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BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

CASE NO. 14-1277-EL-CSS

In the Matter of Complaint of :  
Direct Energy Business, LLC, :  
Complainant, :  
vs. :  
DUKE ENERGY OHIO, INC, :  
Respondent. :

-----

TELEPHONIC DEPOSITION OF:

MARJORIE PHILIPS

TUESDAY, APRIL 21, 2015

ROSENBERG & ASSOCIATES, INC.

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1           Telephonic deposition of MARJORIE PHILIPS,  
2 taken in the above-entitled matter before PHYLLIS A.  
3 SEMANCHIK, a Certified Court Reporter and Notary  
4 Public for the State of New Jersey, taken at the  
5 offices of DIRECT ENERGY BUSINESS, LLC, One Hess  
6 Plaza, Woodbridge, New Jersey, on Tuesday, April 21,  
7 2015, commencing at 9:05 a.m.

1 A P P E A R A N C E S:

2

3 ECKERT, SEAMANS, CHERIN & MELLOTT, LLC

4 BY: GERIT F. HULL, ESQ.

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6 Washington, DC 20006

7 Attorneys for Complainant (BY TELEPHONE)

8

9 DUKE ENERGY OHIO, INC.

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13 Cincinnati, Ohio 45202

14 Attorneys for Respondent (BY TELEPHONE)

15

16 A L S O P R E S E N T (BY TELEPHONE):

17

18 JOSEPH M. CLARK, ESQ.

19 JENNIFER SEAMOEN

20

21

22

23

24

25

## I N D E X

WITNESS	EXAMINATION BY	PAGE
MARJORIE PHILIPS	MS. SPILLER	5

## E X H I B I T S

NUMBER	DESCRIPTION	PAGE
PHILIPS-1	Notice of Duke Energy Ohio to Take Deposition Duces Tecum of Direct Energy Services, LLC	7
PHILIPS-2	E-Mail Chain, 12/9/13, to M. Philips and Read Comstock from Candace Cox	31



1 MARJORIE PHILIPS,  
2 One Hess Plaza, Woodbridge, New Jersey, having been  
3 first duly sworn, was examined and testified as  
4 follows:

5 DIRECT EXAMINATION

6 BY MS. SPILLER:

7 Q. Good morning, Ms. Philips.

8 A. Good morning.

9 Q. My name is Amy Spiller and I represent Duke  
10 Energy Ohio in connection with a complaint that has  
11 been brought against it by Direct Energy Business,  
12 that complaint filed before the Public Utilities  
13 Commission of Ohio.

14 Ma'am, have you had your deposition taken  
15 before?

16 A. Once.

17 Q. How long ago was that, please?

18 A. Fifteen years maybe.

19 Q. I suspect that the process of a deposition  
20 hasn't changed too much in that period of time. The  
21 court reporter is with you this morning. She will  
22 be transcribing the deposition while we are on the  
23 record.

24 This is a telephone deposition, so I  
25 anticipate that there may be instances where perhaps

1 it is difficult to hear because of some background  
2 noise or other interruptions. So, Ms. Philips,  
3 throughout your deposition this morning if you don't  
4 hear my questions clearly, can you please let me  
5 know?

6 A. Yes.

7 Q. Similarly, Ms. Philips, if you don't  
8 understand my questions, can you let me know so that  
9 I can restate them for you?

10 A. Yes.

11 Q. I don't anticipate that we will be too  
12 terribly long this morning, but throughout this  
13 process if you should need to take a break, just let  
14 us know. The only caveat that I would have is if  
15 there is a question pending, I would ask that you  
16 answer the question before we take the break. Is  
17 that fair?

18 A. Yes.

19 Q. Ma'am, do you have any documents with you  
20 this morning?

21 A. Yes.

22 Q. What do you have, please?

23 A. I have e-mails dated March 5th. I have an  
24 e-mail -- they are all from me. An e-mail dated  
25 November 25th, 2014. I have an e-mail dated

1 October 22nd, 2014. One dated October 17th, 2014.  
2 October 16, 2014. I think I said October 22nd  
3 already.

4 Q. You did, yes, ma'am.

5 A. I think that is the list -- that is the  
6 complete list.

7 Q. Do you have any computer or smart phone or  
8 tablet with you this morning, ma'am?

9 A. I have a smart phone with me.

10 Q. And I would simply ask that you refrain  
11 from using the smart phone while we are on the  
12 record. Can we agree to that?

13 A. Certainly.

14 Q. Thank you.

15 (Off-the-record discussion.)

16 (Exhibit Philips-1 was marked for  
17 identification.)

18 Q. Ms. Philips, do you have before you what  
19 the reporter has marked as Philips Deposition  
20 Exhibit Number 1?

21 A. Yes.

22 Q. And that is a notice of deposition for your  
23 deposition this morning, correct?

24 A. I will take your word for it.

25 Q. Have you seen that document before?

1 A. This document, the notice of deposition?

2 Q. Yes, ma'am.

3 A. No.

4 Q. Were you aware that we had asked for you to  
5 bring certain documents to your deposition this  
6 morning?

7 A. Yes.

8 Q. And the e-mail that you just identified  
9 that you caused to be sent, those are the documents  
10 that you brought with you, correct?

11 A. Yes.

12 Q. Ma'am, what did you do to prepare for your  
13 deposition this morning?

14 A. I looked at the e-mails that I just  
15 identified for you.

16 Q. The e-mails, do they have at the bottom a  
17 Bates numbering on them?

18 A. Yes.

19 Q. Do those numbers, Ms. Philips, run from  
20 005001 through 005028?

21 A. Yes.

22 Q. Thank you. And your position with Direct  
23 Energy is what, please, Ms. Philips?

24 A. I am the director of RTO and federal  
25 services.



1 Q. In that position, your job responsibilities  
2 are what, please?

3 A. To manage our representation in the Eastern  
4 Regional Transmission organization's MISO, NISO, ISO  
5 New England, PJM, to manage our interactions with  
6 federal agencies in Washington, DC, such as the FERC,  
7 DOE, et cetera.

8 Q. And do you engage yourself personally in  
9 those functions or are there individuals who report  
10 up to you who have direct interaction with the  
11 regional transmission organizations and the FERC?

12 A. I have people that report up to me who  
13 engage in interaction; and depending on the nature of  
14 the issue, I may personally engage.

15 Q. How long have you been the director of RTO  
16 and federal services for Direct Energy?

17 A. We were acquired I believe in December,  
18 2014. Has it been a full year? No. I am not sure  
19 if it was 2013 or 2014. It's been a full year that I  
20 have been in this position, plus. In December it  
21 would have been a full year.

