

**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke Energy Ohio, Inc., for an Increase in Electric Distribution Rates.	)	Case No. 17-32-EL-AIR
	)	
In the Matter of the Application of Duke Energy Ohio, Inc., for Tariff Approval.	)	Case No. 17-33-EL-ATA
	)	
In the Matter of the Application of Duke Energy Ohio, Inc., for Approval to Change Accounting Methods.	)	Case No. 17-34-EL-AAM
	)	
In the Matter of the Application of Duke Energy Ohio, Inc., for Approval to Modify Rider PSR.	)	Case No. 17-872-EL-RDR
	)	
In the Matter of the Application of Duke Energy Ohio, Inc., for Approval to Amend Rider PSR.	)	Case No. 17-873-EL-ATA
	)	
In the Matter of the Application of Duke Energy Ohio, Inc., for Approval to Change Accounting Methods.	)	Case No. 17-874-EL-AAM
	)	
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 Code, in the Form of an Electric Security Plan, Accounting Modifications and Tariffs for Generation Service.	)	Case No. 17-1263-EL-SSO
	)	
In the Matter of the Application of Duke Energy Ohio, Inc., for Authority to Amend its Certified Supplier Tariff, P.U.C.O. No. 20.	)	Case No. 17-1264-EL-ATA
	)	
In the Matter of the Application of Duke Energy Ohio, Inc., for Authority to Defer Vegetation Management Costs.	)	Case No. 17-1265-EL-AAM
	)	
In the Matter of the Application of Duke Energy Ohio, Inc., to Establish Minimum Reliability Performance Standards Pursuant to Chapter 4901:1-10, Ohio Administrative Code.	)	Case No. 16-1602-EL-ESS
	)	

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**DIRECT TESTIMONY OF AMY B. SPILLER**

**IN SUPPORT OF STIPULATION**

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June 6, 2018

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**I. INTRODUCTION AND PURPOSE**

1   **Q.   PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2   A.   My name is Amy B. Spiller, and my business address is 139 East Fourth Street,  
3       Cincinnati, Ohio 45202.

4   **Q.   BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

5   A.   I am employed by Duke Energy Business Services LLC (DEBS), as State  
6       President of Duke Energy Ohio, Inc., (Duke Energy Ohio or the Company) and its  
7       subsidiary, Duke Energy Kentucky, Inc. (Duke Energy Kentucky). DEBS  
8       provides various administrative and other services to Duke Energy Ohio and other  
9       affiliated companies of Duke Energy Corporation (Duke Energy).

10  **Q.   PLEASE BRIEFLY DESCRIBE YOUR EDUCATION AND**  
11  **PROFESSIONAL EXPERIENCE.**

12  A.   I received a bachelor's degree in economics and management from Albion  
13       College in Michigan and a law degree from Wake Forest University in Winston-  
14       Salem, N.C. Following law school, I spent two years working for Business Laws,  
15       Inc., a legal publishing company in northeast Ohio. Then, from 1993 to 2003, I  
16       rose from associate to partner at Wilson & Markesbery Co., L.P.A., a small  
17       insurance defense law firm in Cincinnati, Ohio.

18               I joined Cinergy Corp., in 2003 as an associate general counsel, focusing  
19       on litigation matters. In 2008, following the 2006 merger between Cinergy Corp.,  
20       and Duke Energy, I was promoted to deputy general counsel, assuming  
21       responsibility relative to the Duke Energy's strategic planning in Ohio and  
22       Kentucky. I was also responsible for advancing Duke Energy's rate and

1 regulatory initiatives before the Public Utilities Commission of Ohio  
2 (Commission) and the Kentucky Public Service Commission. In January of this  
3 year, I was named Vice President of Government and Community Affairs for  
4 Duke Energy Ohio, where I was responsible for managing state government and  
5 regulatory policies, strategies, and relationships impacting Duke Energy Ohio's  
6 interests and those of our customers. On June 1, 2018, I was named to my current  
7 position of President, Duke Energy Ohio and Duke Energy Kentucky.

8 **Q. PLEASE DESCRIBE YOUR DUTIES AS STATE PRESIDENT, DUKE**  
9 **ENERGY OHIO.**

10 A. As State President, Duke Energy Ohio, I am responsible for ensuring that our  
11 customers continue to have access to safe, reliable, and reasonably priced electric  
12 and natural gas service and that these services are provided in accordance with  
13 applicable federal and state laws and regulations. I am also involved in external  
14 efforts relating to governmental and regulatory affairs, interacting with state and  
15 community leaders and regulators on matters relevant to Duke Energy Ohio's  
16 business and presence in Ohio. I am responsible for the Company's community  
17 relations and economic development efforts, as well as Duke Energy's charitable  
18 contributions in the Greater Cincinnati region.

