obligations hereunder resulting in the exercise of the right of Early Termination by Duke Energy Ohio with respect to such SSO Supplier, then Duke Energy Ohio, subject to Legal Authorities, may offer all of the non-defaulting SSO Suppliers the right to assume under this Agreement additional Tranches of SSO Load, subject to further compliance with the creditworthiness provisions of Article 5. If more than one SSO Supplier is interested in assuming the additional Tranches of SSO Load and the Parties are unable to agree on an allocation of such additional Tranches, then Duke Energy Ohio shall utilize a blind lottery process to determine which SSO Suppliers shall serve the additional Tranches of SSO Load. The provision of any such offer by Duke Energy Ohio to non-defaulting SSO Suppliers shall indicate the duration of the offer and the manner of acceptance thereof. Following the assumption by one or more SSO Suppliers of additional Tranches hereunder, such SSO Supplier(s) and Duke Energy Ohio shall execute an amendment to this Agreement modifying Attachment A to reflect the revised SSO Supplier Responsibility Share of the non-defaulting SSO Supplier(s) accepting such offer. An

SSO Supplier will not suffer any prejudice under this Agreement or otherwise arising from its election to decline an offer to assume additional Tranches upon the default of another SSO Supplier.

7.5 Setoff of Payment Obligations of the Non-Defaulting Party

Any payment obligations of the Non-Defaulting Party to the Defaulting Party pursuant to this Agreement or any Other SSO Supply Agreement will be set off: (i) first, to satisfy any payment obligations of the Defaulting Party to the Non-Defaulting Party pursuant to this Agreement or any Other SSO Supply Agreement that are unsecured and not subject to any Guaranty; (ii) second, to satisfy any payment obligations under this Agreement or any Other SSO Supply Agreement that are unsecured, but which are guaranteed by a Guaranty; and (iii) third, to satisfy any remaining payment obligations of the Defaulting Party to the Non-Defaulting Party pursuant to this Agreement or any Other SSO Supply Agreement.

7.6 Preservation of Rights of Non-Defaulting Party

The rights of the Non-Defaulting Party under this Agreement, including Sections 7.2, 7.3 and 7.5, will be supplemental to, and not in lieu of, any right of recoupment, lien, or set-off afforded by applicable law, and all such rights are expressly preserved for the benefit of the Non-Defaulting Party.

ARTICLE 8

REPRESENTATIONS AND WARRANTIES

8.1 Duke Energy Ohio's Representations and Warranties

Duke Energy Ohio hereby represents and warrants to the SSO Suppliers as follows:

- (a) it is an electric utility corporation duly organized, validly existing and in good standing under the laws of the State of Ohio;
- (b) it has all requisite power and authority necessary for it to enter into and to legally perform its obligations under this Agreement and any other documentation relating to this Agreement;
- (c) the execution, delivery and performance of this Agreement and any other documentation relating to this Agreement are within its powers, have been duly authorized by all

necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or similar provision of any Governmental Authority;

(d) this Agreement and each other document executed and delivered in accordance with this Agreement constitute its legally valid and binding obligation enforceable against it in accordance with its terms;

(e) there is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings, including before a Governmental Authority, that could materially adversely affect its ability to perform its obligations under this Agreement or any other document relating to this Agreement;

(f) no Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement or any other document relating to this Agreement;

(g) it is acting for its own account, has made its own independent decision to enter into this Agreement, is not relying upon the advice or recommendations of any other Party in so doing, and is capable of assessing the merits of and understanding and understands and accepts, the terms, conditions and risks of this Agreement;

(h) at the commencement of the Original Delivery Period, it has obtained all authorizations from any Governmental Authority necessary for it to perform its obligations under this Agreement; and

(i) it is not in violation of any law, rules, regulations, ordinances or judgments of any Governmental Authority which could reasonably be expected to adversely affect its ability to perform its obligations under this Agreement.

8.2 SSO Supplier Representations and Warranties

Each SSO Supplier hereby represents and warrants to Duke Energy Ohio as follows:

(a) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation and, if organized outside the State of Ohio, is qualified to conduct its business and is in good standing in Ohio;

(b) it has all regulatory authorizations and all requisite power and authority necessary for it to legally perform its obligations under this Agreement and any other documentation relating

to this Agreement;

(c) the execution, delivery and performance of this Agreement and any other documentation relating to this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or similar provision of any Governmental Authority;

(d) this Agreement and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms;

(e) it is a “forward contract merchant” within the meaning of the United States Bankruptcy Code;

(f) there is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings, including before a Governmental Authority, that could materially adversely affect its ability to perform its obligations under this Agreement or any other document relating to this Agreement;

(g) no Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement or any other document relating to this Agreement;

(h) it is acting for its own account, has made its own independent decision to enter into this Agreement, is not relying upon the advice or recommendations of Duke Energy Ohio in so doing, and is capable of assessing the merits of and understanding and understands and accepts, the terms, conditions and risks of this Agreement;

(i) at the commencement of the Original Delivery Period, it (i) has obtained all authorizations from any Governmental Authority necessary for it to perform its obligations under this Agreement; (ii) is a member in good standing with PJM; (iii) is qualified by PJM as a “Market Buyer” and “Market Seller” pursuant to the PJM Agreements; (iv) is qualified as a PJM “Load Serving Entity;” and (v) has duly obtained all FERC authorization necessary or desirable to make sales of Energy, Capacity, and Ancillary Services at market-based rates within PJM; and

(j) it is not in violation of any law, rules, regulations, ordinances or judgments of any Governmental Authority which could reasonably be expected to adversely affect its ability to perform its obligations under this Agreement.

ARTICLE 9

RISK OF LOSS; LIMITATION OF LIABILITY

9.1 Risk of Loss

Title and risk of loss with respect to the SSO Supply shall pass from each SSO Supplier to Duke Energy Ohio when the SSO Supply is delivered to the Delivery Point. As between the Parties, each SSO Supplier shall be deemed to be in exclusive control and possession of the SSO Supply prior to and at the Delivery Point, and Duke Energy Ohio shall be deemed to be in exclusive control and possession of the SSO Supply from the Delivery Point. Each SSO Supplier warrants that it will deliver the SSO Supply to Duke Energy Ohio at the Delivery Point free and clear of all liens, claims and encumbrances arising or attaching prior to the Delivery Point.

9.2 Limitation of Liability

EXCEPT TO THE EXTENT EXPRESSLY SET FORTH IN THIS AGREEMENT, INCLUDING ARTICLE 10, AS BETWEEN DUKE ENERGY OHIO AND EACH SSO SUPPLIER, EACH PARTY'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES INCURRED AS A RESULT OF A PARTY'S FAILURE TO COMPLY WITH THIS AGREEMENT. SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. NO PARTY SHALL BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, ARISING OUT OF SUCH PARTY'S FAILURE TO COMPLY WITH ITS OBLIGATIONS UNDER THIS AGREEMENT.

NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, NOTHING HEREIN SHALL IMPOSE ANY OBLIGATION OR LIABILITY FROM ONE SSO SUPPLIER TO ANY OTHER SSO SUPPLIER, EXCEPT AS PROVIDED IN ARTICLE 10.

ARTICLE 10

INDEMNIFICATION

10.1 Indemnification

(a) Each SSO Supplier shall defend, save harmless and indemnify Duke Energy Ohio and its Affiliates, shareholders, managers, directors, officers, employees and agents (collectively, the "Duke Energy Ohio Indemnified Party") against and from any and all of the following incurred by the Duke Energy Ohio Indemnified Party solely as a result of a third party claim (including PJM and each other SSO Supplier) against the Duke Energy Ohio Indemnified Party: loss, liability,

damage, claim, cost, charge, demand or expense (including reasonable attorneys' fees) (collectively "Indemnification Losses") for injury or death to persons and damage to property including a Party's employees or any third party to the extent (i) caused by any act or omission (or alleged act or omission) of the SSO Suppliers or their respective Affiliates, managers, directors, officers, employees and agents and (ii) such Indemnification Losses arise out of or are in any manner connected with the performance of this Agreement by the SSO Suppliers or for which the SSO Supplier assumed liability under the terms of this Agreement, except to the extent that a court of competent jurisdiction determines that the Indemnification Losses were caused wholly or in part by the gross negligence or willful misconduct of Duke Energy Ohio. Duke Energy Ohio may, at its own expense, retain counsel and participate in the defense of any such suit or action.

(b) Duke Energy Ohio and each SSO Supplier shall defend, save harmless and indemnify each other SSO Supplier and its Affiliates, shareholders, managers, directors, officers, employees and agents (the "Indemnified Supplier") against and from any and all of the following incurred by the Indemnified Supplier solely as a result of a third party claim (including another SSO Supplier) against the Indemnified Supplier: Indemnification Losses for injury or death to persons and damage to property including a Party's employees or any third party to the extent (i) caused by any act or omission (or alleged act or omission) of Duke Energy Ohio or such SSO Supplier or their respective Affiliates, managers, directors, officers, employees and agents, and (ii) such Indemnification Losses arise out of or are in any manner connected with the performance of this Agreement by Duke Energy Ohio or such SSO Supplier or for which the SSO Supplier assumed liability under the terms of this Agreement, except to the extent that a court of competent jurisdiction determines that the Indemnification Losses were caused wholly or in part by the gross negligence or willful misconduct of the Indemnified Supplier. The Indemnified Supplier may, at its own expense, retain counsel and participate in the defense of any such suit or action.

(c) Any Party that receives notice of any claim, action, or proceeding for which it may seek indemnification under this Section shall promptly notify the indemnitor in writing; provided, however, that the failure to so notify the indemnitor shall not relieve the indemnitor of liability hereunder except to the extent that the defense of such claim, action, or proceeding is prejudiced by the failure to give the notice. The indemnitee shall cooperate fully with the indemnitor in connection with any such litigation or proceeding the defense of which the indemnitor has assumed. No indemnitee may consent to entry of any judgment or enter into any settlement of any

claim, action, or proceeding that would give rise to any liability of the indemnitor hereunder without the indemnitor's prior written consent, which consent may not be unreasonably withheld or delayed. If the indemnitor assumes the defense of the claim, action, or proceeding, no compromise or settlement of such claim, action, or proceeding may be effected by the indemnitor without the indemnitee's consent unless (i) there is no finding or admission of any violation of law or the rights of any Person and no effect on any other claims, actions, or proceedings that may be made against the indemnitee and (ii) the sole relief provided is monetary damages and such damages and the associated costs of suit and attorneys' fees are paid in full by the indemnitor.

ARTICLE 11

DISPUTE RESOLUTION

11.1 Informal Dispute Resolution

If a dispute arises between the Parties relating to this Agreement, a Party shall give the other Party written notice of a dispute which has not been resolved in the normal course of business. Such notice shall include: (a) a statement of that Party's position and a summary of arguments supporting such position, and (b) the name and title of the executive who will be representing that Party and of any other person who will accompany the executive. Within five (5) days after delivery of the notice, the receiving Party shall respond with (a) a statement of that Party's position and a summary of arguments supporting such position, and (b) the name and title of the executive who will represent that Party and of any other person who will accompany the executive. Within ten (10) days after delivery of the initial notice, the executives of both Parties shall meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary, to attempt to resolve the dispute. If, within twenty (20) days after such meeting, the Parties have not succeeded in negotiating a resolution of the dispute, then either Party may pursue any remedies available at law or in equity as set forth below.

11.2 Formal Dispute Resolution

After the requirements of Section 11.1 have been satisfied, all disputes between the Parties, except where this Agreement requires otherwise, shall be submitted to an Ohio State court of competent jurisdiction or to a federal court of competent jurisdiction situated in the State of Ohio,

which courts shall have exclusive jurisdiction to settle disputes arising under or related to this Agreement.

11.3 Recourse to Agencies or Courts of Competent Jurisdiction

Notwithstanding Section 11.2, nothing in this Agreement shall restrict the rights of a Party to file a complaint with the FERC under relevant provisions of the Federal Power Act or with the PUCO under relevant provisions of the Legal Authorities. The Parties' agreement under this Section 11.3 is without prejudice to any Party's right to contest jurisdiction of the FERC or PUCO to which a complaint is brought.

ARTICLE 12

MISCELLANEOUS PROVISIONS

12.1 Assignment

(a) Duke Energy Ohio may not assign this Agreement or its rights or obligations hereunder without the prior written consent of the applicable SSO Suppliers, which consent may not be unreasonably withheld, conditioned or delayed; provided, however, Duke Energy Ohio may, without the consent of the SSO Suppliers (i) transfer, sell, pledge, encumber or assign this Agreement or the accounts, revenues, or proceeds hereof in connection with any financing or other financial arrangements; (ii) transfer or assign this Agreement to any Person having a Minimum Rating; and (iii) transfer or assign this Agreement to any Person succeeding to all or substantially all of the assets of Duke Energy Ohio. Under (a)(ii) and (a)(iii) above, Duke Energy Ohio shall be relieved of its obligations upon the assignment and assumption of the assignee, except for those obligations which have arisen prior to the date of assignment.

(b) An SSO Supplier may not assign this Agreement or any rights or obligations hereunder without the prior written consent of Duke Energy Ohio, which consent may not be unreasonably withheld, conditioned or delayed; provided, however, an SSO Supplier may, without the consent of Duke Energy Ohio (i) transfer, sell, pledge, encumber or assign this Agreement or the accounts, revenues, or proceeds hereof in connection with any financing or other financial arrangements; (ii) transfer or assign this Agreement to any Person having a Minimum Rating; and (iii) transfer or assign this Agreement to any Person succeeding to all or substantially all of the assets of such SSO Supplier. Under (b)(ii) and (b)(iii) above, the assigning SSO Supplier shall be

relieved of its obligations upon (x) the assignment and assumption of this Agreement by the assignee and (y) the assignee's satisfaction of the credit requirements set forth in Article 5, except for those obligations which have arisen prior to the date of assignment.

12.2 Notices

All notices, requests, statements or payments shall be made as specified below. Notices required to be in writing shall be delivered by letter, facsimile or other documentary form. Notice by regular mail shall be deemed to have been received by the earlier of actual receipt or three (3) Business Days after it has been sent. Notice by facsimile or hand delivery shall be deemed to have been received by the close of the Business Day on which it was transmitted or hand delivered (unless transmitted or hand delivered after close of normal business hours, in which case it shall be deemed to have been received at the close of the next Business Day). Notice by overnight mail or courier shall be deemed to have been received by the earlier of actual receipt or two (2) Business Days after it has been sent. A Party may change its addresses by providing notice of the same in accordance with this Section 12.2.

To Duke Energy Ohio:

NOTICES & CORRESPONDENCE:

Duke Energy Ohio
526 S. Church Street, EC02F
Charlotte, NC 28202
Attn: Contract Administration Manager

Contract Administration Manager Contact: Rhonda Johnson
Email: ContractAdmin@duke-energy.com
Phone: (980) 373-2322
Fax: (980) 373-7595

INVOICES:

Attention: Sherry Hardy
Email: Sherry.Hardy@duke-energy.com
Fax Number: (980) 373-9748
Phone Number: (980) 373-8688

PAYMENTS:

Institution: PNC Bank
Account No.: 4060078836
ABA No: 041000124

SCHEDULING:

Attention: Dana Adams
Email: Dana.Adams@duke-energy.com
Fax Number: (704) 382-4014
Phone Number: (704) 382-6292

CREDIT:

Attention: Lewis Camp

Email: Reg.Credit@duke-energy.com

Fax Number: (980) 373-8640

Phone Number: (704) 382-5903

To SSO Supplier:

Each SSO Supplier's notification information is set forth on Attachment A.

12.3 General

This Agreement constitutes the entire agreement between the Parties relating to the subject matter contemplated by this Agreement and supersedes all prior communications and proposals (oral or written). This Agreement shall be considered for all purposes as prepared through the joint efforts of the Parties and shall not be construed against one Party or the other as a result of the preparation, substitution, submission or other event of negotiation, drafting or execution hereof. This Agreement shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this Agreement). No waiver by a Party of any default by the other Party shall be construed as a waiver of any other default. Any provision declared or rendered unlawful by any applicable Governmental Authority or deemed unlawful because of a statutory change will not otherwise affect the remaining lawful obligations that arise under this Agreement. The headings used herein are for convenience and reference purposes only.

12.4 Governing Law

To the extent not subject to the jurisdiction of FERC, this Agreement and the rights and duties of the Parties hereunder shall be governed by and construed, enforced and performed in accordance with the laws of the State of Ohio, without regard to principles of conflicts of law.

12.5 Standard of Review

Except as provided in Sections 7.4 and 12.6, this Agreement shall not be amended, modified, terminated, discharged or supplanted nor any provision hereof waived, unless mutually agreed in writing by the Parties. Except as provided in Section 12.6, the rates, terms and conditions contained in this Agreement are not subject to change under Sections 205 and 206 of the Federal Power Act, absent the written agreement of the Parties to change any provisions. Other than as expressly permitted in this Agreement, the standard of review for any changes proposed by a Party,

a non-party, or the FERC, acting *sua sponte*, shall be the “public interest” application of the “just and reasonable” standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956) (the “*Mobile-Sierra*” doctrine), as clarified by *Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish*.