22 Q. So, prior to December of 2013, what was  
23 your position?

24 A. I was a director at Hess Corporation.

25 Q. And a director in what field, please, or

1 department?

2 A. What do we call ourselves? Hess Corporation  
3 was a single corporation. I worked for the business  
4 unit that handled wholesale and retail electric and  
5 gas matters.

6 Q. What sorts of wholesale and retail electric  
7 and gas matters would you have been involved in at  
8 Hess Corporation?

9 A. RTO matters.

10 Q. Can you provide a bit more definition  
11 there, when you say RTO matters?

12 A. Yes, I was particularly focused on helping  
13 Hess Corporation with respect to its Bayonne energy  
14 center and its Newark energy center power plants,  
15 applying for and getting accepted into the various  
16 RTO's and complying with all the rules and  
17 requirements related to that.

18 Q. Do you understand the distinction between  
19 retail transactions and wholesale transactions?

20 A. Yes.

21 Q. And can you share with me your  
22 understanding of the distinction?

23 A. Well, I am waiting to hear back from the  
24 Supreme Court.

25 Q. And what do you mean by that?

1           A. There is something called an EPSA order  
2 right now, and the jurisdiction is not as clear as  
3 perhaps we once thought it was. For the most part  
4 wholesale transactions are made by customers that are  
5 selling to -- they are not the last users, if you  
6 will.

7           Q. And a retail transaction is what, please?

8           A. Is a consumer that purchases and consumes  
9 the energy without reselling it.

10          Q. So, if I understand your job progression,  
11 in approximately December of 2013 Hess Corporation  
12 was acquired by Direct Energy?

13          A. Yes.

14          Q. And at that point you became the director  
15 of RTO and federal services for Direct Energy?

16          A. Yes.

17          Q. Is that correct?

18          A. Although as I indicated, I am terrible with  
19 dates, so I am hoping that you got them right.

20          Q. I am relying, ma'am, on what you are  
21 indicating. So, about a little more than a year you  
22 have had your current position with Direct?

23          A. Yes.

24          Q. What is your educational background, Ms.  
25 Philips?

1           A. I have a bachelors of arts from McGill  
2 University, a masters in international affairs from  
3 Columbia University and a JD from the Fordham  
4 University School of Law.

5           Q. Have you held any legal positions at --  
6 while you were at Hess Corporation?

7           A. No.

8           Q. Were you engaged in private practice before  
9 joining Hess Corporation?

10          A. Many years prior.

11          Q. And what was your area of specialty or  
12 practice while in private practice?

13          A. My first year was tax and then it was  
14 energy.

15          Q. What specifically in the energy field was  
16 your area of focus while in private practice?

17          A. I worked for Skadden Arps, and we  
18 represented equity developers, lending institutions,  
19 anything that had to do with power plant development,  
20 regulatory approvals, other than EPA approvals.

21          Q. Did you practice before the FERC at all?

22          A. Yes.

23          Q. In any of the cases in which you were  
24 involved while in private practice, did those  
25 involve any interpretation or application of PJM's



1 tariff?

2 A. Not that I recall.

3 Q. While in private practice, did any of the  
4 matters in which you were involved concern  
5 application or interpretation of PJM's reliability  
6 assurance agreement?

7 A. No.

8 Q. While you were in private practice, Ms.  
9 Philips, did any of the cases or matters in which  
10 you were involved concern interpretation or  
11 application of PJM's operating agreement?

12 A. No.

13 Q. Ms. Philips, are you aware or are you  
14 familiar with the complaint that has been filed by  
15 Direct Energy Business against Duke Energy Ohio  
16 before the Public Utilities Commission of Ohio?

17 A. I am familiar with it.

18 Q. And when did you first become aware of an  
19 issue or dispute as between Direct Energy and Duke  
20 Energy Ohio as referenced in that complaint?

21 A. While I cannot personally recall, I assume  
22 it was sometime around the first e-mail that I sent  
23 PJM asking if we could chat.

24 Q. How is it that you came to be involved in  
25 the matter on behalf of Direct Energy?

1 A. Because I have very strong relationships  
2 with PJM.

3 Q. And those relationships have developed  
4 through what series of events, Ms. Philips?

5 A. I have been working with PJM since it was  
6 formed in 1995.

7 Q. In what capacity, please?

8 A. I am sorry. It wasn't formed then, but that  
9 is when they went to markets. I was an attorney for  
10 PICO Energy. Then I had -- I left the legal field  
11 and represented a couple of companies at PJM.

12 Q. During what period of time or over what  
13 number of years were you an attorney at PICO Energy?

14 A. I was an attorney at PICO from 1995 until  
15 2002, I believe.

16 Q. And then after you left PICO and  
17 represented a few entities in the legal field, what  
18 was that period of time, please?

19 A. I did not -- I left and went to the business  
20 side. I no longer practiced law. I went to --

21 Q. When did you -- I am sorry. Go ahead.

22 A. My employers were Williams Energy, PSEG  
23 Energy Resources and Trade, Constellation  
24 Commodities, PSEG Energy Resources and Trade, and  
25 then Hess.

1 Q. How long were you at Hess, Ms. Philips?

2 A. Again, the past seems more clear than dates.  
3 I believe it was for two years, so I would have  
4 joined in July of 2011, I believe.

5 Q. Ms. Philips, the documents, the e-mails  
6 that you have before you, there is an e-mail and it  
7 is page 005023.

8 A. Yes.

9 Q. Is that the first e-mail that you would  
10 have sent to PJM soliciting or seeking some  
11 assistance from them?

12 A. I don't recall, but I assume it is, because  
13 we have gone through all of my e-mails.

14 Q. And what is your professional relationship  
15 with Vincent Duane, to whom you sent the e-mail?

16 A. Vincent is the general counsel of PJM, and I  
17 have worked with him very closely ever since he held  
18 that position.

19 Q. And prior to sending this e-mail to  
20 Mr. Duane, what was your understanding of PJM's  
21 settlement process?

22 A. The only thing I was aware of was that there  
23 was a two-year statute of limitations.

24 Q. And what brought that two-year statute of  
25 limitations to your attention?

1           A. There have been a number of cases over the  
2 years where there have been errors in PJM and they  
3 brought them to the stakeholder process, and that  
4 statute of limitations was raised in the discussion.

5           Q. Have you been involved in this PJM  
6 stakeholder process?

7           A. Yes.

8           Q. On behalf of the various employers that you  
9 have had?

10          A. Yes.

11          Q. Have you been involved in the PJM  
12 stakeholder processes concerning the settlement or  
13 Resettlement C process?

14          A. I don't believe so.

15          Q. Ms. Philips, just for clarification, you  
16 are not involved on behalf of Direct Energy in  
17 enrolling new retail customers, correct?