19 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE PUBLIC**  
20 **UTILITIES COMMISSION OF OHIO?**

21 A. No.

1   **Q.   WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THESE**  
2   **CONSOLIDATED PROCEEDINGS?**

3   A.   The purpose of my testimony is to adopt the Direct Testimony of James P.  
4   Henning that was previously filed in support of two of the Company's  
5   applications in these consolidated proceedings and to support the Stipulation and  
6   Recommendation (Stipulation) filed in these proceedings on April 13, 2018. In  
7   doing so, I discuss how the Stipulation:

- 8           • positions the Company to continue important proactive  
9           investments in our infrastructure to modernize our electric delivery  
10          system and transform our customers' utility experience;
- 11          • allows Duke Energy Ohio to continue to provide safe, reliable, and  
12          affordable electric distribution service to our more than 700,000  
13          residential and business customers and electric generation supply  
14          to our customers who have chosen not to shop;
- 15          • addresses the Company's financial health through regulatory  
16          mechanisms that mitigate rate volatility and uncertainty for our  
17          customers;
- 18          • advances the policies set forth in R.C. 4928.02; and
- 19          • satisfies the Commission's criteria for approval of a stipulation.

20               Finally, I provide an introduction of the Company's witnesses who will  
21   testify in support of the Stipulation in these proceedings.

## **II. DISCUSSION**

1   **Q.   DO YOU FORMALLY ADOPT THE DIRECT TESIMONY OF JAMES P.**  
2       **HENNING FILED IN CASE NO. 17-0032-EL-AIR, *et al.*, AND IN CASE**  
3       **NO. 17-1263-EL-SSO, *et al.*?**

4   **A.   Yes.**

5   **Q.   HAVE YOU REVIEWED THE STIPULATION FILED IN THESE**  
6       **PROCEEDINGS?**

7   **A.   Yes, I am familiar with the Stipulation.**

8   **Q.   HOW DOES THIS STIPULATION IN THESE CONSOLIDATED**  
9       **PROCEEDINGS COMPARE TO PRIOR SETTLEMENTS TO WHICH**  
10      **DUKE ENERGY OHIO WAS A PARTY?**

11   **A.   The Stipulation here is similar to prior stipulations submitted to the Commission,**  
12       **in that it reflects a thoroughly considered outcome that balances the interests of**  
13       **the Company, our customers, and other stakeholders. It is a product of extensive**  
14       **negotiation between parties familiar with Ohio utility regulation that are**  
15       **represented by capable counsel. However, the Stipulation differs from prior**  
16       **settlements in its scope. Specifically, this settlement serves to resolve ten separate**  
17       **applications pending before the Commission and provides long-term clarity for**  
18       **the Company and our customers. Indeed, the Stipulation filed in these**  
19       **proceedings establishes important mechanisms pursuant to which Duke Energy**  
20       **Ohio will continue to proactively invest in – and modernize – our electric**  
21       **distribution infrastructure consistent with the Commission’s recommendations**  
22       **and to fulfill our commitments to our customers. The Stipulation enables the**

1 appropriate recovery of the Company's regulatory investment while affording our  
2 customers certainty and stability over a long period of time. And the Stipulation  
3 provides assistance for our at-risk populations and confirms continuing,  
4 cooperative partnerships with the city of Cincinnati and our local hospitals.  
5 Finally, this Stipulation will support Duke Energy Ohio's financial health in a  
6 manner that promotes the agreed-upon rider mechanisms and the Company's  
7 overall viability. Such support is fundamental to maintaining good credit  
8 standings and ultimately mitigating against abrupt cost increases for our  
9 customers.

10 **Q. HOW WILL CUSTOMERS AND THE COMPANY BENEFIT FROM**  
11 **APPROVAL OF THIS STIPULATION AS FILED?**

12 A. As I stated above, customers and the Company will benefit from long-term  
13 stability in rates for several years. This complex settlement is comprehensive and  
14 intricately structured to mitigate the impact of unpredictable rate increases to the  
15 extent possible and is balanced to afford the Company an opportunity to continue  
16 to invest in our electric delivery system and modernize the grid in a measured  
17 manner that fosters reliability performance. This settlement appropriately  
18 balances the varied interests represented by the parties in these proceedings with  
19 preserving the Company's credit quality and ability to have the necessary cash  
20 flows to continue providing safe, reliable and affordable electric service to our  
21 customers. And it does so for the next seven years, incorporating protection  
22 against the risk of sudden swings in market prices for power.

1   **Q.     PLEASE BRIEFLY SUMMARIZE THE PROCEEDINGS RESOLVED VIA**  
2   **THE STIPULATION.**

3   A.    Company witness William Don Wathen Jr. more fully discusses the various  
4   provisions of the Stipulation; therefore, I will not do so here. Succinctly stated,  
5   the Stipulation resolves the following applications pending before the  
6   Commission:

- 7       • Request for an increase in base distribution rates<sup>1</sup>
  - 8           ○ Agreed-upon \$19.2 million reduction in the Company's base rates,
  - 9           effective upon Commission approval, without material
  - 10          modification, of this Stipulation
- 11      • Request to adjust Rider PSR (Price Stabilization Rider)<sup>2</sup>
  - 12           ○ Agreed-upon adjustment to Rider PSR to enable the net revenues
  - 13           associated with the Company's contractual entitlement in
  - 14           generation owned by the Ohio Valley Electric Corporation
  - 15           (OVEC) to flow through to customers on a non-bypassable basis,
  - 16           thereby affording all customers a hedge against volatile wholesale
  - 17           market prices and the Company access to reasonably priced capital
  - 18           markets
- 19      • Request for a standard service offer<sup>3</sup>

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<sup>1</sup> See Case No. 17-32-EL-AIR and related filings docketed in Case No. 17-33-EL-ATA and Case No. 17-34-EL-AAM.