12.6 PJM Agreement Modifications

(a) If the PJM Agreements are amended or modified so that any term, schedule or section reference herein to such agreement is changed, such term, schedule or section reference herein shall be deemed automatically (and without any further action by the Parties) to refer to the new term, schedule or section of the PJM Agreements.

(b) If the applicable provisions of the PJM Agreements referenced herein, or any other PJM rules relating to the implementation of this Agreement, are changed materially from those in effect on the Effective Date, the Parties shall cooperate to make the conforming changes to this Agreement.

12.7 Confidentiality

(a) The Parties shall hold in confidence any information disclosed by one Party to the other Party in connection with negotiation of or performance under this Agreement unless (i) required, pursuant to any applicable court order, administrative order, statute, regulation or other official order by any government or any agency or department thereof, to disclose; (ii) such information is already in the possession of the receiving party at the time of disclosure, as evidenced by the receiving party’s written documentation; (iii) such information becomes subsequently available to the receiving party on a non-confidential basis from a source not known or reasonably suspected by the receiving party to be bound by a confidentiality agreement or secrecy obligation owed to the disclosing party; and (iv) such information is or becomes generally available to the public other than as a result of a breach of this Agreement.

(b) In the event of disclosure pursuant to Section 12.7(a)(i), Duke Energy Ohio will attempt to notify the SSO Supplier in advance of such disclosure. However, neither Duke Energy Ohio nor its employees, lenders, counsel, accountants, advisors or agents, will be responsible to the SSO Suppliers for any such disclosure and Duke Energy Ohio reserves the right to communicate publicly to third parties any and all information and data submitted as part of this

Agreement or Solicitation in any proceedings before FERC, the PUCO and any other regulatory body and the courts, without the prior consent of, or notice to the SSO Suppliers, if Duke Energy Ohio deems such disclosure necessary.

(c) A Party may disclose information and documents provided in connection with this Agreement to its employees, lenders, counsel, accountants, advisors, or utility regulators who have a need to know such information and have agreed to keep such terms confidential.

(d) The Parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with, this confidentiality obligation.

12.8 Taxes

All present and future federal, state, municipal and other taxes imposed by any taxing authority by reason of the provision of SSO Supply by an SSO Supplier under this Agreement (collectively, the "Taxes") will be the liability of the SSO Supplier, except for Ohio sales and use taxes imposed under Ohio Rev. Code Ann. Tit. 57, Chapters 5739, 5740 and 5741 (the "Ohio Sales and Use Taxes"), which will be Duke Energy Ohio's responsibility. Should an SSO Supplier be required to remit any Ohio Sales and Use Taxes directly to the applicable taxing authority, other than Ohio Sales and Use Taxes previously collected by the SSO Supplier on behalf of Duke Energy Ohio, Duke Energy Ohio will defend and indemnify the SSO Supplier for such Ohio Sales and Use Taxes and will pay to the SSO Supplier all such Tax amounts upon demand. Each SSO Supplier shall pay all Taxes (other than Ohio Sales and Use Taxes) to the applicable taxing authority to the extent required or permitted by law. If any transaction is exempt from the payment of any such Taxes, the affected SSO Supplier will, if requested, provide Duke Energy Ohio with valid tax exemption certificates. Should Duke Energy Ohio be required to remit any Taxes directly to any applicable taxing authority (other than Ohio Sales and Use Taxes and other Taxes previously collected by Duke Energy Ohio directly from an SSO Supplier), the SSO Supplier will defend and indemnify Duke Energy Ohio and will pay Duke Energy Ohio all such Tax amounts upon demand.

Each Party shall provide to the other Party all information, data and exemption certificates as such other Party may from time to time reasonably request and otherwise fully cooperate with such other Party in connection with the reporting of (i) any Taxes payable by an SSO Supplier; (ii) any Tax audit; or (iii) any assessment, refund claim or proceeding relating to Taxes. Each Party shall

cooperate with the other Party and take any action reasonably requested, which does not cause the Party to incur any material cost or inconvenience, in order to minimize any Taxes payable.

12.9 Record Retention

Each Party will retain for a period of two (2) years following the expiration of the Term necessary records so as to permit the Parties to confirm the accuracy of any statement, charge or computation made pursuant to this Agreement; provided that, if a Party provides notice within two (2) years of the expiration of the Term that it disputes the validity of any payments or quantity of Energy delivered, the Parties agree that they will retain all records related to such dispute until the dispute is resolved pursuant to Article 11.

Each SSO Supplier will have the right, upon reasonable notice, to inspect (at the sole cost and expense of such SSO Supplier) the books and records retained by Duke Energy Ohio only insofar as they relate to payments due and owing, or owed and paid, to such SSO Supplier. Such inspection must take place during regular business hours. Duke Energy Ohio will have the right, upon reasonable notice, to inspect (at the sole cost and expense of Duke Energy Ohio) the books and records retained by such SSO Supplier only insofar as they relate to Energy delivered by such SSO Supplier. Such inspection must take place during regular business hours.

12.10 Rules as to Usage

Except as otherwise expressly provided herein, the following rules shall apply to the usage of terms in this Agreement:

The terms defined above have the meanings set forth above for all purposes, and such meanings are equally applicable to both the singular and plural forms of the terms defined.

“Include,” “includes” and “including” shall be deemed to be followed by “without limitation” whether or not they are in fact followed by such words or words of like import.

Any law defined or referred to above means such law as from time to time amended, modified or supplemented, including by succession of comparable successor law.

“Hereof,” “herein,” “hereunder” and comparable terms refer, unless otherwise expressly indicated, to the entire agreement or instrument in which such terms are used and not to any particular article, section or other subdivision thereof or attachment thereto. References in an instrument to “Article,” “Section,” or another subdivision or to an attachment are, unless the

context otherwise requires, to the relevant article, section, subsection or subdivision of or an attachment to such agreement or instrument. If such reference in this Agreement to “Article,” “Section,” or other subdivision does not specify an agreement or document, such reference refers to an article, section or other subdivision of this Agreement. All references to exhibits or schedules in any agreement or instrument that is governed by this Agreement are to exhibits or schedules attached to such instrument or agreement.

All titles and headings used herein are for convenience and references purposes only, and shall not be applicable in construing or interpreting obligations under this Agreement.

The word “or” will have the inclusive meaning represented by the phrase “and/or.”

“Shall” and “will” have equal force and effect.

12.11 Counterparts

This Agreement may be executed in counterparts, each of which will be considered an original, but all of which will constitute one instrument. Any counterpart may be delivered by facsimile transmission or by electronic communication in portable document format (.pdf) or tagged image format (.tif), and the Parties agree that their electronically transmitted signatures shall have the same effect as manually transmitted signatures.

[Signatures appear on next pages]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the date first set forth above.

DUKE ENERGY OHIO, INC.

By: _____

Name: James P. Henning

Title: President

[SSO SUPPLIER SIGNATURES APPEAR ON SUCCEEDING PAGES]

[SSO SUPPLIER]

By: _____

Name:

Title

ATTACHMENTS

- A SSO Supplier Responsibility Share
- B Seasonal Billing Factor
- C Credit Examples
- D Form of Guaranty
- E Form of SSO Supplier Letter of Credit
- F Sample PJM Invoice
- G Billing Line Item Transfers

ATTACHMENT A

SSO SUPPLIER RESPONSIBILITY SHARE

SSO Supplier	Price (\$MWh)	SSO Supplier Responsibility Share Percentage (%)	No. of Tranches
_____	_____/MWh	_____%	_____

Original Delivery Period: [_____, 20__] through [_____, 20__].

Address for Notice:

1. In the case of all notices except those required under Article 5:

Name:
Address:
Telephone:
Facsimile:
E-mail:

Copy to:

Name:
Address:
Telephone:
Facsimile:
E-mail:

Article 5 Notices:

Name:
Address:
Telephone:
Facsimile:
E-mail:

[SSO SUPPLIER]

By: _____
Name:
Title:

ATTACHMENT B
SEASONAL BILLING FACTOR

The Seasonal Billing Factors are as follows:

June 1 through September 30	
October 1 through December 31 and January 1 through May 31	

ATTACHMENT C-1

INDEPENDENT CREDIT REQUIREMENT PER TRANCHE

<u>Month</u>	<u>12-Month Procurement (\$/Tranche)</u>	<u>24-Month Procurement (\$/Tranche)</u>	<u>36-Month Procurement (\$/Tranche)</u>
Inception through May 2018	\$150,000	\$325,000	\$525,000
June 2018	\$150,000	\$325,000	\$525,000
July 2018	\$150,000	\$325,000	\$525,000
August 2018	\$150,000	\$325,000	\$525,000
September 2018	\$100,000	\$250,000	\$450,000
October 2018	\$100,000	\$250,000	\$450,000
November 2018	\$100,000	\$250,000	\$450,000
December 2018	\$100,000	\$250,000	\$450,000
January 2019	\$50,000	\$200,000	\$400,000
February 2019	\$50,000	\$200,000	\$400,000
March 2019	\$50,000	\$200,000	\$400,000
April 2019	\$50,000	\$200,000	\$400,000
May 2019	\$50,000	\$200,000	\$400,000
June 2019		\$150,000	\$325,000
July 2019		\$150,000	\$325,000
August 2019		\$150,000	\$325,000
September 2019		\$100,000	\$250,000
October 2019		\$100,000	\$250,000
November 2019		\$100,000	\$250,000
December 2019		\$100,000	\$250,000

January 2020		\$50,000	\$200,000
February 2020		\$50,000	\$200,000
March 2020		\$50,000	\$200,000
April 2020		\$50,000	\$200,000
May 2020		\$50,000	\$200,000
June 2020			\$150,000
July 2020			\$150,000
August 2020			\$150,000
September 2020			\$100,000
October 2020			\$100,000
November 2020			\$100,000
December 2020			\$100,000
January 2021			\$50,000
February 2021			\$50,000
March 2021			\$50,000
April 2021			\$50,000
May 2021			\$50,000

ATTACHMENT C-2

EXAMPLE MARK-TO-MARKET EXPOSURE AMOUNT CALCULATION

The following is an illustration of the methodology Duke Energy Ohio will use to determine the Mark-to-Market Exposure Amounts for each SSO Supplier.

Prior to the scheduled date of the Solicitation, the following parameters will be determined by Duke Energy Ohio, based on the then most currently available information:

1. The expected On-Peak SSO Load per Tranche;
2. The expected Off-Peak SSO Load per Tranche;
3. On-Peak Price Adjustment Factors; and
4. Off-Peak Price Adjustment Factors.

For purposes of the Mark-to-Market Exposure Amount calculation, “On-Peak” means the hours between 7:00 a.m. and 11:00 p.m. prevailing Eastern Time on Monday through Friday, excluding NERC holidays. “Off-Peak” means any hours that are not considered On-Peak.

The SSO Load for each month will be calculated by multiplying (i) the number of customers then being provided generation service by Duke Energy Ohio (the “Un-Switched Customers”) by (ii) the historical monthly average usage per customer derived from data including only the Un-Switched Customers served by Duke Energy Ohio over a recent three-year period (“Historical Actual Usage”). The SSO Load will be calculated separately for each major rate class and then summed to determine the total SSO Load. The total SSO Load will then be separated into On-Peak and Off-Peak components (consistent with the definitions cited above), still on a monthly basis, based on the Historical Actual Usage for all customer classes combined. The SSO Load per Tranche (On-Peak and Off-Peak) will be equal to 1% of the total SSO Load calculated for each component.

A set of monthly On-Peak Price Adjustment Factors and Off-Peak Price Adjustment Factors will be developed using historical PJM day-ahead hourly prices applied to hourly usage derived from Historical Actual Usage on the Duke Energy Ohio system. The purpose of the Price Adjustment Factors is to restate the quoted Forward Market Prices, which are based on fixed block volumes of MWhs, to more closely approximate the price impact of serving a requirements load

which reflects hourly variations due to customer usage patterns. The Price Adjustment Factors are anticipated to be recalculated as of each future auction date and applied to all then existing SSO Agreements.

Duke Energy Ohio will determine the prevailing On-Peak Forward Market Prices and Off-Peak Forward Market Prices as of the closing day of the Solicitation for each month during the Delivery Period with reference to publicly available market price quotations obtained by Duke Energy Ohio. To the extent that quoted Forward Market Prices are not available on a monthly basis, monthly Forward Market Prices will be determined by Duke Energy Ohio with reference to publicly available market price data. Notwithstanding the foregoing, if market price data for Forward Market Prices is not available, Forward Market Prices will be determined by Duke Energy Ohio using any method which Duke Energy Ohio deems appropriate and which reasonably reflects forward market pricing conditions in PJM.

The Forward Market Prices prevailing on the closing day of the Solicitation are used as a basis for calculating the Mark-to-Market Exposure Amount. After the completion of the Solicitation, Duke Energy Ohio will calculate the Mark-to-Market Exposure Amount using the then prevailing Forward Market Prices as of any valuation date. Table C-1 shows the calculation of the Mark-to-Market Exposure Amount for a single Tranche using hypothetical Forward Market Prices and other assumptions for a []-month Original Delivery Period from [] 20 [] through [] 20 [].

As shown on Table C-1, the difference between the then-prevailing On-Peak and Off-Peak Forward Market Prices as of the valuation date and the prices in effect as of the closing day of the Solicitation is multiplied by the most recently calculated expected On-Peak and Off-Peak SSO Load per Tranche. (For SSO Suppliers serving multiple Tranches, these values would be adjusted accordingly.) The result is then multiplied by the relevant Price Adjustment Factors, as determined by Duke Energy Ohio in its most recent solicitation, and then summed to calculate the Mark-to-Market Exposure Amount on an undiscounted basis.

For simplicity, the discounting of the Mark-to-Market Exposure Amount is not shown in detail on Table C-1. The final Mark-to-Market Exposure Amount is determined by stating the values on a present value basis as of the determination date by discounting the calculated values at

the then prevailing LIBOR rate applicable to each Delivery Month, and then multiplying by the Volume Adjustment Factor.

The Volume Adjustment Factor will be determined by recalculating the SSO Load per Tranche reflecting the then current number of Un-Switched Customers and Historical Actual Usage (by major rate class) and calculating the ratio of the current SSO Load per Tranche to the previous SSO Load per Tranche. The value for Un-Switched Customers is anticipated to be updated on a monthly basis and the value of Historical Actual Usage is anticipated to be updated in conjunction with each successive auction of SSO Load, but not less than once each calendar year.

Table C-1

Market Valuation (Prior to Start of Delivery Period)

[FOR 12-MONTH TRANCHE - VALUES ARE FOR ILLUSTRATION ONLY]

		Change in Forward Market Price (a)		Tranche Volumes (b)		Price Adjustment Factor (c)		Mkt Value
		On-Peak Market Price \$/MWh	Off-Peak Market Price \$/MWh	On-Peak MWh	Off-Peak MWh	On-Peak	Off-Peak	\$000 (d) Undiscounted
Jun-18	\$	2.53	\$ 1.81	2,421	1,963	1.0254	1.0414	\$ 10
Jul-18	\$	2.29	\$ 1.73	2,524	2,159	1.0388	1.0577	\$ 10
Aug-18	\$	2.25	\$ 1.64	2,524	2,235	1.0379	1.0663	\$ 10
Sep-18	\$	2.58	\$ 1.59	2,047	1,816	1.0809	1.0721	\$ 9
Oct-18	\$	2.52	\$ 1.69	1,650	1,515	1.0125	1.0344	\$ 7
Nov-18	\$	2.42	\$ 1.82	1,698	1,927	0.9943	1.0120	\$ 8
Dec-18	\$	2.45	\$ 1.97	2,202	2,212	1.0106	1.0301	\$ 10
Jan-19	\$	2.35	\$ 1.92	2,590	2,749	1.0867	1.0851	\$ 12
Feb-19	\$	2.17	\$ 1.94	2,382	2,338	1.0709	1.0856	\$ 10
Mar-19	\$	2.45	\$ 2.08	1,941	2,016	1.0880	1.0900	\$ 10
Apr-19	\$	2.89	\$ 2.02	1,576	1,490	1.0086	1.0363	\$ 8
May-19	\$	2.94	\$ 2.06	1,714	1,740	1.0036	1.0188	\$ 9
								\$ 113
NPV of Mkt Value (e)								\$ 106
Volume Adjustment Factor (f)								\$ 0.9102
Market Value for Total Exposure Amount								\$ 97

(a): On-Peak and Off-Peak Forward Market Prices as of valuation date
less On-Peak and Off-Peak Forward Market Prices as of auction date

(b): Expected On-Peak and Off-Peak SSO Load per Tranche derived
from Historical Actual Usage and number of Un-Switched Customers
calculated per Attachment C-2 in most recent auction

(c): Price Adjustment Factor calculated per Attachment C-2 in most
recent auction

(d): Sum of (a) x (b) x (c) for On-Peak and Off-peak

(e): Market Value discounted to valuation date based on LIBOR
forward interest rates

(f): Volume Adjustment Factor is determined by applying the Historical
Actual Usage per customer class to the most recently available
number of customers per class to derive the ratio of updated
load to previously calculated load

ATTACHMENT D

FORM OF GUARANTY

[ICT / TOTAL EXPOSURE AMOUNT] GUARANTY OF

_____ [Guarantor]

This Guaranty, dated as of _____, 201_, is made by _____, a _____ [corporation] (the "Guarantor"), for the benefit of Duke Energy Ohio, Inc., an Ohio corporation ("Duke Energy Ohio"). Capitalized terms used herein but not defined herein shall have the meaning given such terms in the Agreement (as defined below).