18          A. Correct.

19          Q. And you are not involved in reviewing meter  
20 data for retail customers, are you?

21          A. I am not.

22          Q. Are you involved in system operations for  
23 Direct Energy?

24          A. Please clarify what you mean by that.

25          Q. Sure. Information technology or IT system



1 operations.

2 A. No.

3 Q. And you are not involved in receiving PJM  
4 invoices for Direct Energy business, are you?

5 A. No.

6 Q. And you are not involved in the process at  
7 Direct Energy of reviewing and paying PJM invoices,  
8 are you?

9 A. No.

10 Q. Have you had any direct interaction with  
11 representatives of Duke Energy Ohio in connection  
12 with the issues that give rise to Direct Energy's  
13 complaint?

14 A. No.

15 Q. In the course of your career, Ms. Philips,  
16 have you ever had to access the PJM E-schedule tool  
17 or any of its predecessor tools?

18 A. I don't believe I have ever personally done  
19 that. I may have looked at them with somebody asking  
20 for assistance on a particular issue.

21 Q. Have you looked at the PJM E-schedule tool  
22 or its predecessor tool in connection with this  
23 Direct Energy complaint against Duke Energy Ohio?

24 A. No.

25 Q. So that I am clear, Ms. Philips, your

1 understanding of the PJM settlement process  
2 concerned the two-year statute of limitations,  
3 correct?

4 A. Yes.

5 Q. Do you know how PJM -- the process that is  
6 employed by PJM to invoice load serving entities?

7 A. No.

8 Q. Do you know the source of the data that PJM  
9 uses for purposes of billing load serving entities?

10 A. From the stakeholder process, I am aware  
11 that it is supplied to them by the EDC's.

12 Q. The stakeholder process that discussed the  
13 two-year statute of limitations -- strike that.

14 With respect to the stakeholder process discussing  
15 the two-year statute of limitations, can you share  
16 with me the outcome of those conversations?

17 A. One involved a FERC order regarding PPL  
18 facilities having been billed to PICO in which the  
19 two-year limitation was set aside. I can't remember  
20 anything else specifically.

21 Q. And when were those conversations had in  
22 the PJM stakeholder process?

23 A. Oh, my God. Seven years ago. I can't  
24 remember. A fairly long time ago.

25 Q. To your knowledge, has Direct Energy

1 engaged in conversations during the PJM stakeholder  
2 process concerning the Resettlement C process?

3 A. Not in the stakeholder process, no.

4 Q. Have they done it in some other venue or  
5 forum?

6 A. In the e-mails that I requested, there  
7 appears to be some consideration of it. That is the  
8 only thing I can think of.

9 Q. And if we could, Ms. Philips, turn to the  
10 e-mail that I had previously referenced that you  
11 authored. It is the Bates number 005023, the e-mail  
12 that you sent to Mr. Duane on October 15th, 2014.  
13 In that e-mail you identify two sections of PJM's  
14 operating agreement, correct?

15 A. Yes.

16 Q. And those were operating agreement Section  
17 15.6A and Sections 3.6.6 of Schedule 1, correct?

18 A. Yes.

19 Q. Did you identify these two provisions of  
20 the operating agreement on your own or did someone  
21 assist in that regard?

22 A. My direct report may have helped me or I  
23 would have done it myself. I don't recall.

24 Q. And you note in this e-mail that "Duke  
25 Energy concedes they wrongly overbilled us, but says

1 too bad, we are not going to ask PJM to resettle."  
2 What is the source of the information on which you  
3 relied in making that statement?

4 A. It would have been an oral conversation  
5 probably with Joe Clark.

6 Q. Any other bases for that statement, Ms.  
7 Philips?

8 A. No.

9 Q. And it was your understanding in October of  
10 2014 that Duke Energy Ohio was not going to ask PJM  
11 about resettlement?

12 A. I guess so. That is what it says in the  
13 e-mail. I don't recall.

14 Q. And is that information that would have  
15 been provided to you by Mr. Clark as well?

16 A. Yes.

17 Q. Your parenthetical, Ms. Philips, indicates  
18 that apparently it would require sign-off from a  
19 number of sellers. Who are the sellers to whom you  
20 are referring in that parenthetical?

21 A. Load serving entities in that same zone with  
22 the EDC.

23 Q. And is that requirement from sign-off from  
24 a number of sellers one that was brought to your  
25 attention by Mr. Clark as well?



1           A. I don't know. I may have determined it  
2 through research.

3           Q. And you indicate in this e-mail that Duke  
4 owes Direct Energy a huge amount of money, correct?

5           A. Two million.

6           Q. And what caused you to conclude that Duke  
7 owed Direct Energy this money?

8           A. I don't recall, but I assume it was the  
9 conversation.

10          Q. Your conversation with Mr. Clark?

11          A. Yes.

12          Q. In response to the note that you sent to  
13 Mr. Duane, he referred you to Jim Burlew, correct?

14          A. Yes.

15          Q. And then as I understand, Ms. Philips,  
16 there were conversations between representatives of  
17 Direct Energy, including its counsel, and  
18 representatives of PJM, correct?

19          A. Yes.

20          Q. At the time you were engaging PJM in  
21 conversation, were you aware of any activity on the  
22 part of Duke Energy Ohio in connection with the  
23 Resettlement C process?

24          A. Not except what I put in the e-mail.

25          Q. And who from Direct Energy was on the call

1 with PJM in October of 2014, the call that was  
2 prompted by your initial e-mail to Mr. Duane?

3 A. I remember that Joe was on the call and  
4 Garit Hull was on the call, and I don't know if  
5 anybody else was.

6 Q. Can you tell me, Ms. Philips, about the  
7 conversation, please.

8 A. I wish I could.

9 Q. You don't remember?

10 A. Correct.

11 Q. You didn't take notes?

12 A. No, my roll was merely to make the  
13 connection and listen to see if there was anything  
14 that would need to be done from a stakeholder  
15 perspective.

16 Q. Was there anything that needed to be done  
17 from a stakeholder perspective following the  
18 conversation with Mr. Burlew at PJM?

19 A. In my view, there is a problem with the  
20 process, but did it stem directly from this? Not  
21 necessarily. There was also a case in NISO.

22 Q. What was the problem with the process, as  
23 you thought it to be, Ms. Philips?

24 A. That the EDC's don't find errors until after  
25 two years. Then they run into tariff issues. So,

1 the parties have to go to FERC for resolution.

2 Q. Can parties go to FERC for resolution?

3 A. I don't know. You are getting into  
4 jurisdictional issues, which is I suspect what this  
5 case is about, and I am not a lawyer on this case.