<sup>2</sup> See Case No. 17-872-EL-RDR and related filings docketed in Case No. 17-837-EL-ATA and Case No. 17-874-EL-AAM.

<sup>3</sup> See Case No. 17-1263-EL-SSO and related filings docketed in Case No. 17-1264-EL-ATA and Case No. 17-1265-EL-AAM.

1                   ○ Agreed-upon electric security plan (ESP), with procurement of  
2                   generation supply via established competitive bidding  
3                   procurements and perpetuation of rider mechanisms to enable  
4                   appropriate recovery of the costs associated with providing this  
5                   mandated service

- 6           • Request to establish minimum reliability performance standards<sup>4</sup>
  - 7                   ○ Agreed-upon reliability standards for CAIDI and SAIFI over a  
8                   seven-year period

9                   As part of this overall settlement, the Company will continue existing  
10                  riders, eliminate some riders, and implement new riders, some of which are  
11                  structured to enable the continued transformation of the grid, evolution of the  
12                  customer experience, and adherence to Commission regulation. Although the  
13                  settlement affords certainty in many respects, it also provides for the Company to  
14                  subsequently develop proposals that are consistent with – and advance – the intent  
15                  of the Commission’s PowerForward initiative, thereby providing an appropriate  
16                  level of flexibility in business planning and execution.

17                  The Stipulation also resolves matters related to the Company’s separation  
18                  plan, interaction with competitive retail electric service providers and certain  
19                  tariffed offerings. The many provisions included in the Stipulation address issues  
20                  and interests not only raised by Duke Energy Ohio, but those of one or more of  
21                  the Signatory Parties, thereby resulting in this comprehensive resolution of  
22                  complex issues. In addition, the settlement provides benefits to stakeholders

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<sup>4</sup> See Case No. 16-1602-EL-ESS.

1 beyond the Signatory Parties, which benefits include, but are not limited to, the  
2 following:

- 3 • All customers, including residential customers, will benefit  
4 through the reduction in the Company's base electric distribution  
5 rates;
- 6 • The Company's proposals to increase the monthly residential  
7 customer charge and implement a straight-fixed, variable, rate  
8 design as previously directed by the Commission and as contained  
9 in Duke Energy Ohio's original application has been resolved  
10 with no increase;
- 11 • All customers who currently receive or that are considering Back-  
12 up Delivery service will benefit from the reduction in the charges  
13 for that service;
- 14 • The PowerForward Rider (Rider PF) includes provisions to afford  
15 both customers and their competitive retail electric suppliers  
16 (CRES) with additional customer energy usage data not currently  
17 available;
- 18 • The Company has agreed that its Net Metering riders will be  
19 available to customers who shop with CRES providers and are  
20 now in conformance with the Commission's recent policy  
21 directives related to net metering;

- 1                   • The Stipulation allows for the Company's current Purchase of
- 2                   Accounts Receivable program to continue being available for
- 3                   CRES providers at a zero discount rate; and
- 4                   • The Stipulation has included changes to the Certified Supplier
- 5                   Tariff to incorporate information desired by CRES providers,
- 6                   including their logos.

7   **Q.    IN YOUR OPINION, WERE THE AGREED-UPON ADJUSTMENTS TO**  
8   **RIDER PSR CRITICAL TO DUKE ENERGY OHIO'S WILLINGNESS**  
9   **AND ABILITY TO RESOLVE THESE CASES VIA A SETTLEMENT?**

10  A.   The Stipulation, in its entirety, is the product of thoughtful negotiation and  
11       compromise. Thus, had certain terms been not been included as part of the overall  
12       resolution, the Company would not have resolved these proceedings through a  
13       settlement. And this statement is particularly true with regard to the Stipulation's  
14       provisions in respect of Rider PSR.

15               There has been significant discussion of the history of the InterCompany  
16       Power Agreement (ICPA) in prior Commission proceedings and the uniqueness of  
17       this agreement cannot rationally be denied. Indeed, the Commission has  
18       previously recognized that "OVEC is different from the rest. The recited history  
19       of OVEC...would alone separate OVEC from other, more conventional  
20       generation units constructed either during Ohio's fully regulated cost-of-service  
21       era, or through private funding during our hybrid deregulation era."<sup>5</sup> In  
22       recognition of these unique circumstances, the Commission has historically

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<sup>5</sup> *In the Matter of the Application Seeking Approval of Ohio Power Company's Proposal to Enter Into an Affiliate Power Purchase Agreement For Inclusion In the Power Purchase Agreement Rider*, Case No.14-1693-EL-RDR, *et al.*, Second Entry on Rehearing (November 3, 2016) at pg.3.

1 evaluated various mechanisms to further the interests of the state and its  
2 ratepayers. For example, the Commission has expressed a pointed and sustained  
3 interest in the future of the grid and the electric industry. In doing so, it has  
4 expressed its intention to “advance the industry for the betterment of consumers  
5 and businesses.”<sup>6</sup> The mechanism for doing so in some instances is a rider that  
6 recognizes the need to ensure that a “certain level of financial health and  
7 creditworthiness” is maintained so that a utility can invest in future distribution  
8 modernization endeavors.<sup>7</sup> While these determinations were made in the context  
9 of other filings, they are equally applicable here, as Duke Energy Ohio’s  
10 contractual entitlement under the ICPA is structured identical to that of AEP Ohio  
11 and Dayton Power & Light (DP&L), with the only exception being the amount of  
12 the entitlement. Thus, as was the case for both AEP Ohio and DP&L, the rider  
13 mechanism here – Rider PSR – will provide a hedge to all retail customers over  
14 the term of the ESP while allowing Duke Energy Ohio to appropriately maintain  
15 its overall credit quality.