WHEREAS, Duke Energy Ohio has entered into or will be entering into one or more Master Standard Service Offer Supply Agreements (each individually and collectively, the "Agreement") with _____, a _____ [corporation] (the "SSO Supplier"), which may involve the extension of credit by Duke Energy Ohio. Guarantor hereby acknowledges that it will receive a direct or indirect benefit from the business transactions between the SSO Supplier and Duke Energy Ohio and the making of this Guaranty.

NOW, THEREFORE, in consideration of, and as an inducement for, Duke Energy Ohio entering into the Agreement, the Guarantor hereby covenants and agrees as follows:

1. **Guaranty.** The Guarantor hereby unconditionally and absolutely guarantees to Duke Energy Ohio the prompt payment when due, subject to any applicable grace period and upon demand in writing from Duke Energy Ohio, of any and all amounts payable by the SSO Supplier to Duke Energy Ohio arising out of the Agreement in connection with SSO Supplier's [ICT / Total Exposure Amount] (the "Obligations"). Notwithstanding the aggregate amount of the Obligations at any time or from time to time payable by the SSO Supplier to Duke Energy Ohio, the liability of the Guarantor to Duke Energy Ohio shall not exceed _____ U.S. Dollars (\$_____).

2. **Nature of Guaranty.** The Guarantor hereby agrees that its obligations hereunder shall be unconditional irrespective of the impossibility or illegality of performance by the SSO Supplier under the Agreement; the absence of any action to enforce the Agreement; any waiver or consent by Duke Energy Ohio concerning any provisions of the Agreement; the rendering of any judgment against the SSO Supplier or any action to enforce the same; any failure by Duke Energy Ohio to take any steps necessary to preserve its rights to any security or collateral for the Obligations; the release of all or any portion of any collateral by Duke Energy Ohio; or any failure by Duke Energy Ohio to perfect or to keep perfected its security interest or lien in any portion of any collateral.

This Guaranty is one of payment and not of collection. This Guaranty shall remain in full force and effect or shall be reinstated (as the case may be) if at any time any payment guaranteed hereunder, in whole or in part, is rescinded or must otherwise be returned by Duke Energy Ohio

upon the insolvency, bankruptcy or reorganization of the SSO Supplier or otherwise, all as though such payment had not been made.

3. **Waivers.** The Guarantor hereby expressly waives notice of acceptance of this Guaranty; notice of any Obligation to which this Guaranty may apply or of any security therefor; diligence; presentment; protest; notice of protest, acceleration, and dishonor; filing of claims with a court in the event of insolvency or bankruptcy of the SSO Supplier; all demands whatsoever, except as noted in Section 1 hereof; and any right to require a proceeding first against the SSO Supplier.

4. **Effect of Amendments.** Guarantor agrees that Duke Energy Ohio and SSO Supplier may modify or amend any or all of the Agreement and that Duke Energy Ohio may, according to the Agreement, delay or extend the date on which any performance must be made under the Agreement, or release SSO Supplier from the obligation to so perform or waive any right thereunder, all without notice to or further assent by Guarantor, who shall remain bound by this Guaranty, notwithstanding any such act by Duke Energy Ohio.

5. **Termination.** This Guaranty is intended to be and shall be construed to be a continuing, absolute and unconditional guaranty, and shall remain in full force and effect until all Obligations have been fully and finally performed, at which point it will expire. The Guarantor may terminate this Guaranty upon thirty (30) days prior written notice to Duke Energy Ohio, which termination shall be effective only upon receipt by Duke Energy Ohio of alternative means of security or credit support, as specified in the Agreement and in a form reasonably acceptable to Duke Energy Ohio. Upon the effectiveness of any such expiration or termination, the Guarantor shall have no further liability under this Guaranty, except with respect to the Obligations existing prior to the time the expiration or termination is effective, which Obligations shall remain guaranteed pursuant to the terms of this Guaranty until finally and fully performed.

6. **Notices.** All notices and other communications about this Guaranty must be in writing, must be given by facsimile, hand delivery or overnight courier service and must be addressed or directed to the respective parties as follows:

If to Duke Energy Ohio, to:

Duke Energy Ohio, Inc.
550 South Tryon Street, DEC40C
Charlotte, NC 28202
Facsimile No.:
Attention: Chief Risk Officer

If to the Guarantor, to:

Facsimile No.: _____

Attn.: _____

Notices are effective when actually received by the party to which they are given, as evidenced by facsimile transmission report, written acknowledgment or affidavit of hand delivery or courier receipt.

7. **Representations and Warranties.** The Guarantor represents and warrants to Duke Energy Ohio as of the date hereof that:

- a) The Guarantor is duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation and has full power and legal right to execute and deliver this Guaranty and to perform the provisions of this Guaranty on its part to be performed;
- b) The execution, delivery and performance of this Guaranty by the Guarantor have been and remain duly authorized by all necessary corporate action and do not contravene any provision of its certificate of incorporation or by-laws or any law, regulation or contractual restriction binding on it or its assets;
- c) All consents, authorizations, approvals, registrations and declarations required for the due execution, delivery and performance of this Guaranty have been obtained from or, as the case may be, filed with the relevant governmental authorities having jurisdiction and remain in full force and effect, and all conditions thereof have been duly complied with and no other action by, and no notice to or filing with, any governmental authority having jurisdiction is required for such execution, delivery or performance; and
- d) This Guaranty constitutes the legal, valid and binding obligation of the Guarantor enforceable against it in accordance with its terms, except as enforcement hereof may be limited by applicable bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights or by general equity principles.

8. **Certification.** The Guarantor hereby certifies that it satisfies the Minimum Rating as defined in the Agreement.

9. **Setoffs and Counterclaims.** Without limiting the Guarantor's own defenses and rights hereunder, the Guarantor reserves to itself all rights, setoffs, counterclaims and other defenses to which the SSO Supplier is or may be entitled arising from or out of the Agreement,

except for defenses arising out of bankruptcy, insolvency, dissolution or liquidation of the SSO Supplier.

10. **Subrogation.** The Guarantor will not exercise any rights that it may acquire by way of subrogation until all Obligations shall have been paid in full. Subject to the foregoing, upon payment of all such Obligations, the Guarantor shall be subrogated to the rights of Duke Energy Ohio against the SSO Supplier, and Duke Energy Ohio agrees to take at the Guarantor's expense such steps as the Guarantor may reasonably request to implement such subrogation.

11. **Expenses.** The Guarantor hereby agrees to pay on demand all reasonable out-of-pocket expenses (including the reasonable fees and expenses of Duke Energy Ohio's counsel) in any way relating to the enforcement or protection of the rights of Duke Energy Ohio hereunder; provided that the Guarantor shall not be liable for any expenses of Duke Energy Ohio if no payment under this Guaranty is due.

12. **Assignment.** This Guaranty shall be binding upon the Guarantor and upon its permitted successors and assigns, and shall inure to the benefit of Duke Energy Ohio and its permitted successors and assigns and shall apply to all successors and assigns of the SSO Supplier. The Guarantor may not assign this Guaranty nor delegate its duties or rights hereunder without the prior express written consent of Duke Energy Ohio. Duke Energy Ohio may assign this Guaranty in accordance with the terms of the Agreement.

13. **Amendments.** No term or provision of this Guaranty shall be amended, modified, altered, waived, or supplemented except in a writing signed by the parties hereto, except that Guarantor may amend this Guaranty without Duke Energy Ohio's consent if the amendment only increases the dollar amount stated in Section 1 to which liability of the Guarantor to Duke Energy Ohio shall not exceed, provided that Guarantor deliver such amendment to Duke Energy Ohio on or before the effective date of such amendment..

14. **Choice of Law and Venue.** The Guarantor and Duke Energy Ohio hereby agree that this Guaranty shall be governed by and construed in accordance with the internal laws of the State of Ohio without giving effect to principles of conflicts of law.

15. **Waiver of Jury Trial.** The Guarantor and Duke Energy Ohio, through acceptance of this Guaranty, waive all rights to trial by jury in any action, proceeding or counterclaim arising or relating to this Guaranty.

16. **Miscellaneous.** This Guaranty is the entire and only agreement between the Guarantor and Duke Energy Ohio with respect to the guarantee of amounts payable by the SSO Supplier to Duke Energy Ohio arising out of the Agreement in connection with SSO Supplier's [ICT / Total Exposure Amount]. All representations, warranties, agreements, or undertakings heretofore or contemporaneously made, which are not set forth herein, are superseded hereby.

IN WITNESS WHEREOF, the Guarantor has caused this Guaranty to be executed in its [corporate] name by its duly authorized representative as of the date first above written.

[GUARANTOR]

By: _____

Its: _____

ATTACHMENT E
FORM OF SSO SUPPLIER LETTER OF CREDIT

_____ (Date)

Letter of Credit No. _____

To: Duke Energy Ohio, Inc. ("Beneficiary")
550 South Tryon Street (DEC40C)
Charlotte, NC 28202
Attention: Chief Risk Officer

1. We hereby establish in your favor this irrevocable transferable standby Letter of Credit (this "Letter of Credit") for the account of _____ (the "Applicant"), in the aggregate amount of \$_____, effective immediately and available to you at sight upon demand at our counters at _____ (location) and expiring 364 days from date of issuance or any extension thereof (in the form of Annex 5), unless terminated earlier or automatically extended in accordance with the provisions hereof or otherwise extended.
2. This Letter of Credit is issued at the request of the Applicant, and we hereby irrevocably authorize you to draw on us, in accordance with the terms and conditions hereof, up to the maximum amount of this Letter of Credit, subject to reduction as provided in Paragraph 12 hereof.
3. A partial or full drawing hereunder may be made by you on any Business Day on or prior to the expiration of this Letter of Credit by delivering, by no later than 11:00 A.M. (prevailing Eastern Time¹) on such Business Day to _____ (Bank), _____ (address), the following documents appropriately completed and signed by an authorized representative of the Beneficiary: (i) a notice in the form of Annex 1 hereto, and (ii) your draft in the form of Annex 2 hereto.
4. We may, but shall not be obligated to, accept any request to issue a substitute letter of credit. Such request shall be in an Availability Certificate in the form of Annex 3 hereto by you to us for exchange for a new letter of credit in the amount set forth in an Availability Certificate, which amount shall not exceed the present value of this Letter of Credit. Upon acceptance by us of any such request to issue a substitute letter of credit for exchange, the new letter of credit shall be issued in the amount as set forth in the Availability Certificate.

¹ If the issuer of the Letter of Credit is located in an area that is not in the Eastern time zone, this time and all other times in this Letter of Credit, and the definition of a business day should be adjusted accordingly.

5. We hereby agree to honor your drawing made in compliance with the terms and provisions of this Letter of Credit by transferring in immediately available funds the amount specified and to the account directed in your draft delivered to us pursuant to Paragraph 3 hereof, by 3:00 P.M. prevailing Eastern Time on the date of such drawing, if delivery of the requisite documents is made prior to 11:00 A.M. (prevailing Eastern time) on a Business Day pursuant to Paragraph 3 hereof, but at the opening of business on the first Business Day next succeeding the date of such drawing if delivery of the requisite documents is made after 11:00 A.M. (prevailing Eastern time) on any Business Day pursuant to Paragraph 3 hereof.

6. We shall have a reasonable amount of time, not to exceed three (3) Business Days following the date of our receipt of drawing documents, to examine the documents and determine whether to take up or refuse the documents and to inform you accordingly. Upon being notified that the demand for payment was not effected in conformity with this Letter of Credit, you may attempt to correct any such non-conforming demand for payment to the extent that you are entitled to do so, provided, however, that in such event a conforming demand for payment must be timely made in accordance with the terms of this Letter of Credit.

7. This Letter of Credit will automatically terminate and be delivered to us for cancellation on the earliest of (i) the making by you of the drawings in an amount equal to the maximum amount available to be made hereunder; (ii) the date we issue a new letter of credit in exchange for this Letter of Credit in accordance with Paragraph 4 hereof; and (iii) the date we receive from you a Certificate of Expiration in the form of Annex 4 hereto. The Letter of Credit will be automatically extended without written amendment for successive additional one (1) year periods from the current or any future extended expiry date, unless at least ninety (90) days prior to such date of expiration, we give written notice to the Beneficiary by registered or certified mail, return receipt requested, or by overnight courier, at the address set forth above, or at such other address of which prior written notice has been provided to us, that we elect not to renew this Letter of Credit for such additional one (1) year period.

8. As used herein:

“Availability Certificate” shall mean a certificate substantially in the form of Annex 3 hereto, appropriately completed and duly signed by an Authorized Officer of the Beneficiary.

“Business Day” shall mean any day on which commercial banks are not authorized or required to close in New York, NY and any day on which payments can be effected on the Fed wire system.

“Master Standard Service Offer Supply Agreement” shall mean that certain Master Standard Service Offer Supply Agreement between the Applicant and the Beneficiary, dated _____

9. This Letter of Credit is assignable and transferable, in accordance with Annex 6, to an entity certified by you to us in the form of Annex 6, and we hereby consent to such assignment or transfer, provided that this Letter of Credit may not otherwise be amended or modified without consent from us, you and the Applicant, and, except as otherwise expressly stated herein, is subject to the International Standby Practices 1998, International Chamber Of Commerce Publication No. 590 ("ISP98"). Any and all banking charges, transfer fees, expenses and costs shall be borne by the Applicant. This Letter of Credit shall, as to matters not governed by the ISP98, be governed and construed in accordance with New York law, without regard to principles of conflicts of law.

10. This Letter of Credit sets forth in full our undertaking, and such undertaking shall not in any way be modified, amended, changed, amplified or limited by reference to any document, instrument or agreement referred to herein, except for Annexes 1 through 6 hereto and the notices referred to herein; and any such reference shall not be deemed to incorporate herein by reference any document, instrument or agreement except as set forth above.

11. We certify that as of _____ (date) we _____ ("Bank") satisfy the minimum long-term senior unsecured debt rating of "A-" from Standard & Poor's Rating Services or "A3" from Moody's Investors Service, Inc.

12. The amount which may be drawn by you under this Letter of Credit shall be automatically reduced by the amount of any drawings paid through us referencing this Letter of Credit No. _____. Partial drawings are permitted hereunder. Drafts showing amounts in excess of amounts available under this Letter of Credit are acceptable, however, in no event will payment exceed the amount available to be drawn under this Letter of Credit.

13. Presentation to us of documents under this Letter of Credit includes presentation in person, by certified or overnight mail or by fax. Presentation by fax must be made to fax number _____ and confirmed by telephone to _____.

14. This original Letter of Credit has been sent to the Beneficiary located at _____ (as per Applicant's instructions). Any demands or communications in the form of the attached Annexes (except for Annex 5) or other communications directed to us under this Letter of Credit must be signed by an authorized representative of the Beneficiary. Acceptance or rejection of any amendments to this Letter of Credit or any extensions pursuant to Annex 5 must be signed by an authorized representative of the Beneficiary.

Very truly yours,

(Bank)

By: _____

Name:

Title:

By: _____

Name:

Title:

Annex 1 to Letter of Credit

DRAWING UNDER LETTER OF CREDIT NO. _____

_____, 20__

To: (Bank)

(Address)

Attention: Standby Letter of Credit Unit

Ladies and Gentlemen:

The undersigned is making a drawing under the above-referenced Letter of Credit in the amount specified below and hereby certifies to you as follows:

1. Capitalized terms used and not defined herein shall have the meanings ascribed thereto in the Letter of Credit.
2. Pursuant to Paragraph 2 of the Letter of Credit No. _____, dated _____, 20__, the undersigned is entitled to make a drawing under the Letter of Credit in the aggregate amount of \$ _____, inasmuch as (choose one of the following by placing an "X" on the line preceding the statement):

_____ (a) An Event of Default has occurred with respect to the Applicant under the Master Standard Service Offer Supply Agreement;

_____ (b) The Applicant has failed to supply a substitute letter of credit thirty (30) days prior to the expiration of this Letter of Credit as required by the Master Standard Service Offer Supply Agreement.

3. The amount to be received by Duke Energy Ohio, Inc. is \$_____.

4. We acknowledge that, upon your honoring the drawing herein requested, the amount of the Letter of Credit available for drawing shall be automatically decreased by an amount equal to this drawing.

Very truly yours,

Duke Energy Ohio, Inc.

By: _____

Name:

Title:

Date:

Annex 2 to Letter of Credit

DRAWING UNDER LETTER OF CREDIT NO. _____

_____, 20__

ON [Business Day set forth in Paragraph 5]

PAY TO: Duke Energy Ohio, Inc.

\$ _____

For credit to the account of _____.

FOR VALUE RECEIVED AND CHARGE TO ACCOUNT OF LETTER OF CREDIT
NO. _____ OF

(Bank)

(Address)

Duke Energy Ohio, Inc.