6 Q. Well, I understand that you are not a  
7 lawyer on the case, but you are certainly well  
8 versed and have relationships at PJM, correct?

9 MR. HULL: Amy, I am going to object to that,  
10 at least to note for the record that Ms. Philips is  
11 definitely not testifying towards legal issues in this  
12 proceeding.

13 Marji, you can go ahead and answer the  
14 question.

15 A. I do have relationships in PJM.

16 Q. You have identified a problem with the  
17 process. And as I understand, you believe the  
18 process to be that electric distribution companies  
19 don't find errors until after a two-year period,  
20 correct?

21 A. It is not just electric distribution  
22 companies. As I mentioned, there was a problem with  
23 PPL and PICO transmission facilities being billed in  
24 the wrong category.

25 Q. So, let me go back to the question. What

1 is the problem with the process, as you have just  
2 used that phrase?

3 A. It probably should be a longer period for  
4 resettlement.

5 Q. What should be a longer --

6 A. The resettlement.

7 Q. Have you had any conversations regarding  
8 whether it is possible for Direct Energy to pursue a  
9 complaint at the FERC in connection with the issues  
10 discussed in its PUCO complaint?

11 A. I am aware that PJM said to resettle, they  
12 would need to do it through a FERC order.

13 Q. And when did PJM say that?

14 A. I don't recall the date. Sometime -- I  
15 think it is captured in the e-mails. I am not really  
16 sure.

17 Q. Did PJM provide any responses via e-mail to  
18 Direct Energy?

19 A. I don't remember. If they had, I am sure my  
20 counsel would have given them to you, unless they  
21 were privileged.

22 Q. And what would be the basis of a privilege  
23 between PJM and Direct Energy?

24 A. I have no idea.

25 MS. SPILLER: Garit, I am assuming if there



1 were written communications from PJM they would have  
2 been produced in response to prior discovery requests?

3 MR. HULL: Certainly if they were in our  
4 possession. And we looked hard.

5 Q. So, Ms. Philips, how many conversations  
6 were you personally involved in with PJM concerning  
7 the Direct Energy/Duke Energy matter?

8 A. I am exactly sure, but I think there were  
9 two with Jim.

10 Q. Have you communicated verbally with anyone  
11 else at PJM, aside from Jim Burlew, about this  
12 matter?

13 A. No.

14 Q. Have you communicated electronically with  
15 any individuals at PJM, other than Vincent Duane and  
16 Jim Burlew, concerning the Direct Energy/Duke Energy  
17 matter?

18 A. No.

19 Q. You don't recall the first conversation  
20 with Mr. Burlew?

21 A. No, I don't.

22 Q. Is that fair?

23 A. That is fair.

24 Q. Do you recall the second conversation with  
25 Mr. Burlew?

1 A. I really don't.

2 Q. Do you recall, Ms. Philips, whether PJM  
3 agreed to support Direct Energy's efforts at the  
4 state level in connection with the complaint filed  
5 against Duke Energy Ohio?

6 A. I don't recall or know.

7 Q. Do you recall whether PJM agreed to not  
8 oppose Direct Energy should it seek relief at the  
9 FERC in connection with this issue?

10 A. I am torn because I believe that is true,  
11 but I can't actually recall the conversation.

12 Q. You believe it is true that PJM agreed not  
13 to oppose Direct Energy, should it seek relief at  
14 the FERC?

15 A. I believe that to be true, because I don't  
16 believe that they oppose any stakeholder seeking FERC  
17 relief when it does not directly involve them, but is  
18 simply a settlement.

19 Q. With that understanding in mind, Ms.  
20 Philips, do you know where Direct Energy has not  
21 pursued a complaint at the FERC?

22 A. No.

23 Q. Given your prior experience practicing  
24 before the FERC, do you know how long of a process  
25 would be involved in the filing of such a complaint?

1           A. I know I filed a complaint in 1995 that  
2 still has not been addressed by the FERC.

3           Q. And did that complaint concern resettlement  
4 among load serving entities?

5           A. No.

6           Q. Do you know how long a complaint process  
7 would last at the FERC if the issue involved  
8 resettlement and PJM did not oppose it?

9           A. No.

10          Q. Ms. Philips, do you know what data from PJM  
11 is available to Direct Energy Business on a daily  
12 basis with respect of the load that it serves in an  
13 EDC's territory?

14          A. No. I know about LMP's that are publicly  
15 posted, but that would be it.

16          Q. You can't dispute that Direct Energy has  
17 access to load data provided by PJM on a regular  
18 basis, correct?

19          A. I can't answer that question.

20          Q. Because you simply don't know, correct?

21          A. Correct.

22          Q. Have you had any conversations, Ms.  
23 Philips, with the PUCO commissioners in connection  
24 with the complaint filed by Direct Energy against  
25 Duke Energy Ohio?

1 A. No.

2 Q. Are you aware of other representatives or  
3 employees of Direct Energy having conversations with  
4 PUCO commissioners?

5 A. I am not aware.

6 Q. Ms. Philips, do you -- strike that. What  
7 do you know about PJM's Resettlement C process?

8 A. Not very much. I know of the tariff  
9 provisions that I copied in the e-mail.

10 Q. The operating agreement provisions?

11 A. Yes.

12 Q. And do you believe that those concern  
13 Resettlement C?

14 A. I don't know. That is why I was asking PJM.

15 Q. Do you know if any PJM manuals address  
16 Resettlement C?

17 A. They would have to address it if it is in  
18 the tariff.

19 Q. Is the Resettlement C process in the  
20 tariff, to your knowledge?

21 A. I don't know. The only thing I know are the  
22 operating agreement sections that I put in the  
23 e-mail.

24 Q. Do you know if the Resettlement C process  
25 is discussed in PJM's reliability assurance



1 agreement?

2 A. I don't know.

3 Q. Before you sent this e-mail to Mr. Duane on  
4 October 16th, 2014, had you had prior occasions in  
5 your career to review Section 15.6A of the PJM  
6 operating agreement?

7 A. I believe I looked at it once for another  
8 matter.

9 Q. Did that matter concern resettlement within  
10 PJM?

11 A. I believe it did. I was not handling it  
12 directly.

13 Q. And what can you recall about that prior  
14 matter?

15 A. That it was similar to this one and that was  
16 where the LSE consent to resettle provision came in.

17 Q. What LSE consent to resettle provision are  
18 you referring to, ma'am?

19 A. I don't remember the specific section. As I  
20 say, I was not working on this directly. I just  
21 remember a general discussion that that was part of  
22 the PJM resettlement process.