16 Company witnesses John L. Sullivan III and Steven W. Fetter provide  
17 detailed testimony regarding the significance of Duke Energy Ohio’s overall  
18 credit quality, cash from operations coverage ratios, and credit rating that, if  
19 adversely affected, ultimately harms customers.

20 As Mr. Sullivan and Mr. Fetter describe in their testimony, analysts have  
21 identified the uncertainty of OVEC to Duke Energy Ohio as a risk to the

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<sup>6</sup> *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, *et al.*, Fifth Entry on Rehearing, (October 12, 2016) at pg.186.

<sup>7</sup> *Id.*

1 Company and driver of a potential credit downgrade. Resolving this uncertainty in  
2 a constructive manner is significant to maintaining the Company's financial  
3 strength. And achieving an outcome similar to that afforded the Company's utility  
4 peers in Ohio was critical to Duke Energy Ohio's willingness to accept the many  
5 terms and conditions in the Stipulation, including the more than \$19.2 million  
6 reduction in base distribution rates.

7 **Q. SPECIFIC TO RIDER PSR, DOES THE STIPULATION INCLUDE**  
8 **PROVISIONS THAT PROTECT THE PUBLIC INTEREST?**

9 A. Yes. Adjustments to Rider PSR will be subject to the following conditions:

- 10 • Forced outages that exceed a defined threshold are excluded from  
11 recovery under the rider;
- 12 • PJM Capacity Performance assessments are excluded from the rider;
- 13 • The rider will be subject to annual prudency reviews;
- 14 • The Company must continue making reasonable efforts to transfer its  
15 entitled under the ICPA; and,
- 16 • Carrying charges will not accrue.

17 Additionally, the term of Rider PRS has been altered from that proposed  
18 by the Company in Case No. 17-872-EL-RDR, *et al.* Specifically, the Stipulation  
19 provides for an initial term through May 31, 2025, which term the Company may  
20 later seek to extend. The limitations discussed above strike an appropriate balance  
21 between the Company's need for certainty with respect to this entitlement and  
22 reasonable customer protections.

1   **Q.    IN THE DIRECT TESTIMONY OF JAMES HENNING, FILED IN CASE**  
2       **NO. 17-1263-EL-SSO, *ET AL.*, WHICH YOU HAVE ADOPTED, IT IS**  
3       **STATED THAT THE COMPANY’S PROPOSED ESP WAS INTENDED**  
4       **TO ENHANCE THE CUSTOMER EXPERIENCE AND SATISFIES**  
5       **STATE POLICY. DO YOU BELIEVE THE STIPULATION ACHIEVES**  
6       **THE SAME RESULTS?**

7   **A.    Yes.**

8   **Q.    PLEASE EXPLAIN.**

9   **A.    As previously testified, a comprehensive, modern distribution grid is necessary to**  
10       realizing the objectives of the Commission and these infrastructure improvements  
11       will enable technology that provides customers with more control and greater  
12       choices regarding their energy usage.<sup>8</sup> The Stipulation will enable those  
13       objectives through continuation of the Company’s Rider DCI, as well as approval  
14       of the Company’s Rider PF. These two riders are designed to promote the  
15       Company’s timely, continued modernization of the distribution grid and  
16       transformation of the related customer experience and to meet the Commission’s  
17       previously stated goals of its PowerForward initiative.

18               The Company will be the first in Ohio to enable the comprehensive  
19       sharing of customer data, with appropriate customer approval, with third parties  
20       that can then provide additional services to those customers who opt to take  
21       advantage of such services. These additional services represent the culmination  
22       of the customers’ investment in the grid to date and provide competitive suppliers

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<sup>8</sup> James P. Henning Direct Testimony, at 8-9.

1 across the state with information that will foster competition and ultimately enrich  
2 the competitive market in Ohio.

3 Further, the Stipulation establishes reliability commitments and incentives  
4 for meeting those commitments through continued and constructive recovery of  
5 important reliability investment initiatives of Duke Energy Ohio as well as those  
6 that may be desired by the Commission as part of PowerForward. This Stipulation  
7 positions the Company to proactively and timely implement programs that  
8 advance the Commission's objectives in respect of the electric distribution grid  
9 and its future goals, all of which are intended to enhance the overall customer  
10 experience.

11 **Q. ARE YOU FAMILIAR WITH THE POLICIES OF THE STATE OF OHIO,**  
12 **AS SET FORTH IN R.C. 4928.02?**

13 A. Yes. I am further aware that Ohio Supreme Court describes these policies as  
14 guidelines for the Commission to weigh in evaluating an electric distribution  
15 utility's standard service offer.