By: _____

Name:

Title:

Date:

Annex 3 to Letter of Credit

AVAILABILITY CERTIFICATE

UNDER LETTER OF CREDIT NO. _____

_____, 20__

To: (Bank)

(Address)

Attention: Standby Letter of Credit Unit

Ladies and Gentlemen:

Each of the undersigned hereby requests that, in exchange for the above-referenced Letter of Credit, a new letter of credit be issued in the aggregate amount of \$_____ (the "New Amount") and to expire on _____ (date), but otherwise in the form of the above-referenced Letter of Credit.

Please acknowledge your intention to issue such new letter of credit in the New Amount upon the surrender of the above-referenced Letter of Credit by signing the attached acknowledgment copy hereof and forwarding it to:

[Beneficiary's Address]

Very truly yours,

Duke Energy Ohio, Inc.

By: _____

Name:

Title:

Date:

Agreed and Accepted

(Bank)

By: _____

Title:

Date:

APPLICANT NAME

By: _____

Name:

Title:

Date:

Annex 4 to Letter of Credit

**CERTIFICATE OF EXPIRATION
OF LETTER OF CREDIT NO. _____**

_____, 20__

To: (Bank)

(Address)

Attention: Standby Letter of Credit Unit

Ladies and Gentlemen:

The undersigned hereby certifies to you that the above-referenced Letter of Credit may be cancelled without payment. Attached hereto is said Letter of Credit, marked cancelled.

Duke Energy Ohio, Inc.

By: _____

Name:

Title:

Date:

cc: _____ (Applicant Name)

Annex 5 to Letter of Credit

NOTICE OF EXTENSION
OF LETTER OF CREDIT NO. _____

_____, 20__

To: Duke Energy Ohio, Inc.
550 South Tryon Street (DEC40C)
Charlotte, NC 28202
Attention: Chief Risk Officer

Re: Our Letter of Credit No. _____ presently in the aggregate amount
of USD _____ issued for the account of _____ and
expiring on _____.

On the expiration date of the Letter of Credit No. _____, we will issue a new
Letter of Credit No. _____ to expire on _____ (date). This new
Letter of Credit No. _____ will, aside from the expiration date, be in the
amount and form of our Letter of Credit No. _____.

Very truly yours,

BANK _____

By: _____

Name:

Title:

Date:

Duke Energy Ohio, Inc.

By: _____

Name:

Title:

Date:

cc: _____ (Applicant Name)

Annex 6 to Letter of Credit

NOTICE OF TRANSFER
OF LETTER OF CREDIT NO. _____

_____, 20__

To:

[Bank]

[Bank Address]

To Whom It May Concern:

Re: Credit _____

Issued by _____

Advice No _____

For the value received, the undersigned Beneficiary hereby irrevocably transfers to:

(Name of Transferee)

(Address)

all rights of the undersigned Beneficiary to draw under the above Letter of Credit in its entirety.

By this transfer, all rights of the undersigned Beneficiary in such Letter of Credit are transferred to the transferee and the transferee shall have the sole rights as beneficiary thereof, including sole rights relating to any amendments, whether increases, extensions or other amendments and whether now existing or hereafter made. All amendments are to be advised direct to the transferee without necessity of any consent of or notice to the undersigned beneficiary.

The advice of such Letter of Credit is returned herewith, and we ask you to endorse the transfer on the reverse thereof, and forward it directly to the transferee with your customary notice of transfer.

Very Truly Yours,

Duke Energy Ohio, Inc.

By: _____

Name:

Title:

Date:

The above signature with title as stated conforms to that on file with us and is authorized for the execution of said instruments.

(Name of authenticating party)

(Authorized signature of authenticating party)

Name

Title

ATTACHMENT F

SAMPLE PJM INVOICE

PJM Billing Statement Line Items		
ID #	Resp.	CHARGES
1000	SSO S	Amount Due for Interest on Past Due Charges
1100	EDC	Network Integration Transmission Service
1108	EDC	Transmission Enhancement
1109	EDC	Midcontinent ISO Transmission Expansion Plan Assessment
1110	SSO S	Direct Assignment Facilities
1120	SSO S	Other Supporting Facilities
1130	SSO S	Firm Point-to-Point Transmission Service
1133	SSO S	Firm Point-to-Point Transmission Service Resale
1140	SSO S	Non-Firm Point-to-Point Transmission Service
1143	SSO S	Non-Firm Point-to-Point Transmission Service Resale
1200	SSO S	Day-ahead Spot Market Energy
1205	SSO S	Balancing Spot Market Energy
1210	SSO S	Day-ahead Transmission Congestion
1215	SSO S	Balancing Transmission Congestion
1218	SSO S	Planning Period Congestion Uplift
1220	SSO S	Day-ahead Transmission Losses
1225	SSO S	Balancing Transmission Losses
1230	SSO S	Inadvertent Interchange
1240	SSO S	Day-ahead Economic Load Response
1241	SSO S	Real-time Economic Load Response
1242	EDC	Day-Ahead Load Response Charge Allocation
1243	EDC	Real-Time Load Response Charge Allocation

1245	SSO S	Emergency Load Response
1250	SSO S	Meter Error Correction
1260	SSO S	Emergency Energy
1301	SSO S	PJM Scheduling, System Control and Dispatch Service - Control Area Administration
1302	SSO S	PJM Scheduling, System Control and Dispatch Service - FTR Administration
1303	SSO S	PJM Scheduling, System Control and Dispatch Service - Market Support
1304	SSO S	PJM Scheduling, System Control and Dispatch Service - Regulation Market Administration
1305	SSO S	PJM Scheduling, System Control and Dispatch Service - Capacity Resource/Obligation Mgmt.
1306	SSO S	PJM Scheduling, System Control and Dispatch Service - Advanced Second Control Center
1307	SSO S	PJM Scheduling, System Control and Dispatch Service - Market Support Offset
1308	SSO S	PJM Scheduling, System Control and Dispatch Service Refund - Control Area Administration
1309	SSO S	PJM Scheduling, System Control and Dispatch Service Refund - FTR Administration
1310	SSO S	PJM Scheduling, System Control and Dispatch Service Refund - Market Support
1311	SSO S	PJM Scheduling, System Control and Dispatch Service Refund - Regulation Market Administration
1312	SSO S	PJM Scheduling, System Control and Dispatch Service Refund - Capacity Resource/Obligation Mgmt.
1313	SSO S	PJM Settlement, Inc.
1314	SSO S	Market Monitoring Unit (MMU) Funding
1315	SSO S	FERC Annual Charge Recovery
1316	SSO S	Organization of PJM States, Inc. (OPSI) Funding
1317	SSO S	North American Electric Reliability Corporation (NERC)
1318	SSO S	Reliability First Corporation (RFC)
1320	EDC	Transmission Owner Scheduling, System Control and Dispatch Service
1330	EDC	Reactive Supply and Voltage Control from Generation and Other Sources Service
1340	SSO S	Regulation and Frequency Response Service
1350	SSO S	Energy Imbalance Service
1360	SSO S	Synchronized Reserve
1365	SSO S	Day-ahead Scheduling Reserve
1370	SSO S	Day-ahead Operating Reserve
1371	SSO S	Day-ahead Operating Reserve for Load Response
1375	SSO S	Balancing Operating Reserve
1376	SSO S	Balancing Operating Reserve for Load Response
1377	SSO S	Synchronous Condensing
1378	SSO S	Reactive Services
1380	SSO S	Black Start Service
1400	SSO S	Load Reconciliation for Spot Market Energy
1410	SSO S	Load Reconciliation for Transmission Congestion
1420	SSO S	Load Reconciliation for Transmission Losses
1430	SSO S	Load Reconciliation for Inadvertent Interchange
1440	SSO S	Load Reconciliation for PJM Scheduling, System Control and Dispatch Service
1441	SSO S	Load Reconciliation for PJM Scheduling, System Control and Dispatch Service Refund
1442	SSO S	Load Reconciliation for Schedule 9-6 - Advanced Second Control Center
1444	SSO S	Load Reconciliation for Market Monitoring Unit (MMU) Funding

1445	SSO S	Load Reconciliation for FERC Annual Charge Recovery
1446	SSO S	Load Reconciliation for Organization of PJM States, Inc. (OPSI) Funding
1447	SSO S	Load Reconciliation for North American Electric Reliability Corporation (NERC)
1448	SSO S	Load Reconciliation for Reliability First Corporation (RFC)
1450	EDC	Load Reconciliation for Transmission Owner Scheduling, System Control and Dispatch Service
1460	SSO S	Load Reconciliation for Regulation and Frequency Response Service
1470	SSO S	Load Reconciliation for Synchronized Reserve
1475	SSO S	Load Reconciliation for Day-ahead Scheduling Reserve
1478	SSO S	Load Reconciliation for Balancing Operating Reserve
1480	SSO S	Load Reconciliation for Synchronous Condensing
1490	SSO S	Load Reconciliation for Reactive Services
1500	SSO S	Financial Transmission Rights Auction
1600	N/A	RPM Auction
1610	N/A	Locational Reliability
1650	N/A	Auction Specific MW Capacity Transaction
1660	N/A	Demand Resource and ILR Compliance Penalty
1661	N/A	Capacity Resource Deficiency
1662	N/A	Generation Resource Rating Test Failure
1663	N/A	Qualifying Transmission Upgrade Compliance Penalty
1664	N/A	Peak Season Maintenance Compliance Penalty
1665	N/A	Peak-Hour Period Availability
1666	N/A	Load Management Test Failure
1670	N/A	FRR LSE Reliability
1687	N/A	FRR LSE Schedule 9-5
1688	N/A	FRR LSE Schedule 9-6
1920	SSO S	Station Power
1930	EDC	Generation Deactivation
1932	EDC	Generation Deactivation Refund
1980	SSO S	Miscellaneous Bilateral
1995	SSO S	PJM Annual Membership Fee
1999	SSO S	PJM Customer Payment Default

PJM Credits		
ID#	Resp.	CREDITS
2100	TO	Network Integration Transmission Service
2106	TO	Non-Zone Network Integration Transmission Service
2108	TO	Transmission Enhancement
2109	TO	Midcontinent ISO Transmission Expansion Plan Assessment
2110	TO	Direct Assignment Facilities
2120	TO	Other Supporting Facilities
2130	TO	Firm Point-to-Point Transmission Service
2132	SSO S	Internal Firm Point-to-Point Transmission Service
2133	SSO S	Firm Point-to-Point Transmission Service Resale
2140	EDC	Non-Firm Point-to-Point Transmission Service
2142	SSO S	Internal Non-Firm Point-to-Point Transmission Service
2143	SSO S	Non-Firm Point-to-Point Transmission Service Resale
2210	SSO S	Transmission Congestion
2217	SSO S	Planning Period Excess Congestion
2218	SSO S	Planning Period Congestion Uplift
2220	SSO S	Transmission Losses
2240	N/A	Day-ahead Economic Load Response
2241	N/A	Real-time Economic Load Response
2245	N/A	Emergency Load Response
2260	N/A	Emergency Energy
2320	EDC	Transmission Owner Scheduling, System Control and Dispatch Service
2330	EDC	Reactive Supply and Voltage Control from Generation and Other Sources Service
2340	N/A	Regulation and Frequency Response Service
2350	N/A	Energy Imbalance Service
2360	N/A	Synchronized Reserve
2365	N/A	Day-ahead Scheduling Reserve
2370	N/A	Day-ahead Operating Reserve
2371	N/A	Day-ahead Operating Reserve for Load Response
2375	N/A	Balancing Operating Reserve
2376	N/A	Balancing Operating Reserve for Load Response
2377	N/A	Synchronous Condensing
2378	N/A	Reactive Services
2380	N/A	Black Start Service
2420	SSO S	Load Reconciliation for Transmission Losses
2500	SSO S	Financial Transmission Rights Auction
2510	SSO S	Auction Revenue Rights
2600	N/A	RPM Auction
2620	N/A	Interruptible Load for Reliability
2630	N/A	Capacity Transfer Rights
2640	N/A	Incremental Capacity Transfer Rights
2650	N/A	Non-Unit Specific Capacity Transaction
2660	N/A	Demand Resource and ILR Compliance Penalty
2661	N/A	Capacity Resource Deficiency

2662	N/A	Generation Resource Rating Test Failure
2663	N/A	Qualifying Transmission Upgrade Compliance Penalty
2664	N/A	Peak Season Maintenance Compliance Penalty
2665	N/A	Peak-Hour Period Availability
2666	N/A	Load Management Test Failure
2687	N/A	FRR LSE Schedule 9-5
2688	N/A	FRR LSE Schedule 9-6
2930	EDC	Generation Deactivation
2932	EDC	Generation Deactivation Refund
2980	SSO S	Miscellaneous Bilateral

ATTACHMENT G

BILLING LINE ITEM TRANSFERS

<u>Billing Line Item Number</u>	<u>Billing Line Item</u>
1100	Network Integration Transmission Service
1108	Transmission Enhancement
1109	Midwest ISO Transmission Expansion Plan Assessment
1115	Transmission Enhancement Settlement
1242	Day-Ahead Load Response Charge Allocation
1243	Real-Time Load Response Charge Allocation
1320	Transmission Owner Scheduling, System Control and Dispatch Service
1330	Reactive Supply and Voltage Control from Generation and Other Sources Service
1450	Load Reconciliation for Transmission Owner Scheduling, System Control and Dispatch Service
1930	Generation Deactivation
1932	Generation Deactivation Refund
2108	Transmission Enhancement
2140	Non-Firm Point-to-Point Transmission Service

Attachment D

Part 1 Application for Duke Energy Ohio, Inc.'s Competitive Bidding Process Auctions

Part 1 Application: Duke Energy Ohio, Inc.'s CBP Auctions

Name of Applicant

PART 1 APPLICATION

Duke Energy Ohio, Inc.'s CBP Auctions

INSTRUCTIONS

There are two parts to the application process.

- **Part 1 Application:** Applicants submit the Part 1 Application and all documents required therein to become Qualified Bidders for the Competitive Bidding Process ("CBP").
- **Part 2 Application:** Qualified Bidders for the CBP submit the Part 2 Application, in which they will agree to comply with the Bidding Rules and Communications Protocols, accept the terms of Duke Energy Ohio, Inc.'s ("Duke Energy Ohio") Master Standard Service Offer Supply Agreement ("Master SSO Supply Agreement"), make certifications regarding associations and handling of Confidential Information, submit Indicative Offers, and post Pre-Bid Security to become Registered Bidders.

This document is the Part 1 Application.

For further information, consult the Information Website.

Unless otherwise defined, capitalized terms in this document have the definitions provided in either the Glossary or the Master SSO Supply Agreement.

PART 1 APPLICATION SUBMISSION

To become Qualified Bidders for the Auction, Applicants must submit the following to the Auction Manager electronically through the secure Application Process by the Part 1 Application Due Date:

1. **Electronic Application Form:** Completed Part 1 Application;
2. **PDF Application Form:** One (1) scanned copy of the completed Part 1 Application document with all required signatures, notarized signatures where applicable, and the name of the Applicant on every page of the Application;

Part 1 Application: Duke Energy Ohio, Inc.'s CBP Auctions

Name of Applicant

3. Supporting Documentation: One (1) copy of required financial statements and other requested documents supporting the Application as specified in Appendix A; and

4. Changes to Credit Documents (Optional): One (1) copy of any suggested modifications to the templates for the Pre-Bid Security Letter of Credit, the Letter of Intent to Provide a Guaranty, or the Letter of Reference ("Credit Documents") must be provided to the Auction Manager in an electronic, red-lined version. Any proposed alternate form of guaranty must be provided to the Auction Manager in an electronic form. Section 1.10 and Appendix B describe the process for submitting an alternate form of guaranty. Appendix C describes the process for submitting proposed changes to the Pre-Bid Security Letter of Credit.

Modifications to the Credit Documents and any other inquiries may be directed to the Auction Manager by email at duke-energyauctionmanager@crai.com. Inquiries also can be made through the Information Website.

***The completed Part 1 Application and modifications to the Credit Documents
MUST be received by the Auction Manager no later than
12:00 p.m. noon prevailing Eastern Time on the Part 1 Application due date as
posted in the timeline on the Information Website.***

Name of Applicant

CONFIDENTIALITY OF PART 1 APPLICATION SUBMISSIONS

All Applicants are required to comply with the Communications Protocols.

Confidentiality requirements specific to the Part 1 Application are reiterated below.

CONFIDENTIALITY OF CREDIT INFORMATION

Any information and materials that you submit in this Part 1 Application may be provided on a confidential basis to the Auction Manager Team and the Public Utilities Commission of Ohio ("PUCO" or "Commission") and their representatives. Information that you provide in this Part 1 Application, except for information regarding bidding agreements provided in Section 1.11, may be provided on a confidential basis to representatives of Duke Energy Ohio for a creditworthiness assessment.

CONFIDENTIALITY OF QUALIFIED BIDDERS

Upon completion of the Part 1 Application process, the names of Qualified Bidders will be provided to other Qualified Bidders on a confidential basis. As part of this Part 1 Application, you are required to certify that you agree to release your name to other Qualified Bidders and that you will keep confidential the list of Qualified Bidders that is provided to you.