23 Q. So, when you say consent provision, do you  
24 believe that that is provided for in a PJM tariff or  
25 FERC approved agreement?

1           A. I don't know. If it is in the manual, it is  
2 not FERC approved.

3           Q. Do you know whether all load serving  
4 entities must consent to participate in Resettlement  
5 C?

6           A. I don't know.

7           Q. Ms. Philips, are you aware of the request  
8 that Duke Energy Ohio sent out on behalf of Direct  
9 Energy to affected load serving entitles concerning  
10 resettlement?

11          A. I may be. I know there was a matter that I  
12 was familiar that a request was sent out, and I did  
13 not recall whether it was specifically Duke Energy.  
14 But I do know a request was sent out on our behalf by  
15 an EDC.

16          Q. So, it could have been an entity other than  
17 Duke Energy Ohio?

18          A. It could have been.

19          Q. Are you aware of Direct Energy engaging or  
20 being involved in Resettlement C requests, other  
21 than the one at issue in this case?

22          A. I am aware that we discussed it. I don't  
23 know what happened.

24               MS. SPILLER: Can we go off the record for a  
25 moment, please.

1 (Off-the-record discussion.)

2 (Exhibit Philips-2 was marked for  
3 identification.)

4 Q. Ms. Philips, do you have before you what  
5 has been marked as Philips Deposition Exhibit No. 2?

6 A. Yes, I do.

7 Q. And is this a series of e-mail  
8 communications, the first e-mail issued on September  
9 11, 2013, carrying through to a final e-mail that  
10 appears to be dated December 9, 2013?

11 MR. HULL: Amy, this is Garit here. Could I  
12 just request that when you reference these for our  
13 benefit, since we do have the Bates numbering --

14 MS. SPILLER: Sure. I will do that.

15 Q. Ms. Philips, I appreciate that the  
16 documents as they came over through the system  
17 dropped off the Bates numbering. I am referring to  
18 a series of e-mails that are naturally in reverse  
19 chronological order.

20 But the first page of the Bates number is  
21 000052 through 000058, documents that were produced  
22 by Direct Energy in discovery in this case. The  
23 last e-mail is actually on the first page of this  
24 chain on page 000052, an e-mail from Candace Cox to  
25 you and Read Comstock dated December 9, 2013. Do

1 you have these six pages?

2 A. Yes.

3 Q. So, you were contacted on December 9, 2013,  
4 concerning some communication that had been issued  
5 by Duke Energy, correct?

6 A. I certainly was contacted.

7 Q. And Ms. Cox sent you an e-mail, correct?

8 A. Yes. I am looking to see the date. It  
9 looks like on December 9th Candace sent me an e-mail.

10 Q. And e-mail went to the G and RA team. I am  
11 assuming that is governmental and regulatory  
12 affairs?

13 A. Yes.

14 Q. And you had a question back to Candace  
15 about who was asking for consents and in what forum,  
16 correct?

17 A. I am sorry. Would you repeat the question.

18 Q. Sure. You responded back to Ms. Cox on  
19 December 9th asking about who was asking for consent  
20 and in what forum, correct?

21 A. I don't see that.

22 Q. It is the middle of a page where it says  
23 original message from Marjorie Philips.

24 A. Yes.

25 Q. December 9, 2013, 2:24 p.m.



1           A. Yes. I say the language in the e-mail seems  
2 to indicate you must take an action.

3           Q. There is a prior e-mail that you sent at  
4 2:24 p.m. on that same day.

5           A. It is not in the pile of documents that we  
6 have.

7           MS. SPILLER: Can we suggest off the record  
8 again, Phyllis.

9           (Off-the-record discussion.)

10          Q. So, Ms. Philips, I understand that there  
11 were some reproduction issues with respect to that  
12 series of e-mails that is collectively marked  
13 Philips Deposition Exhibit Number 2.

14          To try to expedite the discussion this  
15 morning, I am simply going to sort of set up this  
16 e-mail chain and then focus on some communication  
17 between you and Ms. Cox.

18          But the e-mail chain was prompted by a  
19 letter or an e-mail that was sent by Sheila Rogers  
20 at Duke Energy to a series of individuals. And then  
21 Ms. Cox had some questions back for Ms. Rogers. Ms.  
22 Rogers indicated that questions needed to be  
23 directed to a particular e-mail.

24          Then there were questions that Ms. Cox had  
25 to the Direct Energy government and regulatory

1   affairs team. And her e-mail says, "Based on the  
2   information that 39 out of the 44 suppliers have not  
3   consented to the Settlement C (Duke) could that in  
4   any way "default" to a nonresponse equaling consent?  
5   As in, if we do not receive a response from you we  
6   will assume your consent?"

7           You responded to Ms. Philips. Her e-mail  
8   was dated December 9, 2013, at 2:13 p.m.

9           You responded at 2:24 p.m. on December 9,  
10   2013. "Candace. Who is asking for consent and in  
11   what forum (i.e. FERC, PJM, bilateral). That may  
12   help with answer, but not sure."

13           She then sent a response back to you. It  
14   seems like she just resent the message indicating  
15   that that message provided the details, and that was  
16   her e-mail response to you that appears on the first  
17   page of Philips Deposition Exhibit Number 2.

18           So, the second page of this exhibit, which  
19   is Direct Bates number 000053, it looks like the  
20   bottom half was not reproduced. That was the  
21   exchange from Ms. Cox to the G and RA team and your  
22   response to her.

23           So, my question to you, Ms. Philips, is  
24   back in December of 2013, did you know whether all  
25   load serving entities had to affirmatively consent

1 to the Resettlement C billing adjustment?

2 A. No, I did not know. The language says just  
3 my read. I had no familiarity. I was researching  
4 this and giving an opinion.

5 Q. Has anyone else from Direct Energy offered  
6 opinion as to whether all affected load serving  
7 entities must affirmatively consent to Resettlement  
8 C?

9 A. I would not know.

10 Q. Were you involved in conversations with PJM  
11 in about -- just a few months ago on February 6,  
12 2015, concerning the Settlement C process and detail  
13 surrounding the necessary consent from affected load  
14 serving entities?

15 A. I participated in phone calls with PJM.

16 Q. On that particular topic, ma'am?

17 A. I can't remember.

18 Q. So, you don't know whether PJM has said  
19 that it is their policy or practice that all load  
20 serving entities must affirmatively consent?

21 A. No, I don't recall.

22 Q. Is it your understanding, though, that FERC  
23 can direct PJM to initiate resettlement for  
24 wholesale transactions without the affirmative  
25 consent of all affected suppliers?

1           A. I don't know that for legal fact. I would  
2 assume they have that jurisdictional authority, since  
3 they have jurisdiction over the tariff.