16 **Q. DO YOU BELIEVE THAT DUKE ENERGY OHIO'S STIPULATION AS A**  
17 **WHOLE, INCLUDING THE RESOLUTION OF THE COMPANY'S ESP**  
18 **APPLICATION, ADVANCES STATE POLICY?**

19 A. As Ohio law provides, advancement of state policy as codified in Chapter 4928 is  
20 relevant with regard to an evaluation of the Company's ESP. Here, however, the  
21 Commission is being asked to approve a comprehensive settlement of several  
22 proceedings that are, in many ways, related. Consequently, it is reasonable to  
23 extend the application of state policy to the Stipulation as a whole. And, in doing

1 so, it is readily apparent that such policies are advanced by the settlement at issue  
2 here.

3 **Q. PLEASE EXPLAIN HOW THE STIPULATION ADVANCES THE STATE**  
4 **POLICY TO ENSURE THE AVAILABILITY TO CONSUMERS OF**  
5 **ADEQUATE, RELIABLE, SAFE, EFFICIENT, NONDISCRIMINATORY,**  
6 **AND REASONABLY PRICED, RETAIL ELECTRIC SERVICE.**

7 A. The Stipulation will ensure that the Company has the appropriate programs and  
8 infrastructure to provide reliable and sufficient supply of retail electric service for  
9 our customers. With this Stipulation, retail customers will continue to have the  
10 option of purchasing generation service from the Company via the competitively  
11 sourced SSO or from CRES providers. In either case, an adequate, safe, reliable,  
12 efficient, and reasonably priced electric service is made available to all retail load.

13 **Q. PLEASE EXPLAIN HOW THE STIPULATION ADVANCES THE STATE**  
14 **POLICY TO ENSURE THE AVAILABILITY OF UNBUNDLED AND**  
15 **COMPARABLE RETAIL ELECTRIC SERVICE THAT PROVIDES**  
16 **CONSUMERS WITH THE SUPPLIER, PRICE, TERMS, CONDITIONS,**  
17 **AND QUALITY OPTIONS THEY ELECT TO MEET THEIR**  
18 **RESPECTIVE NEEDS.**

19 A. As the Company proposed in our ESP Application, the Stipulation enables market  
20 forces to set the price for generation service for all customers, whether they take  
21 SSO service from the Company or take service from a CRES provider. The  
22 generation service provided to customers taking SSO service represents an  
23 unbundled generation service that customers can compare with generation

1 services offered by CRES providers. The Company's tariffs for SSO service  
2 provide all of the required information regarding the pricing, terms, conditions  
3 and quality to meet customers' needs.

4 **Q. PLEASE EXPLAIN HOW THE COMPANY'S PROPOSED**  
5 **STIPULATION ADVANCES THE STATE POLICY TO ENSURE**  
6 **DIVERSITY OF ELECTRIC SUPPLIES AND SUPPLIERS AND BY**  
7 **GIVING CUSTOMERS EFFECTIVE CHOICES OVER THE SELECTION**  
8 **OF THOSE SUPPLIES AND SUPPLIERS AND BY ENCOURAGING**  
9 **DEVELOPMENT OF DISTRIBUTED AND SMALL GENERATION**  
10 **FACILITIES.**

11 A. As Mr. Henning described in his direct testimony in the Company's ESP  
12 Application, Duke Energy Ohio has eighty-one registered and active CRES  
13 providers in our service territory. The Stipulation continues to facilitate the  
14 competitive market that currently exists in our service territory in several ways.  
15 For example, per the Stipulation, the Company will maintain our Purchase of  
16 Accounts Receivable program with the corresponding uncollectible generation  
17 expense rider (Rider UE-GEN). Also, the Company will continue to impose  
18 minimal limits on switching, which should ensure that there will continue to be  
19 numerous and diverse suppliers willing to make CRES offers in the Company's  
20 service territory.

21 Further, as I mentioned earlier, Duke Energy Ohio will continue to rely  
22 upon the competitive market and competitive processes to procure all of the  
23 supply for the SSO load in the proposed ESP. As evidenced by the Company's

1 experience with the successful competitive procurements conducted under prior  
2 ESPs, there are numerous competitive suppliers willing to provide generation for  
3 non-shopping customers.

4 Duke Energy Ohio will continue to offer customer generators a net  
5 metering and interconnection tariff. This tariff is one of the tools that the  
6 Company uses to encourage the development of distributed and small generation  
7 facilities.

8 **Q. PLEASE EXPLAIN HOW THE STIPULATION ADVANCES THE STATE**  
9 **POLICY TO ENCOURAGE INNOVATION AND MARKET ACCESS FOR**  
10 **COST-EFFECTIVE SUPPLY- AND DEMAND-SIDE RETAIL ELECTRIC**  
11 **SERVICE, INCLUDING, BUT NOT LIMITED TO, DEMAND-SIDE**  
12 **MANAGEMENT, TIME-DIFFERENTIATED PRICING, AND**  
13 **IMPLEMENTATION OF ADVANCED METERING INFRASTRUCTURE.**

14 **A.** The Stipulation does not affect Duke Energy Ohio's commitment to meet energy  
15 efficiency and peak demand reduction standards required under Ohio law. Duke  
16 Energy Ohio will continue to explore all cost-effective energy efficiency offerings  
17 to meet the statutory thresholds established under Ohio law, subject to current  
18 limitations.