Name of Applicant

PART 1 APPLICATION
Duke Energy Ohio, Inc.'s
CBP Auctions

This Part 1 Application is the application form to become a Qualified Bidder in Duke Energy Ohio's CBP.

I. Background Information

Before completing this form, please review the Bidding Rules document for this CBP ("Bidding Rules"), the Master SSO Supply Agreement, the Communications Protocols, and other documents posted on the Information Website so that you understand the conditions under which the CBP will be conducted.

II. Confirmation of Receipt

Online delivery: If your Part 1 Application is submitted online through the Secure Application Process, an email will be sent to the Authorized Representative and Delegate to confirm receipt of the completed online application. You will still be required to submit through the online Secure Application Process or via email a scanned copy of the Part 1 Application with all required signatures.

III. Incomplete Applications

If your Part 1 Application is incomplete or requires clarification, the Auction Manager will send a deficiency notice to your Authorized Representative by email. You will have until 12:00 p.m. noon prevailing Eastern Time on the Part 1 Application Due Date, or until 5:00 p.m. prevailing Eastern Time on the Business Day following the Business Day during which a deficiency notice is sent to you, whichever comes later, to respond. If you do not correct or adequately explain the deficiency within the time allowed, your Part 1 Application may be rejected and you may be unable to participate in the CBP. All corrections to remedy deficiencies within an Applicant's Part 1 Application must be submitted online. The Authorized Representative needs to sign and date next to the correction(s) to the Part 1 Application and send to the Auction Manager by email to duke-energyauctionmanager@crai.com or through the online Secure Application Process.

Part 1 Application: Duke Energy Ohio, Inc.'s CBP Auctions

Name of Applicant

IV. Late Applications

Part 1 Applications received after the stated deadline will NOT be accepted under any circumstances.

V. Rejection of Applications

If your application is rejected, your Part 1 Application and all supporting documents will be returned to you.

VI. Notification to Qualified Bidders

If you become a Qualified Bidder for the CBP, the Auction Manager will send a Notification of Qualification to your Authorized Representative by email after the Part 1 Application Due Date.

Part 1 Application: Duke Energy Ohio, Inc.'s CBP Auctions

*Name of Applicant***PART 1 APPLICATION FORMS**

1.1 Applicant Basic Information*Name of Applicant (Company Name)**Legal Name of Applicant (if different from above)**Place of Incorporation, if applicable**Federal Tax I.D.**D&B DUNS #**Please state whether the
Applicant is a corporation,
partnership, etc.**Years in Business**URL for Applicant's Website**Has the Applicant participated in a prior Duke Energy
Ohio, Inc. auction?**If yes, indicate the most recent auction date
(month, year):*

Part 1 Application: Duke Energy Ohio, Inc.'s CBP Auctions

*Name of Applicant***1.2 Authorized Representative**

The Authorized Representative is authorized to represent the Applicant in the CBP. The Authorized Representative will receive all documentation related to the CBP if and when the Applicant becomes a Registered Bidder, including any CBP procedures and Confidential Information required for the submission of bids in any trial auction and in the actual auction. The Authorized Representative must ensure that only authorized persons act on behalf of the Applicant in the CBP. The Authorized Representative is the only person authorized to distribute CBP procedures and Confidential Information and should do so in accordance with the Communications Protocols. The integrity of the CBP depends upon each Authorized Representative safeguarding Confidential Information and passwords used in the CBP.

The person designated below is the Applicant's Authorized Representative.

*Last Name**Given Name(s)**Title**Street Address**City**State**Zip Code**Telephone No.**Cell Phone No.**Fax No.**Email Address*

Communications with the Authorized Representative for purposes of the Part 1 Application are typically done via email and courier.

Part 1 Application: Duke Energy Ohio, Inc.'s CBP Auctions

Name of Applicant

The Applicant hereby acknowledges that any notification or other communication given by the Auction Manager to the Applicant with respect to the Part 1 Application shall be delivered by courier to the address provided above or emailed to the email address above and shall be deemed received by the Applicant at the time of delivery, provided that where delivery occurs after 5:00 p.m. prevailing Eastern Time on a Business Day or on a day which is not a Business Day, receipt shall be deemed to occur at 8:00 a.m. prevailing Eastern Time on the following Business Day.

This certification must be signed by the Authorized Representative and the signature must be notarized.

I hereby certify that I am authorized by the Applicant to serve as Authorized Representative, to represent the Applicant both (i) in the CBP, and (ii) to represent the Applicant for purposes of this Part 1 Application. I further certify that I will be responsible for all Confidential Information regarding the CBP and I will distribute Confidential Information only to other individuals who are authorized to act on behalf of the Applicant according to the Communications Protocols.

 Signature of Authorized Representative

 Date

 Signature and Seal from Notary Public

 Date

Part 1 Application: Duke Energy Ohio, Inc.'s CBP Auctions

Name of Applicant

The person designated in this section by the Applicant is the Delegate. The Delegate serves as a secondary point person for communications with the Auction Manager.

*Last Name**Given Name(s)**Company Name**Title**Street Address**City**State**Zip Code**Telephone No.**Cell Phone No.**Fax No.**Email Address*

Part 1 Application: Duke Energy Ohio, Inc.'s CBP Auctions

 Name of Applicant

1.3 Designation of the Applicant's Authorized Representative and Delegate for the CBP

This certification should be signed by an officer or director of the Applicant and should either be notarized or attested with the corporate seal. The person making this certification cannot be either the Authorized Representative or the Delegate.

I certify that I am an officer or director of the Applicant, empowered to undertake contracts and bind the Applicant. I have read and accept the Bidding Rules, the provisions contained in the Master SSO Supply Agreement, and the provisions of the Communications Protocols pertaining to bidders in the CBP.

All the information contained in this Application is true and correct to the best of my knowledge. If there are material changes to the Applicant's information provided in this Part 1 Application, I agree to notify the Auction Manager. I designate _____ to act as the Authorized Representative of the Applicant in the CBP and _____ to act as Delegate for the Authorized Representative. I am not designating myself as Authorized Representative or Delegate.

 Signature of Officer or Director of the Applicant

 Date

 Printed Name

 Title

 Signature and Seal from Notary Public

 Date

Part I Application: Duke Energy Ohio, Inc.'s CBP Auctions

Name of Applicant

1.4 Applicant's Legal Representative in Ohio

Please check here ☐ if the Applicant's Authorized Representative is also the Applicant's Legal Representative. The Applicant's Legal Representative in Ohio must:

- be a legal counsel or a representative agent;
- have an address in Ohio; and
- be authorized and agree to accept service of process on the Applicant's behalf.

The person designated below is the Applicant's Legal Representative or Representative Agent.

Last Name

Given Name(s)

Title

Company Name

Street Address

City

State

Zip Code

Telephone No.

Cell Phone No.

Fax No.

Email Address

This certification must be signed by the Legal Representative and the signature must be notarized.

I agree to serve as Legal Representative of the Applicant. I am authorized and I agree to receive service of process on the Applicant's behalf.

 Signature of Legal Representative

 Date

 Signature and Seal from Notary Public

 Date

Part 1 Application: Duke Energy Ohio, Inc.'s CBP Auctions

*Name of Applicant***1.5 Applicant's Credit Representative**

The Applicant's Credit Representative is the Applicant's in-house Credit Representative who can answer questions or provide information about the Applicant's credit with respect to the requirements for the CBP.

The person designated below is the Applicant's Credit Representative.

*Last Name**Given Name(s)**Title**Street Address**City**State**Zip Code**Telephone No.**Cell Phone No.**Fax No.**Email Address*

Name of Applicant

1.6 General Requirements to Participate in the CBP

1. If the Applicant already is a Transmission Customer of PJM who has executed the applicable PJM Agreements as that term is defined in the Master SSO Supply Agreement, please check ☐ and please provide a copy of the signature page of the PJM Agreements.

Otherwise, please certify that there exist no known impediments for the Applicant to execute the applicable PJM Agreements prior to the start of the supply period.

Signature of Authorized Representative

Date

2. If the Applicant already has PJM E-Accounts necessary to provide SSO Supply, please check ☐ and please provide documentation from PJM that the Applicant has a PJM E-Account.

Otherwise, please certify that there exist no known impediments for the Applicant to establish any PJM E-Accounts necessary to provide SSO Supply and execute the PJM E-Account contract(s) for the supply period by the start of the supply period.

Signature of Authorized Representative

Date

3. If the Applicant already is a PJM Market Participant and a Load Serving Entity in PJM, please check ☐ and please provide documentation from PJM that the Applicant is a Market Participant.

Otherwise, please certify that there exist no known impediments for the Applicant to become a PJM Market Participant and a Load Serving Entity in PJM by the start of the supply period.

Signature of Authorized Representative

Date

Name of Applicant

4. Further, please certify that:

- a) The Applicant and its corporate officers have no indictments or pending criminal litigation in any federal, state or local jurisdiction relating to the Applicant;

Signature of Authorized Representative

Date

- b) The Applicant and its corporate officers have no criminal convictions;

Signature of Authorized Representative

Date

- c) The Applicant has no civil penalties, judgments, sanctions or consent decrees arising out of the violation of any law, rule, regulation or ordinance in connection with its business activities;

Signature of Authorized Representative

Date

- d) The Applicant has not had any permit or authority to do business in any jurisdiction revoked or suspended; and

Signature of Authorized Representative

Date

Part 1 Application: Duke Energy Ohio, Inc.'s CBP Auctions

Name of Applicant

- e) The Applicant has never been barred from public bidding or sanctioned for unauthorized disclosure of confidential information.

Signature of Authorized Representative

Date

If you are unable to make these certifications in Section 1.6, subsections (1) to (4), please state which certifications you are unable to make and explain all reasons in the space given below.

Name of Applicant _____

1.7 Financial and Credit Information for the Applicant

Please provide the following information for the Applicant:

- a) If the Applicant is an SEC registrant, provide the Form 10-Q or Form 10-K, whichever was filed most recently with the SEC. If both the Form 10-Q and Form 10-K are unavailable, please provide most recent annual (audited) or quarterly financial information (including a balance sheet, income statement, cash flow statement, and related footnotes), accompanied by an attestation by the Applicant's Chief Financial Officer that the information submitted is true, correct and a fair representation of the Applicant's financial condition;
- b) If the Applicant is not an SEC registrant, please provide most recent annual (audited) or quarterly financial data, including related footnotes, accompanied by an attestation by the Applicant's Chief Financial Officer that the information submitted is true, correct and a fair representation of the Applicant's financial condition;
- c) The following information from the most recent financial report along with page references to the relevant financial filings submitted;

	Amount (\$)	Financial Document Page Number	Financial Document Source	Date of Financial Document Source
Goodwill				
Shareholders' Equity (Excluding Non-Controlling Interest)				
Net Intangible Assets				

- d) Applicant's senior unsecured debt ratings from the following three rating agencies if available;

	Rating	Date of the Rating
Moody's		
Standard & Poor's		
Fitch		

 Name of Applicant

If senior unsecured debt ratings are unavailable, but corporate or issuer ratings are available, please provide the corporate or issuer ratings, and the date of the rating, along with documentation showing the name of the rating agency, the type of rating, and the rating of the Applicant:

	Rating	Date of the Rating
Moody's		
Standard & Poor's		
Fitch		

e) Is the Applicant a foreign entity?

Check 'Yes' if the Applicant has not been incorporated or otherwise formed under the laws of the United States.

Yes ☐ No ☐

If the Applicant has not been incorporated or otherwise formed under the laws of the United States, the Applicant is asked to provide in addition to a)-d) above:

- i. A legal opinion acceptable to Duke Energy Ohio of counsel qualified to practice in the foreign jurisdiction in which the Applicant is incorporated or otherwise formed that the Master SSO Supply Agreement will become the binding obligation of the Applicant in the jurisdiction in which it has been incorporated or otherwise formed.
- ii. Any additional information that the Applicant wishes to give that could provide comparable credit assurances to those that are provided by other Applicants that have been incorporated or otherwise formed under the laws of the United States.

An Applicant that has not been incorporated or otherwise formed under the laws of the United States and that does not provide this information or any information that could provide comparable assurances of creditworthiness will be required to post the maximum Pre-Bid Security with its Part 2 Application.

Name of Applicant

Further, if such Applicants become SSO Suppliers, they will be required to submit additional documents as detailed in Article 5 of the Master SSO Supply Agreement, including:

- A legal opinion of counsel qualified to practice in the foreign jurisdiction in which the SSO Supplier is incorporated or otherwise formed that this Agreement is, or upon the completion of execution formalities will become, the binding obligation of the SSO Supplier in the jurisdiction in which it has been incorporated or otherwise formed;
- The sworn certificate of the corporate secretary (or similar officer) of such SSO Supplier that the person executing the Agreement on behalf of the SSO Supplier has the authority to execute the Agreement and that the governing board of such SSO Supplier has approved the execution of the Agreement; and
- The sworn certificate of the corporate secretary (or similar officer) of such SSO Supplier that the SSO Supplier has been authorized by its governing board to enter into agreements of the same type as the Master SSO Supply Agreement.

Is the Applicant and/or its parent:

	Applicant		Parent	
	Yes	No	Yes	No
Operating under federal bankruptcy laws or bankruptcy laws in any jurisdiction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Subject to pending litigation or regulatory proceedings (in state court, or in federal court, or from regulatory agencies, or in any other jurisdiction) which could materially impact the Applicant's and/or parent's financial condition?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Subject to collection lawsuits or outstanding judgments that could impact solvency?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Name of Applicant

Please provide a statement disclosing any existing, pending or past adverse rulings, judgments, litigation, contingent liabilities, revocations of authority, administrative, regulatory (State, FERC, SEC or DOJ) investigations and any other matters relating to financial or operational status for the past three years that arise from the sale of electricity or natural gas, or that materially affect current financial or operational status.

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*Name of Applicant***1.8 Guarantor Information**

The Guarantor information is required only if the Applicant expects to have a third party act as a Guarantor should the Applicant become an SSO Supplier.

Please check here ☐ if this section does not apply to you because you will not have a third party act as a Guarantor and proceed to the next section.

Basic Information for the Guarantor*Name of Guarantor**Legal Name of Guarantor (if different from above)**Place of Incorporation, if applicable**Federal Tax I.D.**D&B DUNS #**Please state whether the Guarantor is a corporation, partnership, etc**Years in Business***Guarantor's Contact Information***Last Name**Given Name(s)**Title**Street Address**City**State**Zip Code**Telephone No.**Cell Phone No.**Fax No.**Email Address*

Name of Applicant

The Guarantor's Credit Representative

The Guarantor's in-house Credit Representative is the individual who can answer questions or provide information about the Guarantor's credit with respect to the requirements for the CBP.

The person designated below is the Guarantor's Credit Representative.

Last Name

Given Name(s)

Title

Street Address

City

State

Zip Code

Telephone No.

Cell Phone No.

Fax No.

Email Address

Please provide the following information for the Guarantor:

- a) If the Guarantor is an SEC registrant, provide the Form 10-Q or Form 10-K, whichever was filed most recently with the SEC. If both the Form 10-Q and Form 10-K are unavailable, please provide most recent annual (audited) or quarterly financial information (including a balance sheet, income statement, cash flow statement, and related footnotes), accompanied by an attestation by the Guarantor's Chief Financial Officer that the information submitted is true, correct and a fair representation of the Applicant's financial condition;
- b) If the Guarantor is not an SEC registrant, please provide most recent annual (audited) or quarterly financial data, including related footnotes, accompanied by an attestation by the Guarantor's Chief Financial Officer that the information submitted is true, correct and a fair representation of the Applicant's financial condition;

Name of Applicant _____

- c) The following information from the most recent financial report along with page references to the relevant financial filings submitted;

	Amount (\$)	Financial Document Page Number	Financial Document Source	Date of Financial Document Source
Goodwill				
Shareholders' Equity (Excluding Non-Controlling Interest)				
Net Intangible Assets				

- d) Guarantor's senior unsecured debt ratings from the following three rating agencies if available;

	Rating	Date of the Rating
Moody's		
Standard & Poor's		
Fitch		

If senior unsecured debt ratings are unavailable, but corporate or issuer ratings are available, please provide the corporate or issuer ratings, and the date of the rating, along with documentation showing the name of the rating agency, the type of rating, and the rating of the Guarantor:

	Rating	Date of the Rating
Moody's		
Standard & Poor's		
Fitch		

Name of Applicant

- e) Is the Applicant relying on the financial standing of a foreign entity ("Foreign Guarantor")?

Check 'Yes' if the Guarantor has not been incorporated or otherwise formed under the laws of the United States.

Yes ☐ No ☐

If the Guarantor has not been incorporated or otherwise formed under the laws of the United States, the Guarantor is asked to provide in addition to a)-d) above:

- i. A legal opinion acceptable to Duke Energy Ohio of counsel qualified to practice in the foreign jurisdiction in which the Guarantor is incorporated or otherwise formed that the Guaranty will become the binding obligation of the Guarantor in the jurisdiction in which it has been incorporated or otherwise formed.
- ii. Any additional information that the Guarantor wishes to give that could provide comparable credit assurances to those that are provided by other Guarantors that have been incorporated or otherwise formed under the laws of the United States.