4           Q. And the tariff that you are referring to is  
5 PJM's tariff, correct?

6           A. Yes.

7           Q. Are you familiar with Duke Energy Ohio  
8 certified supplier tariff?

9           A. No.

10          Q. You have not in your time with Direct  
11 Energy had a business reason to review that tariff,  
12 correct?

13          A. Correct.

14          Q. Ms. Philips, I appreciate your time this  
15 morning and I apologize for some of the issues we  
16 had with these exhibits, but I don't have any  
17 further questions for you, ma'am.

18               (The deposition was adjourned at 10:15.)  
19  
20  
21  
22  
23  
24  
25



## C E R T I F I C A T E

I, PHYLLIS A. SEMANCHIK, a Certified Court Reporter and Notary Public of the State of New Jersey, do hereby certify that prior to the commencement of the examination the witness was duly sworn by me to testify to the truth, the whole truth and nothing but the truth.

I DO FURTHER CERTIFY that the foregoing is a true and accurate transcript of the testimony as taken stenographically by and before me at the time, place and on the date hereinabove set forth, to the best of my ability.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel of any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in the action.

PHYLLIS A. SEMANCHIK, CCR NO. X1200

1 DEPOSITION ERRATA SHEET

2

3 CASE NAME: DIRECT ENERGY V DUKE ENERGY OHIO

4 NAME OF WITNESS: MARJORIE PHILIPS

5 DATE OF DEPOSITION: APRIL 21, 2015

6 REASON CODES: 1. To clarify the record.

7 2. To conform to the facts.

8 3. To correct transcription errors.

9 Page\_\_\_\_ Line\_\_\_\_ Reason\_\_\_\_

10 From\_\_\_\_ to\_\_\_\_

11 Page\_\_\_\_ Line\_\_\_\_ Reason\_\_\_\_

12 From\_\_\_\_ to\_\_\_\_

13 Page\_\_\_\_ Line\_\_\_\_ Reason\_\_\_\_

14 From\_\_\_\_ to\_\_\_\_

15 Page\_\_\_\_ Line\_\_\_\_ Reason\_\_\_\_

16 From\_\_\_\_ to\_\_\_\_

17 Page\_\_\_\_ Line\_\_\_\_ Reason\_\_\_\_

18 From\_\_\_\_ to\_\_\_\_

19 \_\_\_\_\_ Subject to the above changes, I certify that the  
20 transcript is true and correct.

21 \_\_\_\_\_ No changes have been made. I certify that the  
22 transcript is true and correct.

23

24 \_\_\_\_\_

25 MARJORIE PHILIPS

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**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO.**

**In the Matter of Complaint of Direct  
Energy Business, LLC**

## Compliant

**V.  
Duke Energy Ohio, Inc.**

## Respondent

**Case No. 14-1277-EL-CSS**

**NOTICE OF DUKE ENERGY OHIO  
TO TAKE DEPOSITION DUCES TECUM OF  
DIRECT ENERGY SERVICES, LLC**

Pursuant to Ohio Admin. Code Rule 4901-1-21(B), please take notice that Duke Energy Ohio, Inc. (Duke Energy) will take the oral deposition of Marji Philips on April 21, 2015 beginning at 9:00 AM and will continue thereafter until complete.

The deposition will take place at Direct Energy's offices located at One Hess Plaza, Woodbridge Twp., New Jersey 07095. The deposition will be taken upon oral examination (as if on cross-examination) before an officer authorized by law to take depositions.

Pursuant to Ohio Admin. Code 4901-1-21(E) and 4901-1-20, the witness is requested to produce at the time of her deposition true and accurate copies of the documents identified in Exhibit A.

The deposition will begin at 9:00 AM and continue day to day until complete. Parties are invited to attend and to cross-examine.

Respectfully submitted,



Amy B. Spiller (0047277)

Deputy General Counsel

Jeanne W. Kingery (0012172)

Associate General Counsel

DUKE ENERGY OHIO, INC.

139 East Fourth Street, ML 1303 Main

P. O. Box 960

Cincinnati, Ohio 45202



**EXHIBIT A**

Duke Energy Ohio hereby requests that, at the time and place set forth above in the notice of deposition, *duces tecum*, the witness shall produce true and accurate copies of the following documents:

1. Any and all documents reviewed by said witness in preparing, or otherwise assisting in the preparation of, discovery responses submitted by Direct Energy relative to the above-captioned proceeding
2. Any and all documents prepared by said witness for purposes of preparing, or otherwise assisting in the preparation of, discovery responses submitted by Direct Energy relative to the above-captioned proceeding.



**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that a copy of the foregoing was served on the following parties of record by electronic service, this 17<sup>th</sup> day of April, 2015.

  
Amy B. Spiller

Gerit F. Hull  
Eckert Seamans Cherin & Mellott, LLC  
1717 Pennsylvania Avenue N.W.  
12<sup>th</sup> Floor  
Washington, DC 20006  
[ghull@eckertseamans.com](mailto:ghull@eckertseamans.com)

Joseph M. Clark  
Direct Energy  
21 East State Street, 19<sup>th</sup> Floor  
Columbus, Ohio 43215  
[joseph.clark@directenergy.com](mailto:joseph.clark@directenergy.com)

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

**Commission of Ohio Docketing Information System on**

**4/17/2015 2:37:21 PM**

**in**

**Case No(s). 14-1277-EL-CSS**

**Summary: Notice of Deposition Notice of Duke Energy Ohio to Take Deposition Duces Tecum  
of Direct Energy Services, LLC - Marji Philips electronically filed by Mrs. Adele M. Frisch on  
behalf of Duke Energy Ohio, Inc. and Spiller, Amy B and Jeanne W Kingery**

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**From:** Cox, Candace  
**To:** Phillips, Marjorie R.; Comstock, Read  
**CC:** \_DEB Utility Operations; Kennelly, Robert  
**Sent:** 12/9/2013 3:19:38 PM  
**Subject:** RE: PYM Settlement C Billing Adjustment for Load Serving Entities (LSEs) Operating in the Duke Energy Ohio/Kentucky (DEOK) Load Zone

Fantastic, thank you!