19 The Stipulation allows for the continuation of Duke Energy Ohio's  
20 Distribution Decoupling Rider (Rider DDR) that decouples volumetric sales from  
21 revenue, which also advances state policy goals in that it eliminates Duke Energy  
22 Ohio's incentive to increase volumetric consumption and, thus, supports the  
23 advancement of energy efficiency measures. Per the Stipulation, the billing

1       determinants will be adjusted to reflect the agreed upon rate reduction for electric  
2       distribution rates as agreed upon in Attachment E to the Stipulation.

3       **Q.   PLEASE EXPLAIN HOW THE STIPULATION ADVANCES THE STATE**  
4       **POLICY TO ENCOURAGE COST-EFFECTIVE AND EFFICIENT**  
5       **ACCESS TO INFORMATION REGARDING THE OPERATION OF THE**  
6       **TRANSMISSION AND DISTRIBUTION SYSTEMS OF ELECTRIC**  
7       **UTILITIES IN ORDER TO PROMOTE BOTH EFFECTIVE CUSTOMER**  
8       **CHOICE OF RETAIL ELECTRIC SERVICE AND THE DEVELOPMENT**  
9       **OF PERFORMANCE STANDARDS AND TARGETS FOR SERVICE**  
10       **QUALITY FOR ALL CONSUMERS, INCLUDING ANNUAL**  
11       **ACHIEVEMENT REPORTS WRITTEN IN PLAIN LANGUAGE.**

12       **A.**   The Stipulation addresses this important goal through agreement to implement the  
13       Company's Rider PF that will provide the vehicle to enable system enhancements  
14       to enable the Company to provide such information to customers. Rider PF is a  
15       new rider to recover the costs of programs, modifications and services related to  
16       the continued evolution of the distribution grid and an enhanced customer  
17       experience, including any programs or initiatives that may arise out of the  
18       Commission's PowerForward review. Rider PF will have three components to  
19       enable implementation of programs and system enhancements. The first  
20       component will be limited to incremental costs that the Company incurs because  
21       of a Commission directive as part of its PowerForward initiative. The second  
22       component is designed to enable recovery of costs with advanced metering  
23       infrastructure and data access, including providing customer energy usage data to

1 customers, CRES providers, and third parties and communication infrastructure to  
2 support automated metering infrastructure. The third component will be for  
3 infrastructure modernization that will include, but not be limited to, an upgrade to  
4 the Company's decade's old, customer information system that is nearing  
5 obsolescence.

6 **Q. PLEASE EXPLAIN HOW THE STIPULATION ADVANCES THE STATE**  
7 **POLICY TO ENSURE THAT AN ELECTRIC UTILITY'S**  
8 **TRANSMISSION AND DISTRIBUTION SYSTEMS ARE AVAILABLE TO**  
9 **A CUSTOMER-GENERATOR OR OWNER OF DISTRIBUTED**  
10 **GENERATION, SO THAT THE CUSTOMER-GENERATOR OR OWNER**  
11 **CAN MARKET AND DELIVER THE ELECTRICITY IT PRODUCES.**

12 A. Duke Energy Ohio's net metering and interconnection tariffs will continue and  
13 customer generators will still have access to Duke Energy Ohio's system. This  
14 state policy will continue to be met.

15 **Q. PLEASE EXPLAIN HOW THE STIPULATION ADVANCES THE STATE**  
16 **POLICY TO RECOGNIZE THE CONTINUING EMERGENCE OF**  
17 **COMPETITIVE ELECTRICITY MARKETS THROUGH THE**  
18 **DEVELOPMENT AND IMPLEMENTATION OF FLEXIBLE**  
19 **REGULATORY TREATMENT.**

20 A. The Stipulation will ensure continuation of a vigorous competitive environment in  
21 southwestern Ohio by maintaining the current auction-based structure, thereby  
22 perpetuating to assure a level playing field between those wholesale suppliers  
23 responsible for service and those retail suppliers providing CRES offers. Ohio's

1 electric distribution utilities (EDUs) have transferred their directly owned  
2 generating assets and have implemented procedures for procuring SSO supply  
3 through competitive processes. Flexible regulatory treatment was necessary to  
4 implement the Company's current ESP and that will continue to be the case under  
5 the Stipulation. For example, there are no statutory provisions for conducting  
6 wholesale auctions for SSO supply under an ESP.<sup>9</sup> Nevertheless, the Commission,  
7 exercising flexible regulatory treatment, was able to formulate a process for  
8 conducting such auctions and customers benefitted by establishing service that, at  
9 least at the wholesale level, was exclusively priced by market forces. The ESP  
10 agreed upon in this Stipulation will continue this process.

11 **Q. PLEASE EXPLAIN HOW THE STIPULATION ADVANCES THE STATE**  
12 **POLICY TO ENSURE EFFECTIVE COMPETITION IN THE**  
13 **PROVISION OF RETAIL ELECTRIC SERVICE BY AVOIDING ANTI-**  
14 **COMPETITIVE SUBSIDIES FLOWING FROM A NON-COMPETITIVE**  
15 **RETAIL ELECTRIC SERVICE TO A COMPETITIVE RETAIL**  
16 **ELECTRIC SERVICE OR TO A PRODUCT OR SERVICE OTHER THAN**  
17 **RETAIL ELECTRIC SERVICE, AND VICE VERSA, INCLUDING BY**  
18 **PROHIBITING THE RECOVERY OF ANY GENERATION-RELATED**  
19 **COSTS THROUGH DISTRIBUTION OR TRANSMISSION RATES.**

20 **A.** The Stipulation resolves the ESP by continuing competitive procurements  
21 pursuant to which Duke Energy Ohio will fulfill the statutory obligation of

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<sup>9</sup> Section 4928.142 of the Ohio Revised Code establishes guidelines for competitive bid processes under a market rate offer but there is no similar provision under Section 4928.143 for ESPs.