An Applicant whose Guarantor has not been incorporated or otherwise formed under the laws of the United States and that does not provide this information or any information that could provide comparable assurances of creditworthiness will be required to post the maximum Pre-Bid Security with its Part 2 Application.

Further, if an Applicant with such a Guarantor becomes an SSO Supplier, the Guarantor will be required to submit additional documents as detailed in Article 5 of the Master SSO Supply Agreement, including:

- A legal opinion of counsel qualified to practice in the foreign jurisdiction in which the Guarantor is incorporated or otherwise formed that this Guaranty is, or upon the completion of execution formalities will become, the binding obligation of the Guarantor in the jurisdiction in which it has been incorporated or otherwise formed;
- The sworn certificate of the corporate secretary (or similar officer) of such Guarantor that the person executing the Guaranty on behalf of the Guarantor has the authority to execute the Guaranty and that the governing board of such Guarantor has approved the execution of the Guaranty; and

Name of Applicant

- The sworn certificate of the corporate secretary (or similar officer) of such Guarantor that the Guarantor has been authorized by its governing board to enter into agreements of the same type as the Guaranty.

Is the Guarantor and/or its parent (if applicable):

	Guarantor		Parent	
	Yes	No	Yes	No
Operating under federal bankruptcy laws or bankruptcy laws in any jurisdiction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Subject to pending litigation or regulatory proceedings (in state court, or in federal court, or from regulatory agencies, or in any other jurisdiction) which could materially impact the Guarantor's and/or parent's financial condition?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Subject to collection lawsuits or outstanding judgments that could impact solvency?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Name of Applicant

Please provide a statement disclosing any existing, pending or past adverse rulings, judgments, litigation, contingent liabilities, revocations of authority, administrative, regulatory (State, FERC, SEC or DOJ) investigations and any other matters relating to financial or operational status for the past three years that arise from the sale of electricity or natural gas, or that materially affect current financial or operational status of the Guarantor.

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Name of Applicant

1.9 Additional Certifications

The CBP Bidding Rules, the Master SSO Supply Agreement, the Communications Protocols, and the Information Website include important information that an Applicant should understand prior to participating in the CBP.

- a) Please certify that you have read the CBP Bidding Rules and that you will comply with these rules.

Signature of Authorized Representative

Date

- b) Please certify that you have read the Master SSO Supply Agreement and that you accept its terms. Please also certify that if you become a winning Bidder, you will execute the Master SSO Supply Agreement within three (3) Business Days following the close of the auction:

Signature of Authorized Representative

Date

Name of Applicant

- c) Please certify that if you qualify to participate in the CBP, you will not disclose at any time information regarding the list of Qualified Bidders in the CBP, including but not limited to the number of Qualified Bidders, the identity of any one of the Qualified Bidders (including yourself), or the fact that an entity has not qualified for participation in the CBP. Further, please certify that you will destroy any document distributed by the Auction Manager that lists the Qualified Bidders within five (5) days of the close of the bidding, or earlier if so instructed by the Auction Manager.

Signature of Authorized Representative

Date

- d) No Qualified Bidder in the CBP shall substitute another party, transfer its rights to another party, or otherwise assign its status as a Qualified Bidder to another party. Any such substitutions, transfers, or assignments shall be null and void and will result in the exclusion of the Qualified Bidder from the CBP. Please certify that you agree to the limitation set forth in this paragraph.

Signature of Authorized Representative

Date

The Bidding Rules and Communications Protocols include restrictions on the disclosure of Confidential Information. For purposes of the following certifications, the definition of Confidential Information relative to bidding strategy is defined according to Section 12.2 of the Bidding Rules:

- e) Please certify that you agree not to disclose any Confidential Information relative to bidding strategy to any party that may have an effect on the participation of another bidder, prospective bidder, or on any of the bids that another bidder would be willing to submit.

Signature of Authorized Representative

Date

Name of Applicant

- f) Please certify that, to the extent Confidential Information relative to bidding strategy is disclosed within your organization or to a third party, you will ensure that sufficient precautions are taken to ensure that such Confidential Information is not made public or made available to another Bidder. Such precautions include, but are not limited to confidentiality agreements, non-disclosure agreements, firewalls, and other contractual or structural protections that would maintain the confidential nature of a Bidder's bidding strategy.

Signature of Authorized Representative

Date

If unable to make the certifications requested above please identify the nature of your need to disclose Confidential Information without sufficient precautions to ensure that such Confidential Information is not made public or made available to another bidder.

Name of Applicant

1.10 Alternate Guaranty Forms

A prospective SSO Supplier that wishes to rely on a Guarantor can use the standard form of guaranty (Attachment D to the Master SSO Supply Agreement) and be assured that the standard form of guaranty is acceptable to Duke Energy Ohio. Alternatively, Duke Energy Ohio will consider alternate forms of guaranty if they are submitted with this Part 1 Application. Also, you may submit an alternate form of guaranty that was previously approved.

The Alternate Guaranty Form must satisfy the requirements specified in Appendix B.

Please check here ☐ if this section does not apply to you because you are not submitting an alternate form of guaranty and proceed to the next section. Otherwise please read Appendix B and complete this section.

The Authorized Representative acknowledges by signing below that he/she has read the requirements of Appendix B and that he/she believes that the proposed Alternate Guaranty Form complies with these requirements:

Signature of Authorized Representative

Date

Please check below to show that you are including all required documents.

- ☐ The proposed form of alternate guaranty;
- ☐ Certification that the alternate guaranty has been in general use by the Applicant in its ordinary course of business over the past twelve months;
- ☐ An enforceability opinion with respect to the alternate form of guaranty from counsel; and
- ☐ Previously approved alternate form of guaranty.

Name of Applicant

1.11 Bidding Agreements

Please note that Duke Energy Ohio will not review information provided in this section.

Please check here ☐ if you will be bidding independently and not as a party to any bidding agreement with another party or through any other arrangement involving joint or coordinated bidding with any other party and proceed to the next section.

Otherwise, please indicate below whether you are a party to or a part of a bidding agreement, a joint venture, a bidding consortium, or other arrangements for purposes of participating in the CBP or pertaining to bidding in the CBP. Please also provide the names of the other parties to the bidding agreement or other arrangement.

Other parties to the arrangement:

☐ Bidding Agreement

☐ Bidding Consortium

☐ Joint Venture

☐ Other (define)

If you are part of a bidding agreement, bidding consortium or joint venture, you must nominate a single party to the bidding agreement, bidding consortium or joint venture to fulfill the creditworthiness requirements. This party may have a Guarantor. Please indicate below which party from the bidding agreement, bidding consortium, or joint venture will be fulfilling the creditworthiness requirements:

Name of the single Party fulfilling the creditworthiness requirements:

The Authorized Representative of the party named above must sign here to acknowledge the fact that this party has agreed to fulfill the creditworthiness requirements:

Signature of Authorized Representative

Date

Name of Applicant

1.12 Justification of Omissions

If you are unable to provide all documents or all information requested in this Part 1 Application, please justify fully any omissions in the space provided below.

Name of Applicant

Appendix A – Enclosures to the Part 1 Application

This is a checklist of documents to be enclosed with this Part 1 Application. Please submit only one copy of required supporting documents to the application unless noted otherwise.

- ☐ A copy of the completed Part 1 Application with all required signatures and notarized signatures of Sections 1.2, 1.3 and 1.4 *[Instructions Part 1]*

For the Applicant:

- ☐ A copy of the signature page of the applicable PJM Agreements as that term is defined in the Master SSO Supply Agreement *[Section 1.6]*
- ☐ If the Applicant is an SEC registrant, provide the Form 10-Q or Form 10-K, whichever was filed most recently with the SEC. If both the Form 10-Q and Form 10-K are unavailable, please provide most recent annual (audited) or quarterly financial information (including a balance sheet, income statement, cash flow statement, and related footnotes), accompanied by an attestation by the Applicant's Chief Financial Officer that the information submitted is true, correct and a fair representation of the Applicant's financial condition *[Section 1.7]*
- ☐ If the Applicant is not an SEC registrant, please provide most recent annual (audited) or quarterly financial data, including related footnotes, accompanied by an attestation by the Applicant's Chief Financial Officer that the information submitted is true, correct and a fair representation of the Applicant's financial condition *[Section 1.7]*
- ☐ Senior unsecured debt ratings or, if unavailable, corporate or issuer ratings *[Section 1.7]*
- ☐ If the Applicant has not been incorporated or otherwise formed under the laws of the United States, (i) a legal opinion acceptable to Duke Energy Ohio of counsel qualified to practice in the foreign jurisdiction in which the Applicant is incorporated or otherwise formed that the Master SSO Supply Agreement will become the binding obligation of the Applicant in the jurisdiction in which it has been incorporated or otherwise formed, and (ii) any additional information that the Applicant wishes to give that could provide comparable credit assurances to those that are provided by other Applicants that have at least two credit ratings from accepted credit ratings agencies. *[Section 1.7]*

Name of Applicant

For the Guarantor:

- ☐ If the Guarantor is an SEC registrant, provide the Form 10-Q or Form 10-K, whichever was filed most recently with the SEC. If both the Form 10-Q and Form 10-K are unavailable, please provide most recent annual (audited) or quarterly financial information (including a balance sheet, income statement, cash flow statement, and related footnotes), accompanied by an attestation by the Guarantor's Chief Financial Officer that the information submitted is true, correct and a fair representation of the Applicant's financial condition [Section 1.8]
- ☐ If the Guarantor is not an SEC registrant, please provide most recent annual (audited) or quarterly financial data, including related footnotes, accompanied by an attestation by the Guarantor's Chief Financial Officer that the information submitted is true, correct and a fair representation of the Applicant's financial condition [Section 1.8]
- ☐ Senior unsecured debt ratings or, if unavailable, corporate or issuer ratings [Section 1.8]
- ☐ If the Guarantor has not been incorporated or otherwise formed under the laws of the United States, (i) a legal opinion acceptable to Duke Energy Ohio of counsel qualified to practice in the foreign jurisdiction in which the Guarantor is incorporated or otherwise formed that the Guaranty will become the binding obligation of the Guarantor in the jurisdiction in which it has been incorporated or otherwise formed, and (ii) any additional information that the Guarantor wishes to give about the Guarantor's financial standing that could provide comparable credit assurances to those that are provided by other Guarantors that have at least two credit ratings from accepted credit rating agencies. [Section 1.8]

If the Applicant is proposing an Alternate Guaranty Form:

- ☐ Proposed form of alternate guaranty [Section 1.10]
- ☐ Certification that the alternate guaranty has been in general use by the Applicant in its ordinary course of business over the past twelve months [Section 1.10]
- ☐ An enforceability opinion with respect to the alternate form of guaranty from counsel [Section 1.10]
- ☐ Previously approved alternate form of guaranty. [Section 1.10]

Name of Applicant

Appendix B – Alternate Guaranty Forms (Optional)

The **criteria** used to review the alternate form of guaranty are as follows:

1. The alternate guaranty must be a financial guaranty; performance guarantees are not acceptable.
2. The alternate guaranty must be an unconditional guaranty of payment of all amounts due by the SSO Supplier to Duke Energy Ohio under the Master SSO Supply Agreement. The Master SSO Supply Agreement must be expressly identified and the satisfaction of obligations through performance may not be authorized.
3. The alternate guaranty may be terminated upon not less than thirty (30) days advance written notice to Duke Energy Ohio and termination shall not discharge liabilities and obligations of the Guarantor that have been incurred before the effective date of the termination.
4. The alternate guaranty must be accompanied by a certification that this form of guaranty, subject to changes needed to conform to the specific requirements of Duke Energy Ohio, has been in general use by the submitting party in its ordinary course of business over the past twelve months.
5. The alternate guaranty must be a guaranty of payment and not of collection.
6. Assignment of the alternate guaranty shall not be permitted except with the prior written consent of Duke Energy Ohio.
7. The Applicant must provide an enforceability opinion with respect to the alternate form of guaranty from its counsel. The accompanying enforceability opinion must be from a law firm of national (i.e., United States) standing, must not be weaker than would be industry norm and must contain only those qualifications that would be typical. The opinion shall name Duke Energy Ohio and explicitly state that Duke Energy Ohio is entitled to rely on the opinion.

The alternate forms of guaranty will be reviewed in accordance with the following process:

- Upon receipt of the Part 1 Application, the Auction Manager will redact the proposed alternate form of guaranty to remove any information identifying the Applicant. The Auction Manager will then forward the redacted version to a credit and legal representative of Duke Energy Ohio.
- The credit representative and legal representative will determine whether the alternate form of guaranty provides sufficient assurances of payment, taking into account the following considerations:
 - (i) whether the alternate form of guaranty conforms with the specific requirements identified by Duke Energy Ohio (listed above);

Name of Applicant

- (ii) whether the alternate form of guaranty provides substantially similar credit protections to the credit protections provided to Duke Energy Ohio by the standard form of guaranty; and
 - (iii) whether the alternate form of guaranty includes defenses in favor of the Guarantor not found in the standard form of guaranty. The Duke Energy Ohio representative may also identify specific changes that would permit the alternate form of guaranty to be acceptable, if such changes are of a limited nature.
- The credit representative and legal representative shall inform the Auction Manager of its decision no later than seven (7) Business Days following the Part 1 Application Due Date.
- Upon receipt of the Duke Energy Ohio's decision, the Auction Manager will notify the Applicant of Duke Energy Ohio's decision. The Duke Energy Ohio's decision will either state:
 - (i) The proposed alternate guaranty is acceptable to Duke Energy Ohio in the form in which it was submitted.
 - (ii) The proposed alternate guaranty is not acceptable to Duke Energy Ohio in the form in which it was submitted, but would be acceptable subject to specific changes of a minor nature. The correspondence from the Auction Manager will set forth the required changes.
 - (iii) The proposed alternate guaranty is not acceptable to Duke Energy Ohio.
- If specific changes are required to the proposed alternate guaranty, the Applicant will be required to resubmit the alternate guaranty form with changes identified by Duke Energy Ohio on the Business Day following the Business Day during which the Auction Manager notified the Applicant of the Duke Energy Ohio's decision. No later than three (3) Business Days after the Applicant's resubmission, the Auction Manager will notify the Applicant of Duke Energy Ohio's final decision.

A potential bidder that had secured approval for an alternate form of guaranty for a prior Duke Energy Ohio CBP and that wishes to use the same alternate form of guaranty can renew this approval for any CBP by submitting:

1. The alternate form of guaranty for the prior Duke Energy Ohio CBP;
2. The enforceability opinion for the prior Duke Energy Ohio CBP;
3. A certification that the text of the alternate form of guaranty is exactly the same as the alternate form of guaranty that had been previously approved for the prior Duke Energy Ohio CBP;
4. A certification that the text of the enforceability opinion is the same as the enforceability opinion that had been previously approved for the prior Duke Energy Ohio CBP.

Name of Applicant

If a potential bidder submits the materials as specified above, the alternate form of guaranty will be approved. If a potential bidder had secured approval for an alternate form of guaranty for a prior Duke Energy Ohio CBP but is unable to provide the materials as specified above, the potential bidder must resubmit the alternate form of guaranty and all supporting documentation as specified in the Minimum Requirements for the Alternate Form of Guaranty section above and these materials will be re-evaluated according to the criteria set forth in this document.

All proposing parties that become Qualified Bidders under the Part 1 Application process, but whose alternate guaranty are rejected by Duke Energy Ohio, are required to submit with their Part 2 Application a supplemental certification that the Applicant unconditionally accepts all terms and conditions of the Master SSO Supply Agreement.

*Name of Applicant***Appendix C – Draft Letter of Credit for the Pre-Bid Security (Optional)**

The standard form of the Letter of Credit presented in this section is in a form acceptable to Duke Energy Ohio and will be posted to the Information Website. However, an Applicant has the option to submit a draft Letter of Credit clearly identifying proposed changes in an electronic, redlined version by email with their Part 1 Application to duke-energyauctionmanager@crai.com.

Duke Energy Ohio will assess, in its sole and exclusive discretion, whether such modifications are acceptable. The Qualified Bidder, in its Part 2 Application, must provide the required executed Letter of Credit that either uses the standard form or incorporates only those modifications to the standard form accepted by Duke Energy Ohio upon review of the Part 1 Application. The draft Letter of Credit will be reviewed in accordance with the following process:

- Upon receipt of the Part 1 Application, the Auction Manager will redact the draft Letter of Credit to remove any information identifying the Applicant. The Auction Manager will then forward the redacted version to a credit and legal representative of Duke Energy Ohio.
- The credit and legal representative will determine whether such modifications are acceptable. The credit and legal representative shall inform the Auction Manager of its decision no later than seven (7) Business Days following the Part 1 Application Due Date.
- Upon receipt of the Duke Energy Ohio's' decision, the Auction Manager will notify the Applicant of Duke Energy Ohio's decision. Duke Energy Ohio's decision will either state:
 - The draft Letter of Credit is acceptable to Duke Energy Ohio in the form in which it was submitted.
 - The draft of Letter of Credit is not acceptable to Duke Energy Ohio in the form in which it was submitted, but would be acceptable subject to specific changes of a minor nature. The correspondence from the Auction Manager will set forth the required changes.
 - The draft Letter of Credit is not acceptable to Duke Energy Ohio.
- If specific changes are required to the draft Letter of Credit, the Applicant will be required to resubmit the draft Letter of Credit with changes identified by Duke Energy Ohio on the Business Day following the Business Day during which the Auction Manager notified the Applicant of the Duke Energy Ohio's decision. No later than three (3) Business Days after the Applicant's resubmission, the Auction Manager will notify the Applicant of Duke Energy Ohio's final decision.