Candace Cox  
Utility Operations Analyst

Direct Energy Business  
1001 Liberty Center  
Pittsburgh, PA 15222

Office - 412.667.5165  
Fax: 412-394-4377  
E-mail: Candace.Cox@DirectEnergy.com  
Web: <http://www.directenergybusiness.com/>

-----Original Message-----

**From:** Phillips, Marjorie R. [mailto:[mphilips@hess.com](mailto:mphilips@hess.com)]  
**Sent:** Monday, December 09, 2013 3:19 PM  
**To:** Cox, Candace  
**Cc:** \_DEB Utility Operations; Kennelly, Robert  
**Subject:** RE: PYM Settlement C Billing Adjustment for Load Serving Entities (LSEs) Operating in the Duke Energy Ohio/Kentucky (DEOK) Load Zone

The language in the email seems to indicate you must take an action, i.e. provide consent or silence will be treated as lack of consent. Just my read. And Candace, delighted to hear from you! M

Marji Rosenbluth Philips  
ISO Services Director  
Cell 610.401.3612 Direct 732.750.6689  
Hess Energy Marketing, LLC  
A Direct Energy Company  
[mphilips@hess.com](mailto:mphilips@hess.com) [www.HessEnergy.com](http://www.HessEnergy.com)  
Follow Hess Energy on LinkedIn!  
Forward Thinking Energy  
Electricity | Natural Gas | Green Solutions

-----Original Message-----

**From:** Cox, Candace [mailto:[Candace.Cox@directenergy.com](mailto:Candace.Cox@directenergy.com)]  
**Sent:** Monday, December 09, 2013 2:32 PM  
**To:** Phillips, Marjorie R.  
**Cc:** \_DEB Utility Operations; Kennelly, Robert  
**Subject:** RE: PJM Settlement C Billing Adjustment for Load Serving Entities (LSEs) Operating in the Duke Energy Ohio/Kentucky (DEOK) Load Zone

Hi, Marji.

I hope that you had a nice weekend!! I am SO sure that you are hearing from me FAR more than you would like!!

The details were at the bottom of this very long email chain. Here you go....

Subject: PJM Settlement C Billing Adjustment for Load Serving Entities (LSEs) Operating in the Duke Energy Ohio/Kentucky (DEOK) Load Zone

Dear LSEs:



The purpose of this letter is to notify you that PJM Settlements has undercharged your company for load settlement services for the months of January and February 2013. Due to this error, another LSE has been overcharged by PJM for load settlement services for January and February. In order to rectify the situation, we are requesting that your company agree to a resettlement with PJM for the months of January and February 2013 which will allow the overcharged LSE to be made whole. The impact to load is approximately 30 MW's/hour that will spread across each LSE's percent of load compared to total DEOK load.

PJM allows for resettlements to occur outside of a 60 day window under the Settlement C process. This is an informal process followed by PJM. In order to initiate the Settlement C process, you will need to provide to Duke Energy Ohio consent to have your account resettled for the months of January and February. We will then provide this consent to PJM who will then resettle your account.

Please email PJMSettlementC@duke-energy.com<mailto:PJMSettlementC@duke-energy.com> with questions and your consent. We appreciate your attention to this matter.

Candace Cox  
Utility Operations Analyst

Direct Energy Business  
1001 Liberty Center  
Pittsburgh, PA 15222

Office - 412.667.5165  
Fax: 412-394-4377  
E-mail: Candace.Cox@DirectEnergy.com  
Web: <http://www.directenergybusiness.com/>

-----Original Message-----

From: Philips, Marjorie R. [mailto:mphilips@hess.com]  
Sent: Monday, December 09, 2013 2:24 PM  
To: Cox, Candace  
Subject: Re: PJM Settlement C Billing Adjustment for Load Serving Entities (LSEs) Operating in the Duke Energy Ohio/Kentucky (DEOK) Load Zone

Candace. Who is asking for consent and in what forum (ie ferc, Pjm, bilateral). That may help with answer but not sure. M

Marji Rosenbluth Philips ISO Services Director Hess Corporation Cell 610.401.3612 Direct 732.750.6689 Fax 732.750.6670  
mphilips@hess.com<mailto:mphilips@hess.com> [www.HessEnergy.com](http://www.HessEnergy.com)<<http://www.HessEnergy.com>>  
Forward Thinking Energy  
Electricity | Natural Gas | Fuel Oil | Green Solutions

On Dec 9, 2013, at 2:13 PM, "Cox, Candace"  
<Candace.Cox@directenergy.com<mailto:Candace.Cox@directenergy.com>> wrote:

Hello, G&RA Team.

Based on the information that 39 out of the 44 Suppliers have not consented to the Settlement C (Duke) could that in any way "default" to a non-response equaling consent? As in, if we do not receive a response from you we will assume your consent?

Thank you!

Candace Cox  
Utility Operations Analyst

Direct Energy Business  
1001 Liberty Center  
Pittsburgh, PA 15222

Office - 412.667.5165  
Fax: 412-394-4377



E-mail: Candace.Cox@DirectEnergy.com<mailto:Candace.Cox@directenergy.com>  
Web: <http://www.directenergybusiness.com/>

From: Kennelly, Robert  
Sent: Wednesday, December 04, 2013 2:57 PM  
To: Cox, Candace  
Cc: DEB Utility Operations; Hari, Tina  
Subject: RE: PJM Settlement C Billing Adjustment for Load Serving Entities (LSEs) Operating in the Duke Energy Ohio/Kentucky (DEOK) Load Zone

No... I've been talking to Duke over the past couple days. There are still 39 out of the 44 suppliers that have not consented to the Settlement C... which is not good. we may have to re-engage G&RA... or maybe even Scarp.

From: Cox, Candace  
Sent: Wednesday, December 04, 2013 2:53 PM  
Cc: DEB Utility Operations; Kennelly, Robert; Hari, Tina  
Subject: RE: PJM Settlement C Billing Adjustment for Load Serving Entities (LSEs) Operating in the Duke Energy Ohio/Kentucky (DEOK) Load Zone

Bob,

Do you need us to follow up or let this one alone?

Candace Cox  
Utility Operations Analyst

Direct Energy Business  
1001 Liberty Center  
Pittsburgh, PA 15222

Office - 412.667.5165  
Fax: 412-394-4377

E-mail: Candace.Cox@DirectEnergy.com<mailto:Candace.Cox@directenergy.com>  
Web: <http://www.directenergybusiness.com/>

From: Ccx, Candace  
Sent: Monday, September 16, 2013 4:46 PM  
To: Rogers, Shelia J; PJM Settlement C@duke-energy.com<mailto:C@duke-energy.com>  
Cc: DEB Utility Operations; Kennelly, Robert; Hari, Tina  
Subject: RE: PJM Settlement C Billing Adjustment for Load Serving Entities (LSEs) Operating in the Duke Energy Ohio/Kentucky (DEOK) Load Zone

Settlements,

Have you had the opportunity to review this?

Thank you.