1 providing an SSO of competitive retail electric service.<sup>10</sup> Thus, Duke Energy  
2 Ohio will rely upon third parties – the successful wholesale auction winners and  
3 request for proposal (RFP) bidders – to provide sufficient supply for our SSO and  
4 percentage of income payment plan (PIPP) customers. There will be no subsidies  
5 flowing from non-competitive retail electric service to competitive retail electric  
6 generation services. Furthermore, no generation-related costs will be recovered  
7 through transmission or distribution rates.

8 **Q. PLEASE EXPLAIN HOW THE STIPULATION ADVANCES THE STATE**  
9 **POLICY TO ENSURE RETAIL ELECTRIC SERVICE CONSUMERS**  
10 **PROTECTION AGAINST UNREASONABLE SALES PRACTICES,**  
11 **MARKET DEFICIENCIES, AND MARKET POWER.**

12 **A.** As I described in my direct testimony, the Commission has adequate consumer  
13 protection rules that guard against unreasonable sales practices and revises those  
14 rules as it deems necessary.<sup>11</sup> There are rules that are specifically applicable to  
15 utilities and other rules specifically applicable to CRES providers. Duke Energy  
16 Ohio will continue to comply with applicable rules. Duke Energy Ohio further  
17 observes that the Commission may initiate investigations into the retail market or  
18 the practices of CRES providers.<sup>12</sup> The Company will continue to participate in  
19 such investigations, as appropriate, to provide comments to the Commission as it  
20 completes its deliberative review.

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<sup>10</sup> R.C. 2928.141(A).

<sup>11</sup> See, e.g., *In the Matter of the Commission's Review of its Rules for Competitive Retail Electric Service Contained in Chapters 4901:1-21 and 4901:1-24 of the Ohio Administrative Code*, Case No. 12-1924-EL-ORD.

<sup>12</sup> See, e.g., *In the Matter of the Commission's Investigation of Ohio's Retail Electric Service Market*, Case No. 12-3151-EL-COI, Entry (December 12, 2012) and *In the Matter of the Commission-Ordered Investigation of Marketing Practices in the Competitive Retail Electric Services Market*, Case No. 14-568-EL-COI, Entry (April 9, 2014).

1           Additionally, PJM Interconnection, L.L.C. has an independent market  
2           monitor whose primary responsibilities are to ensure there is no market power and  
3           to take actions to mitigate the development of any such market power. Duke  
4           Energy Ohio will continue to be subject to the Commission's jurisdiction and will  
5           continue to be a member of a FERC-approved regional transmission organization  
6           after the ESP is approved.

7           At the state level, the Commission will continue to have oversight of the  
8           competitive procurements used by Duke Energy Ohio and, thus, will continue to  
9           be in a position to remedy any unreasonable sales practices that it may observe.  
10          Further, Duke Energy Ohio will continue to use an independent third party to  
11          serve as the auction manager, thereby creating a level playing field for all auction  
12          participants. Finally, the Stipulation will not affect the Commission's continuing  
13          jurisdiction over CRES providers' sales practices.

14   **Q.   PLEASE EXPLAIN HOW THE STIPULATION ADVANCES THE STATE**  
15   **POLICY TO PROVIDE COHERENT, TRANSPARENT MEANS OF**  
16   **GIVING APPROPRIATE INCENTIVES TO TECHNOLOGIES THAT**  
17   **CAN ADAPT SUCCESSFULLY TO POTENTIAL ENVIRONMENTAL**  
18   **MANDATES.**

19   **A.**   The Stipulation continues to provide for an open and unfettered competitive  
20          marketplace for purchasing generation through 2025. As I previously discussed,  
21          the Rider PF process will provide the mechanism for such technologies to be  
22          implemented in the future.

1           Additionally, the Stipulation provides an opportunity for the Company to  
2           install a distribution battery energy storage system to defer circuit investments or  
3           address distribution reliability issues. Among other attributes, battery storage  
4           reflects an effective and clean solution for backup power and can potentially delay  
5           protracted distribution station maintenance.

6   **Q.   PLEASE EXPLAIN HOW THE STIPULATION ADVANCES THE STATE**  
7   **POLICY TO ENCOURAGE IMPLEMENTATION OF DISTRIBUTED**  
8   **GENERATION ACROSS CUSTOMER CLASSES THROUGH REGULAR**  
9   **REVIEW AND UPDATING OF ADMINISTRATIVE RULES**  
10   **GOVERNING CRITICAL ISSUES SUCH AS, BUT NOT LIMITED TO,**  
11   **INTERCONNECTION STANDARDS, STANDBY CHARGES, AND NET**  
12   **METERING.**

13   **A.**   As I discussed in my direct testimony, customer choices for demand or supply  
14           resources, including a choice to build distributed generation, must be based on  
15           competitive market forces. The Stipulation does not create any barriers  
16           whatsoever to customers who choose to build distributed generation. The  
17           Company supports the Commission's goals of establishing sensible and  
18           constructive policies that support distributed generation, while recognizing the  
19           fixed costs of the distribution system.