Name of Applicant

End of Part 1 Application

Sample**Pre-Bid Security - Letter of Credit**

_____ [Date]

Letter of Credit No. _____

To: Duke Energy Ohio, Inc. ("Duke Energy Ohio")
550 South Tryon Street (DEC40C)
Charlotte, NC 28202
Attention: Chief Risk Officer

1. We hereby establish in your favor this irrevocable standby Letter of Credit (this "Letter of Credit") for the account of _____ ("the Bidder"), in the amount of \$_____, effective immediately and available to you at sight upon demand at our counters at _____ [location] and expiring on _____ [date] which is 60 calendar days from date of issuance, unless terminated earlier in accordance with the provisions hereof or otherwise extended.
2. This Letter of Credit is issued at the request of the Bidder, and we hereby irrevocably authorize you to draw on us, in accordance with the terms and conditions hereof, up to the maximum amount of this Letter of Credit, subject to reduction as provided in Paragraph 11 hereof. This Letter of Credit may be drawn by presenting a certificate from you stating that the Bidder:
 - a) "has made a material omission or misrepresentation in the Part 1 Application or the Part 2 Application submitted by the Bidder to participate in Duke Energy Ohio's Competitive Bidding Process for purposes of procuring supply under the Master Standard Service Offer Supply Agreement"; or
 - b) "has violated the bidding rules for Duke Energy Ohio's Competitive Bidding Process for purposes of procuring supply under the Master Standard Service Offer Supply Agreement"; or
 - c) "has a winning bid in Duke Energy Ohio's Competitive Bidding Process for purposes of procuring supply under the Master Standard Service Offer Supply Agreement and has failed to execute the Master Standard Service Offer Supply Agreement within three (3) business days of the closing of the Solicitation (as defined in the Master Standard Service Offer Supply Agreement)"; or
 - d) "has a winning bid in Duke Energy Ohio's Competitive Bidding Process for purposes of procuring supply under the Master Standard Service Offer Supply Agreement and has failed to meet the creditworthiness requirements of the Master Standard Service Offer Supply Agreement within three (3) business days of the closing of the Solicitation (as defined in the Master Standard Service Offer Supply Agreement)".

3. A partial or full drawing hereunder may be made by you on any Business Day on or prior to the expiration of this Letter of Credit by delivering, by no later than 11:00 A.M. (prevailing Eastern Time¹) on such Business Day to _____ [bank], _____ [address], the following documents appropriately completed and signed by an authorized representative of Duke Energy Ohio: (i) a notice in the form of Annex 1 hereto, and (ii) your draft in the form of Annex 2 hereto.
4. We hereby agree to honor your drawing made in compliance with the terms and conditions of this Letter of Credit by transferring in immediately available funds the amount specified and to the account directed in your draft delivered to us pursuant to Paragraph 3 hereof, by 3:00 PM (prevailing Eastern Time) on the date of such drawing if delivery of the requisite documents is made prior to 11:00 AM (prevailing Eastern Time) on a Business Day pursuant to Paragraph 3 hereof, but at the opening of business on the first Business Day next succeeding the date of such drawing if delivery of the requisite documents is made on or after 11:00 AM (prevailing Eastern Time) on any Business Day pursuant to Paragraph 3 hereof.
5. We shall have a reasonable amount of time, not to exceed three (3) Business Days following the date of our receipt of drawing documents, to examine the documents and determine whether to take up or refuse the documents and to inform you accordingly. Upon being notified that the demand for payment was not effected in conformity with this Letter of Credit, you may attempt to correct any such non-conforming demand for payment to the extent that you are entitled to do so, provided, however, in such event a conforming demand for payment must be timely made in accordance with the terms of this Letter of Credit.
6. This Letter of Credit shall automatically terminate and be delivered to us for cancellation on the earliest of (i) the making by you and payment by us of the drawings in an amount equal to the maximum amount available to be made hereunder, (ii) the date we receive from you a Certificate of Expiration in the form of Annex 3 hereto, or (iii) the above-stated expiration date hereof.
7. As used herein, "Business Day" means any day on which commercial banks are not authorized or required to close in New York, NY and any day on which payments can be effected on the Fed wire system.
8. This Letter of Credit is not transferable, and except as otherwise expressly stated herein, is subject to the International Standby Practices 1998, International Chamber Of Commerce Publication No. 590 ("ISP98"). All banking charges are for the account of the Bidder. This Letter of Credit shall, as to matters not governed by the ISP98, be governed and construed in accordance with New York law, without regard to principles of conflicts of law.
9. This Letter of Credit sets forth in full our undertaking, and such undertaking shall not in any way be modified, amended, changed, amplified or limited by reference to any document, instrument or agreement referred to herein, except for Annexes 1 through 3 hereto and the notices referred to herein; and any such reference shall not be deemed to incorporate herein by reference any document, instrument or agreement except as set forth above.

¹ If the issuer of the Letter of Credit is located in an area that is not in the Eastern time zone, this time, all other times in this Letter of Credit, and the definition of a Business Day should be adjusted accordingly.

10. We certify that as of _____ [date] we _____ [Bank] satisfy the minimum long-term senior unsecured debt rating of "A-" from Standard & Poor's Rating Services or "A3" from Moody's Investors Service, Inc.
11. The amount which may be drawn by you under this Letter of Credit shall be automatically reduced by the amount of any drawings paid through us referencing this Letter of Credit No. _____. Partial drawings are permitted hereunder. Drafts showing amounts in excess of amounts available under this Letter of Credit are acceptable, however, in no event will payment exceed the amount available to be drawn under this Letter of Credit.
12. Presentation to us of documents under this Letter of Credit includes presentation in person, by certified or overnight mail or by fax. Presentation by fax must be made to fax number _____ and confirmed by telephone to our Standby Letter of Credit Unit at _____.
13. This original Letter of Credit has been sent to the Auction Manager for Duke Energy Ohio's Competitive Bidding Process:

Attn: Robert Lee, Vice President
CRA International, Inc.
200 Clarendon Street, T-9
Boston, MA 02116-5092
Phone: 617-425-3365

We understand that the Auction Manager holds the Letter of Credit for the benefit of Duke Energy Ohio. The aggregate amount paid to Duke Energy Ohio during the validity of this Letter of Credit will not exceed the amount of this Letter of Credit. Any demands or communications in the form of the attached Annexes or other communications directed to us under this Letter of Credit must be signed by an authorized representative of Duke Energy Ohio. Acceptance or rejection of any amendments to this Letter of Credit must be signed by an authorized representative of Duke Energy Ohio.

Very truly yours,

[Bank]

By: _____

Name:

Title:

By: _____

Name:

Title:

Annex 1 to Letter of Credit

DRAWING UNDER LETTER OF CREDIT NO. _____

_____, 20__

To: [Bank]
[Address]

Attention: Standby Letter of Credit Unit

Ladies and Gentlemen:

The undersigned is making a drawing under the above-referenced Letter of Credit in the amount specified below and hereby certifies to you as follows:

1. Capitalized terms used and not defined herein shall have the meanings ascribed thereto in the Letter of Credit.

2. Pursuant to Paragraph 2 of the Letter of Credit No. _____, dated _____, 20__, the undersigned is entitled to make a drawing under the Letter of Credit in the aggregate amount of \$_____, inasmuch as the Bidder has _____ (state reason from conditions (a) – (d) of Paragraph 2).

3. The amount to be received by Duke Energy Ohio is \$_____.

4. We acknowledge that, upon your honoring the drawing herein requested, the amount of the Letter of Credit available for drawing shall be automatically decreased by an amount equal to this drawing.

Very truly yours,

Duke Energy Ohio, Inc.

By _____
Name:
Title:
Date:

Annex 2 to Letter of Credit

DRAWING UNDER LETTER OF CREDIT NO. _____

_____, 20__

ON [Business Day pursuant to Paragraph 4]

PAY TO: Duke Energy Ohio, Inc.

\$ _____

For credit to the account of _____.

FOR VALUE RECEIVED AND CHARGE TO ACCOUNT OF LETTER OF CREDIT NO.
_____ OF

[Bank]

[Address]

Duke Energy Ohio, Inc.

By _____

Name:

Title:

Date:

Annex 3 to Letter of Credit

CERTIFICATE OF EXPIRATION
OF LETTER OF CREDIT NO. _____

_____, 20__

To: [Bank]
[Address]

Attention: Standby Letter of Credit Unit

Ladies and Gentlemen:

The undersigned hereby certifies to you that the above referenced Letter of Credit may be cancelled without payment. Attached hereto is said Letter of Credit, marked cancelled.

Duke Energy Ohio, Inc.

By _____
Name:
Title:
Date:

cc: _____ [Bidder]

Sample Letter of Intent to Provide a Guaranty

_____ [Date]

To: Duke Energy Ohio, Inc. ("Duke Energy Ohio")

Ladies and Gentlemen:

We have been asked to provide a financial guaranty on behalf of _____ ("Bidder") should Bidder become a Standard Service Offer Supplier pursuant to its bid in Duke Energy Ohio's Competitive Bidding Process for purposes of procuring supply under the Master Standard Service Offer Supply Agreement.

Our relationship with Bidder is that of _____ [parent, affiliate, etc.]. Our senior unsecured debt rating meets the Minimum Rating as defined in the Master Standard Service Offer Supply Agreement.

We have confidence in Bidder's management and in its project development, implementation and operational capabilities.

Should there be no material change in affairs, we would consider providing a financial guaranty on behalf of Bidder, such that our liability does not exceed \$_____ [amount]. We understand that this amount would be in excess of the amount of any guaranty that we have provided on behalf of Bidder. This letter, however, should not and cannot be taken as an indication of financing commitment of any kind whatsoever, or an absolute commitment to provide a financial guaranty.

Please feel free to call us if you require any additional information.

Sincerely,

Authorized signature

[Guarantor]

[name] [title]

Ladies and Gentlemen:

We _____ [Bidder] certify that we have obtained this letter of intent in good faith, and that we know of no action on our part that would significantly impair _____ [Guarantor]'s assessment or its ability to provide us with the support described above.

Authorized signature

[Bidder]

[name] [title]

Samples for Letter of Reference**SAMPLE 1**

_____ [Date]

Letter of Reference No. _____

To: Duke Energy Ohio, Inc. ("Duke Energy Ohio")

Ladies and Gentlemen:

We _____ ("the Bank") are currently the agent on a \$_____ [amount] revolving credit facility to _____ ("Bidder"). At this time, there is sufficient unused availability under the credit facility to issue a letter of credit in the amount of \$_____ [amount] on behalf of Bidder in support of its bid in Duke Energy Ohio's Competitive Bidding Process for purposes of procuring supply under the Master Standard Service Offer Supply Agreement.

We have had a relationship with Bidder since _____ [date]. Our relationship with Bidder remains in good standing.

We certify that we, the Bank, satisfy the minimum senior unsecured debt rating of "A-" from Standard & Poor's or "A3" from Moody's.

Please feel free to call us if you require any additional information.

Sincerely,

Authorized signature

Bank

[name] [title]

Ladies and Gentlemen:

We _____ [Bidder] certify that we have obtained this letter of reference in good faith, and that we know of no action on our part that would significantly alter the unused availability under the credit facility mentioned above, or otherwise impair _____ [Bank]'s ability to provide us with the support described above.

Authorized signature

Bidder

[name] [title]

SAMPLE 2

_____ [Date]

Letter of Reference No. _____

To: Duke Energy Ohio, Inc. ("Duke Energy Ohio")

Ladies and Gentlemen:

We _____ ("the Bank") are currently the agent on the credit agreements to _____ ("Bidder"). Bidder has \$_____ [amount] of unused credit facilities at our bank available for borrowing under the terms and conditions of these credit agreements. Such a loan could be used as a cash deposit in support of Bidder's bid in Duke Energy Ohio's Competitive Bidding Process for purposes of procuring supply under the Master Standard Service Offer Supply Agreement.

We have had a relationship with Bidder since _____ [date]. Our relationship with Bidder remains in good standing.

We certify that we, the Bank, satisfy the minimum senior unsecured debt rating of "A-" from Standard & Poor's or "A3" from Moody's.

Please feel free to call us if you require any additional information.

Sincerely,

Authorized signature
[Bank]
[name] [title]

Ladies and Gentlemen:

We _____ [Bidder] certify that we have obtained this letter of reference in good faith, and that we know of no action on our part that would significantly alter the amount of unused credit facilities mentioned above, or otherwise impair _____ [Bank]'s ability to provide us with the support described above.

Authorized signature
[Bidder]
[name] [title]

SAMPLE 3

_____[Date]

Letter of Reference No. _____

To: Duke Energy Ohio, Inc. ("Duke Energy Ohio")

Ladies and Gentlemen:

We have been asked to provide a letter of reference on behalf of _____ ("Bidder") relative to its intentions to bid in Duke Energy Ohio's Competitive Bidding Process for purposes of procuring supply under the Master Standard Service Offer Supply Agreement.

Our relationship with Bidder has been extensive and has included involvement in a credit facility for \$_____ [amount] with aggregate lending commitments in excess of \$_____ [amount].

Should there be no material change in affairs, we would consider extending a letter of credit to Bidder in an amount not to exceed \$_____ [amount]. This letter, however, should not and cannot be taken as an indication of financing commitment or guaranty of any kind whatsoever, or an absolute commitment to provide any other services.

We certify that we _____ ("Bank") satisfy the minimum senior unsecured debt rating of "A-" from Standard & Poor's or "A3" from Moody's.

Please feel free to call us if you require any additional information.

Sincerely,

Authorized signature

[Bank]

[name] [title]

Ladies and Gentlemen:

We _____ [Bidder] certify that we have obtained this letter of reference in good faith, and that we know of no action on our part that would significantly impair _____ [Bank]'s assessment or its ability to provide us with the support described above.

Authorized signature

[Bidder]

[name] [title]

Attachment D

Part 2 Application for Duke Energy Ohio, Inc.'s Competitive Bidding Process Auctions

Part 2 Application: Duke Energy Ohio, Inc.'s CBP Auctions

Name of Applicant

PART 2 APPLICATION

Duke Energy Ohio, Inc.'s Competitive Bidding Process Auctions

INSTRUCTIONS

There are two parts to the application process.

- **Part 1 Application:** Applicants submit the Part 1 Application and all documents required therein to become Qualified Bidders for the Competitive Bidding Process ("CBP").
- **Part 2 Application:** Qualified Bidders for the CBP submit the Part 2 Application, in which they will agree to comply with the Bidding Rules and Communications Protocols, accept the terms of Duke Energy Ohio, Inc.'s ("Duke Energy Ohio") Master Standard Service Offer Supply Agreement ("Master SSO Supply Agreement"), make certifications regarding associations and handling of Confidential Information, submit Indicative Offers, and post Pre-Bid Security to become Registered Bidders.

This document is the Part 2 Application.

For further information, consult the Information Website.

Unless otherwise defined, capitalized terms in this document have the definitions provided in either the Glossary or the Master SSO Supply Agreement.

PART 2 APPLICATION SUBMISSION

To become Registered Bidders for the Auction, Applicants must submit the following to the Auction Manager electronically through the Secure Application Process by the Part 2 Application Due Date:

1. **Electronic Application Form:** Completed Part 2 Application;
2. **PDF Application Form:** One (1) scanned copy of the completed Part 2 Application document with all required signatures and the name of the Applicant on every page of the Part 2 Application;

Part 2 Application: Duke Energy Ohio, Inc.'s CBP Auctions

Name of Applicant

In addition to the completed Part 2 Application Forms, each Qualified Bidder must:

- Submit an Indicative Offer for the CBP;
- Submit a Pre-Bid Security Letter of Credit, cash, and/or any additional Pre-Bid Security to support the Indicative Offer, as necessary; and
- Make required certifications on Applicant Associations and Confidential Information and, if unable to do so, make required information disclosures.

The completed Part 2 Application and the Pre-Bid Security MUST be received by the Auction Manager no later than 12:00 p.m. noon prevailing Eastern Time on the Part 2 Application due date as posted in the timeline on the Information Website.

Part 2 Application: Duke Energy Ohio, Inc.'s CBP Auctions

Name of Applicant

CONFIDENTIALITY OF PART 2 APPLICATION SUBMISSIONS

All Applicants are required to comply with the Communications Protocols.

Confidentiality requirements specific to the Part 2 Application are reiterated below.

CONFIDENTIALITY OF CREDIT INFORMATION

Any information and materials that you submit in this Part 2 Application may be provided on a confidential basis to the Auction Manager Team and the Public Utilities Commission of Ohio ("PUCO" or "Commission") and their representatives. Representatives from Duke Energy Ohio will decide whether the form of Pre-Bid Security submitted is acceptable; Pre-Bid Security documents will be redacted prior to the closing of the bidding process so as not to reveal an Applicant's identity or the amount of the Applicant's Indicative Offer.