Candace Cox  
Utility Operations Manager

Direct Energy Business  
1001 Liberty Center  
Pittsburgh, PA 15222

Office - 412.667.5165  
Fax: 412-394-4377

E-mail: Candace.Cox@DirectEnergy.com<mailto:Candace.Cox@directenergy.com>  
Web: <http://www.directenergybusiness.com/>

From: Ccx, Candace  
Sent: Wednesday, September 11, 2013 12:31 PM  
To: Rogers, Shelia J; PJM Settlement C@duke-energy.com<mailto:C@duke-energy.com>  
Cc: DEB Utility Operations; Kennelly, Robert; Hari, Tina  
Subject: RE: PJM Settlement C Billing Adjustment for Load Serving Entities (LSEs) Operating in

the Duke Energy Ohio/Kentucky (DEOK) Load Zone

Thank you for including them/forwarding for us, appreciated!

Candace Cox  
Utility Operations Manager

Direct Energy Business  
1001 Liberty Center  
Pittsburgh, PA 15222

Office - 412.667.5165

Fax: 412-394-4377

E-mail: Candace.Cox@DirectEnergy.com<mailto:Candace.Cox@directenergy.com>

Web: <http://www.directenergybusiness.com/>

From: Rogers, Shelia J [mailto:Shelia.Rogers@duke-energy.com]  
Sent: Wednesday, September 11, 2013 12:12 PM  
To: Cox, Candace; PJM Settlement C@duke-energy.com<mailto:C@duke-energy.com>  
Cc: DEB Utility Operations; Kennelly, Robert; Hari, Tina  
Subject: RE: PJM Settlement C Billing Adjustment for Load Serving Entities (LSEs) Operating in the Duke Energy Ohio/Kentucky (DEOK) Load Zone

I do not have the answers to your questions. Those need to be referred to PJMSettlementC@duke-energy.com<mailto:PJMSettlementC@duke-energy.com>. Thank you.

Shelia Rogers  
Legal Administrative Assistant II

From: Ccx, Candace [mailto:Candace.Cox@directenergy.com]  
Sent: Wednesday, September 11, 2013 11:14 AM  
To: Rogers, Shelia J  
Cc: DEB Utility Operations; Kennelly, Robert; Hari, Tina  
Subject: RE: PJM Settlement C Billing Adjustment for Load Serving Entities (LSEs) Operating in the Duke Energy Ohio/Kentucky (DEOK) Load Zone

Hi, Sheila.

I have a few questions regarding the below notification and request:

- \* Can you confirm the LSE with the overcharge mentioned in the below is Direct Energy Business?
- \* If so, is the consent to have the months resettled still required?
- \* Are there any other DE impacts (other lines of business such as Direct Energy Residential Direct Energy Services under billed and therefore needing to provide consent)?

Thank you for your help

Candace Cox  
Utility Operations Manager

Direct Energy Business  
1001 Liberty Center  
Pittsburgh, PA 15222

Office - 412.667.5165

Fax: 412-394-4377

E-mail: Candace.Cox@DirectEnergy.com<mailto:Candace.Cox@directenergy.com>

Web: <http://www.directenergybusiness.com/>

From: Ccx, Candace  
Sent: Wednesday, September 11, 2013 8:35 AM

To: Shelia.Rogers@duke-energy.com<mailto:Shelia.Rogers@duke-energy.com>  
Cc: DEB Utility Operations; Kennelly, Robert  
Subject: RE: PJM Settlement C Billing Adjustment for Load Serving Entities (LSEs) Operating in the Duke Energy Ohio/Kentucky (DEOK) Load Zone

Hi, Shelia.

Can you add the mail group

DEButilityoperations@directenergy.com<mailto:DEButilityoperations@directenergy.com> to you distribution list(s)?

Thank you.

Candace Cox  
Utility Operations Manager

Direct Energy Business  
1001 Liberty Center  
Pittsburgh, PA 15222

Office - 412.667.5165

Fax: 412-394-4377

E-mail: Candace.Cox@DirectEnergy.com<mailto:Candace.Cox@directenergy.com>

Web: <http://www.directenergybusiness.com/>

From: Vance, Andrew

Sent: Wednesday, September 11, 2013 7:57 AM

To: Kennelly, Robert

Cc: DEB Utility Operations

Subject: FW: PJM Settlement C Billing Adjustment for Load Serving Entities (LSEs) Operating in the Duke Energy Ohio/Kentucky (DEOK) Load Zone

From: Rogers, Shelia J [mailto:Shelia.Rogers@duke-energy.com]

Sent: Tuesday, September 10, 2013 5:01 PM

To: Smardo, Frank -impa; CNorton@amppartners.org<mailto:CNorton@amppartners.org>;

Tim.Bockhorn@dplinc.com<mailto:Tim.Bockhorn@dplinc.com>;

scott.maxwell@nesmarkets.com<mailto:scott.maxwell@nesmarkets.com>;

mmann@ohgande.com<mailto:mmann@ohgande.com>; Palmese, Robert -palmcoenergy;

rachael.cahan@macquarie.com<mailto:rachael.cahan@macquarie.com>; PA;

Gonsales@ses4energy.com<mailto:Gonsales@ses4energy.com>;

rachael.cahan@macquarie.com<mailto:rachael.cahan@macquarie.com>;

tcbanks@starenergypartners.com<mailto:tcbanks@starenergypartners.com>;

ruzhd@starionenergy.com<mailto:ruzhd@starionenergy.com>;

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Subject: PJM Settlement C Billing Adjustment for Load Serving Entities (LSEs) Operating in the  
Duke Energy Ohio/Kentucky (DEOK) Load Zone

Dear LSEs:

The purpose of this letter is to notify you that PJM Settlements has undercharged your company for load settlement services for the months of January and February 2013. Due to this error, another LSE has been overcharged by PJM for load settlement services for January and February. In order to rectify the situation, we are requesting that your company agree to a resettlement with PJM for the months of January and February 2013 which will allow the overcharged LSE to be made whole. The impact to load is approximately 30 MW's/hour that will spread across each LSE's percent of load compared to total DEOK load.

PJM allows for resettlements to occur outside of a 60 day window under the Settlement C process. This is an informal process followed by PJM. In order to initiate the Settlement C process, you will need to provide to Duke Energy Ohio consent to have your account resettled for the months of January and February. We will then provide this consent to PJM who will then resettle your account.

Please email PJMSettlementC@duke-energy.com<mailto:PJMSettlementC@duke-energy.com> with questions and your consent. We appreciate your attention to this matter.

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**6/12/2017 3:50:09 PM**

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Summary: Deposition Duke Energy Ohio submitting the deposition of Marjorie Philips electronically filed by Mrs. Debbie L Gates on behalf of Duke Energy Ohio Inc. and Spiller, Amy B and Watts, Elizabeth H