CONFIDENTIALITY OF REGISTERED BIDDERS AND INITIAL ELIGIBILITY

Upon completion of the Part 2 Application process, the names of Registered Bidders will be provided to other Registered Bidders on a confidential basis, as well as the total Initial Eligibility aggregated across all Registered Bidders and products. As part of this Part 2 Application, you are required to certify that you agree to release your name to other Registered Bidders and that you will keep confidential the list of Registered Bidders and total Initial Eligibility that is provided to you.

Part 2 Application: Duke Energy Ohio, Inc.'s CBP Auctions

Name of Applicant

PART 2 APPLICATION
Duke Energy Ohio, Inc.'s
Competitive Bidding Process Auctions

This Part 2 Application is the application form to become a Registered Bidder in Duke Energy Ohio's CBP.

I. Background Information

Before completing this form, please review the Bidding Rules document for this CBP ("Bidding Rules"), the Master SSO Supply Agreement, the Communications Protocols, and other documents posted on the Information Website so that you understand the conditions under which the CBP will be conducted.

II. Confirmation of Receipt

Online delivery: If your Part 2 Application is submitted online through the Secure Application Process, an email will be sent to the Authorized Representative and Delegate to confirm receipt. You will still be required to submit through the online Secure Application Process or via email a scanned copy of the Part 2 Application with all required signatures.

III. Incomplete Applications

If your Part 2 Application is incomplete or requires clarification, the Auction Manager will send a deficiency notice to your Authorized Representative by email. You will have until 12:00 p.m. noon prevailing Eastern Time on the Part 2 Application Due Date, or until 5:00 p.m. prevailing Eastern Time on the Business Day following the Business Day during which a deficiency notice is sent to you, whichever comes later, to respond. If you do not correct or adequately explain the deficiency within the time allowed, your Part 2 Application may be rejected and you may be unable to participate in the CBP. All corrections to remedy deficiencies within an Applicant's Part 2 Application must be submitted online. The Authorized Representative needs to sign and date next to the correction(s) to the Part 2 Application and send to the Auction Manager by email to duke-energyauctionmanager@crai.com or through the online Secure Application Process.

Part 2 Application: Duke Energy Ohio, Inc.'s CBP Auctions

Name of Applicant

IV. Late Applications

Part 2 Applications received after the stated deadline will NOT be accepted under any circumstances.

V. Changes to Part 1 Application

If changes to the Part 1 Application are warranted in order to fulfill the requirements of the Part 2 Application, those changes to the Part 1 Application must be received by the Auction Manager no later than 12:00 p.m. noon prevailing Eastern Time seven (7) Business Days prior to the Part 2 Application Due Date. All changes to an Applicant's Part 1 Application must be signed and dated by the Authorized Representative and sent to the Auction Manager by email to duke-energyauctionmanager@crai.com or through the online Secure Application Process.

VI. Deficient Pre-Bid Security

If your Pre-Bid Security is insufficient for your Indicative Offer or if your Pre-Bid Security is in a form that is not acceptable to Duke Energy Ohio, your Authorized Representative will be emailed a deficiency notice. You will have until the Part 2 Application Due Date or 5:00 p.m. prevailing Eastern Time of the second Business Day following the Business Day during which you are notified, whichever comes later, to submit acceptable and sufficient Pre-Bid Security. If you cannot correct the deficiency, your Application may be rejected or your Initial Eligibility may be reduced by the Auction Manager so that your Pre-Bid Security is sufficient to cover your Indicative Offer.

VII. Certifications Regarding Associations

You may be required to provide additional information to the Auction Manager and to the Commission and its representatives if you are unable to make the certifications in this Part 2 Application.

VIII. Notification to Registered Bidders

If you become a Registered Bidder for the CBP, the Auction Manager will send a Notification to Registered Bidders to your Authorized Representative by email after the Part 2 Application Due Date. The Notification to Registered Bidders will also be sent to your Authorized Representative by courier. If there are material changes to the Applicant's information provided in this Part 2 Application, you are obligated to notify the Auction Manager.

Part 2 Application: Duke Energy Ohio, Inc.'s CBP Auctions

Name of Applicant

Prior to the auction, Registered Bidders will receive information to participate in the auction using the Auction Manager's secure Bidding Website.

Part 2 Application: Duke Energy Ohio, Inc.'s CBP Auctions

*Name of Applicant***PART 2 APPLICATION FORMS**

2.1 Applicant Information**Name of Applicant (Company Name)****Authorized Representative's Contact Information**

Last Name

Given Name(s)

Mr/Mrs/Ms/Dr/(other)

Title

Street Address 1

Street Address 2

City

State

Zip Code

Telephone No.

Cell Phone No.

Fax No.

Email Address

Part 2 Application: Duke Energy Ohio, Inc.'s CBP Auctions

*Name of Applicant***Delegate's Contact Information**

Last Name

Given Name(s)

Mr/Mrs/Ms/Dr/(other)

Company Name

Title

Street Address 1

Street Address 2

City

State

Zip Code

Telephone No.

Cell Phone No.

Fax No.

Email Address

NOTE: The Authorized Representative and Delegate should be the same contact information that was provided in the Part 1 Application. Please email duke-energyauctionmanager@crai.com if there are any changes to this information prior to the deadline for making changes as outlined in Section V above.

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Name of Applicant

2.2 Indicative Offer and Pre-Bid Security

In Table 2.1 below, provide your Indicative Offer at the Minimum Starting Price and the Maximum Starting Price for each product in the auction. Your Indicative Offer should be the maximum number of Tranches that you would be willing to supply at the Starting Prices for the auction subject to the limitations of any applicable credit-based tranche limit and any applicable Load Cap for the auction. In the auction itself, you are not required to bid the number of Tranches in your Indicative Offer. However, your Initial Eligibility to bid in the auction will be determined by the total number of Tranches across the products in your Indicative Offer at the Maximum Starting Price.

You are required to submit a Pre-Bid Security Letter of Credit or cash deposit for an amount equal to \$250,000 multiplied by the total number of Tranches in your Indicative Offer at the Maximum Starting Price(s). If you were required to do so, please provide additional Pre-Bid Security in an acceptable form. Instructions regarding the amount of the Letter of Reference and the amount of the Letter of Intent to Provide a Guaranty are provided in Table 2.1. Credit Documents in support of your Pre-Bid Security should be in the form provided on the Information Website or as approved in modified form during the Part 1 Application process.

Please check here ☐ if you are submitting a cash deposit as Pre-Bid Security.

Please check here ☐ if you are submitting a Letter of Credit as Pre-Bid Security.

Please check here ☐ if you are submitting a Letter of Intent to Provide a Guaranty from the named Guarantor on the Part 1 Application Forms [Section 1.8] as additional Pre-Bid Security.

Please check here ☐ if you are submitting a Letter of Reference from a bank as additional Pre-Bid Security.

Complete Table 2.1 to include the amounts of the cash deposits, Pre-Bid Security Letter of Credit and/or other additional Pre-Bid Security that you are providing with this Part 2 Application.

Part 2 Application: Duke Energy Ohio, Inc.'s CBP Auctions

Name of Applicant**Table 2.1 Indicative Offer and Pre-Bid Security**

Indicative Offer (number of Tranches)	Tranches @ Min Starting Price	Tranches @ Max Starting Price
24-month supply period Starting Price: Minimum=\$XX.XX/MWh Maximum=\$YY.YY/MWh		
Amount of cash deposit or Letter of Credit All Bidders: This amount is equal to \$250,000 multiplied by the number of Tranches at Max Starting Price		Cash LoC
Amount of Additional Pre-Bid Security If required, this amount is equal to \$500,000 multiplied by the number of Tranches at Max Starting Price. NOTE: Stand-alone investment-grade companies with a sufficient Independent Credit Threshold (ICT) to cover the amount of additional Pre-Bid Security calculated above are not required to post additional security. All other Bidders are required to post additional Pre-Bid Security in the form of a Letter of Intent to Provide a Guaranty and/or a Letter of Reference for an amount not to exceed their ICT. If necessary, additional cash or a Letter of Credit may be provided in lieu of a Letter of Reference.		
<ul style="list-style-type: none"> Please enter the amount of additional Pre-Bid Security in the form of a Letter of Intent to Provide a Guaranty in the box on the right. NOTE: This is an option for companies with an investment-grade guarantor. 		
<ul style="list-style-type: none"> Please enter the amount of additional Pre-Bid Security in the form of a Letter of Reference in the box on the right. NOTE: This is an option for companies without an investment grade rating and/or with a below-investment grade guarantor. 		
<ul style="list-style-type: none"> Please enter the amount of additional Pre-Bid Security in the form of cash deposit or Letter of Credit in the box on the right. NOTE: This is an option for companies unable to provide a Letter of Reference of sufficient magnitude to cover the additional Pre-Bid Security amount. 		Cash LoC

Part 2 Application: Duke Energy Ohio, Inc.'s CBP Auctions

Name of Applicant

If you are submitting a Pre-Bid Security Letter of Credit, in the space below, please provide instructions for returning the Letter of Credit once it can be cancelled. If you submit a Pre-Bid Security Letter of Credit and leave this field blank, the Pre-Bid Security Letter of Credit will be returned to the issuing bank once it can be cancelled.

If you are submitting a cash deposit, please attach a copy of your W9 (for tax ID) and banking information on your company's letterhead (signed and dated) and, in the space below please provide wiring instructions for returning your cash deposit.

Part 2 Application: Duke Energy Ohio, Inc.'s CBP Auctions

Name of Applicant

- (2) Please certify that, other than parties explicitly named in Section 1.11 of your Part 1 Application as parties with whom you have entered into a Bidding Agreement, Joint Venture for the purpose of bidding in the CBP, or Bidding Consortium or other arrangement pertaining to bidding in the CBP, you have not entered into any agreement with another Qualified Bidder, directly or indirectly, regarding bids in the CBP, including, but not limited to, the amount to bid at certain prices, when or at what prices bids are to be withdrawn, or the amount of exit prices.

Signature of Authorized Representative

Date _____

- (3) Please certify that any person who will be advising or assisting you with bidding strategy in the CBP, with estimation of the value of Tranches, or with the estimation of the risks associated with serving SSO Load (an advisor) will either (i) not provide any similar advice or assistance to any other Qualified Bidder; or (ii) if such person will provide similar advice or assistance to another Qualified Bidder, or if such person will be privy to Confidential Information relative to any other Qualified Bidder's bidding strategy, that appropriate protections have been put into place to ensure that the advisor does not serve as a conduit of information between, or as a coordinator of the bidding strategies of, multiple bidders, and please describe such appropriate protections in the space below.

Signature of Authorized Representative

Date _____

If unable to make certification (3) requested above please name the advisor(s) and the Qualified Bidder(s) concerned.

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Part 2 Application: Duke Energy Ohio, Inc.'s CBP Auctions

Name of Applicant

- (4) Please certify that you are not a party to any contract for the purchase of power that might be used as a source of supply for SSO Service, and that (i) would require the disclosure of any Confidential Information (Confidential Information relative to the bidding strategy or Confidential Information regarding the CBP) to the counterparty under such a contract; or (ii) that would require the disclosure of any Confidential Information (Confidential Information relative to the bidding strategy or Confidential Information regarding the CBP) to any other party; or (iii) that would provide instructions, direct financial incentives, or other inducements for the Bidder to act in a way determined by the counterparty in the agreement and/or in concert with any other Bidder in the CBP. Notwithstanding the above, you may, during negotiations prior to the CBP for contractual arrangements for power to serve SSO Load were you to be a winner at the CBP, discuss with the counterparty to such arrangements the nature of the standard products to be purchased, the volume, and the price at which you are willing to buy these products, so long as such arrangements do not result in violation of (i), (ii) or (iii) above.

Signature of Authorized Representative

Date

If unable to make certification (4) requested above please disclose the contractual terms that prevent you from making the certification. Please identify the counterparty and if applicable, the party to whom information disclosure must be made under the terms of the contract.

- (5) Please certify that you do not have any knowledge of Confidential Information that is relevant to the bidding strategy of any other Qualified Bidder.

Signature of Authorized Representative

Date

Part 2 Application: Duke Energy Ohio, Inc.'s CBP Auctions

Name of Applicant

If unable to make certification (5) requested above please name the other Qualified Bidder(s) and the nature of the Confidential Information.

- (6) Please certify that you will not disclose Confidential Information relative to your bidding strategy except to bidders that were explicitly named in your Part 1 Application as parties with whom you have entered into a Bidding Agreement, Joint Venture for the purpose of bidding in the CBP, or Bidding Consortium or other arrangement pertaining to bidding in the CBP, Bidders with which you are associated as disclosed through certification (1), to your advisors, and to your financial institution.

Signature of Authorized Representative

Date

If unable to make certification (6) requested above please explain.

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Name of Applicant

- (7) Please certify that, other than entities with which you are affiliated and other than bidders with which you have entered a Bidding Agreement, or Joint Venture for purposes of the CBP, or Bidding Consortium, or other arrangement pertaining to the CBP, no party has agreed to defray any of the costs of participating in the CBP, including the cost of preparing the bid, the cost of any financial guarantees, the cost to be paid upon winning a Tranche, and any other participation cost.

Signature of Authorized Representative

Date

If unable to make certification (7) requested above please explain.

- (8) Please certify your agreement that the submission of any bid in the CBP creates a binding and irrevocable offer to provide service under the terms set forth in the Master SSO Supply Agreement and that a binding and enforceable contract to provide service with respect to the number of Tranches for which you were a winner in the CBP shall arise under the Master SSO Supply Agreement. Please note that failure to execute the Master SSO Supply Agreement within three (3) Business Days of the conclusion of the CBP may result in the forfeiture of the Letter of Credit.

Signature of Authorized Representative

Date

If unable to make certification (8) requested above please explain.

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Name of Applicant

The following certifications (9), (10) and (11) will apply from the date on which you make the certifications.

- (9) Please certify that if you are registered to participate in the CBP, you will not disclose at any time information regarding the Initial Eligibility in the CBP or the list of Registered Bidders, including the number of Registered Bidders, the identity of any one or all entities that have been registered, or the fact that an entity has not been registered for participation in the CBP.

Signature of Authorized Representative

Date

- (10) Please certify that you will not disclose any Confidential Information regarding the CBP to any party except your advisors and Bidders with which you are associated as disclosed in certification (1).

Signature of Authorized Representative

Date

If unable to make certification (10) requested above please explain.

- (11) Please certify that you will continue to abide by your prior confidentiality certifications. You will not disclose any Confidential Information regarding the CBP to any party except to your advisor and Bidders with which you are associated. Please certify that you will destroy all documents, written or electronic, provided by the Auction Manager that contain Confidential Information regarding the CBP within five (5) days of the close of the bidding, or earlier if so instructed by the Auction Manager.

Part 2 Application: Duke Energy Ohio, Inc.'s CBP Auctions

Name of Applicant

Signature of Authorized Representative

Date

If unable to make certification (11) requested above please explain.

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Part 2 Application: Duke Energy Ohio, Inc.'s CBP Auctions

Name of Applicant

2.4 Ongoing Obligations

Please note that all obligations, terms and conditions set forth in the Bidding Rules and Master SSO Supply Agreement remain in effect and apply to the certifications made herein, including but not limited to the following:

- Section 4.2.3 of the Bidding Rules - Sanctions can be imposed on a bidder for failing to disclose information relevant to determining associations, for coordinating with another bidder, or for failing to abide by any of the certifications that it will have made in its Part 1 and Part 2 Applications. Such sanctions can include, but are not limited to, termination of the Master SSO Supply Agreement, loss of all rights to provide supply for Duke Energy Ohio to serve any load won by such bidder, forfeiture of financial guarantees and other fees posted or paid, prosecution under applicable state and federal laws, debarment from participation in future competitive bidding process, and other sanctions that may be appropriate. For any failure to disclose information or for any violation of the certifications, the Auction Manager will make a recommendation on a possible sanction.

Part 2 Application: Duke Energy Ohio, Inc.'s CBP Auctions

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2.5 Justification of Omissions

If you are unable to provide all documents or all information requested in this Part 2 Application, please justify fully any omissions in the space provided below.

Part 2 Application: Duke Energy Ohio, Inc.'s CBP Auctions

Name of Applicant

Appendix A – Enclosures to the Part 2 Application

This is a checklist of documents to be enclosed with this Part 2 Application.

- ☐ One copy of completed Part 2 Application forms (with all required signatures)
- ☐ One copy of W9 Form (for Tax ID) and one copy of banking information on your company's letterhead (signed and dated) (if submitting Cash Deposit as Pre-Bid Security) [Section 2.2]
- ☐ Pre-Bid Security Letter of Credit (if applicable) [Section 2.2]
- ☐ Letter of Intent to Provide a Guaranty (if applicable) [Section 2.2]
- ☐ Letter of Reference (if applicable) [Section 2.2]
- ☐ Other forms of alternative security (if applicable) [Section 2.2]

End of Part 2 Application