20           Duke Energy Ohio will continue to participate in reviews and updating of  
21           administrative rules relating to interconnection standards, standby charges, and  
22           net metering. Overall, the battery storage proposal is one that advances Ohio as a  
23           forward-thinking, proactive actor in support of a cleaner and more resilient energy

1 strategy. It is an important tool that represents one facet of a broader, integrated  
2 whole system solution for reliability and sensible distribution investment.

3 **Q. PLEASE EXPLAIN HOW THE STIPULATION ADVANCES THE STATE**  
4 **POLICY TO PROTECT AT-RISK POPULATIONS, INCLUDING, BUT**  
5 **NOT LIMITED TO, WHEN CONSIDERING THE IMPLEMENTATION**  
6 **OF ANY NEW ADVANCED ENERGY OR RENEWABLE ENERGY**  
7 **RESOURCE.**

8 A. The Stipulation provides protections for at-risk populations. The Stipulation  
9 continues existing RFP process to procure generation supply for PIPP customers.  
10 In addition, the Stipulation also provides funding targeted toward at-risk  
11 populations by way of weatherization programs to be administered by People  
12 Working Cooperatively and other programs to be administered by the city of  
13 Cincinnati. The Stipulation provides all customers – including our most at-risk  
14 customers – with stability in an otherwise volatile market through Rider PSR.  
15 Moreover, it enables a proactive approach to distribution system maintenance and  
16 reliability, recognizing our customers' evolving dependence upon electricity and  
17 their preference for convenience control over, and choices regarding their energy  
18 consumption.

19 **Q. PLEASE EXPLAIN HOW THE COMPANY'S STIPULATION**  
20 **ADVANCES THE STATE POLICY TO ENCOURAGE THE EDUCATION**  
21 **OF SMALL BUSINESS OWNERS IN THIS STATE REGARDING THE**  
22 **USE OF, AND ENCOURAGE THE USE OF, ENERGY EFFICIENCY**

1       **PROGRAMS AND ALTERNATIVE ENERGY RESOURCES IN THEIR**  
2       **BUSINESSES.**

3       A.     Again, as I stated in my direct testimony, Duke Energy Ohio has been, and  
4       continues to be, subject requirements under Ohio law for energy efficiency and  
5       alternative energy resources. The Stipulation in these proceedings does not  
6       change that fact. Duke Energy Ohio will continue to work with small business  
7       owners regarding energy efficiency programs and alternative energy resources as  
8       it has in the past, unaffected by the change in how its rates are developed but  
9       subject to limitations currently imposed by the Commission.

10      **Q.     PLEASE EXPLAIN HOW THE STIPULATION ADVANCES THE STATE**  
11      **POLICY TO FACILITATE THE STATE'S EFFECTIVENESS IN THE**  
12      **GLOBAL ECONOMY AND HOW IT CORRESPONDS WITH THE**  
13      **REQUIREMENT THAT, IN CARRYING OUT THE STATE'S POLICY,**  
14      **THE COMMISSION MUST CONSIDER RULES AS THEY APPLY TO**  
15      **THE COSTS OF ELECTRIC DISTRIBUTION INFRASTRUCTURE,**  
16      **INCLUDING, BUT NOT LIMITED TO, LINE EXTENSIONS, FOR THE**  
17      **PURPOSE OF DEVELOPMENT IN THIS STATE.**

18      A.     The fact that this Stipulation will provide for a long-term stability for Duke  
19      Energy Ohio's customers, and the Company, cannot be understated. This  
20      Stipulation results in an overall pricing plan that provides for reasonable, stable,  
21      and transparent price structures that will contribute to Ohio's global effectiveness,  
22      at least in the Company's service territory.

1 Duke Energy Ohio has focused on modernizing our grid for several years  
2 and, through this Stipulation, will have the necessary mechanisms in place to  
3 continue such modernization. The existence of a modern grid is integral to  
4 attracting new investment and keeping existing business in the Company's service  
5 territory.

6 The Commission has enacted a regulation regarding creation of uniform  
7 line extension policies among the EDUs throughout the state. The Stipulation  
8 does not affect the Company's existing Commission-approved tariffs that were  
9 designed specifically to meet such uniform policy.

10 Finally, as I mentioned above, the distribution battery energy storage  
11 system will allow the Company to obtain important information as to the  
12 effectiveness of this form of storage while simultaneously providing benefits to  
13 portions of the Company's grid and reliability.

### **III. STANDARD FOR CONSIDERING ADOPTION OF A STIPULATION**

14 **Q. PLEASE IDENTIFY THE CRITERIA USED BY THE COMMISSION**  
15 **WHEN REVIEWING A STIPULATION.**

16 **A.** The Commission will approve a stipulation when it (1) is the product of serious  
17 bargaining among capable, knowledgeable parties; (2) does not violate any  
18 important regulatory principle or practice; and, (3) as a package, benefits  
19 ratepayers and the public interest.

1    **Q.     DOES THE STIPULATION REPRESENT THE PRODUCT OF SERIOUS**  
2    **BARGAINING AMONG CAPABLE, KNOWLEDGEABLE PARTIES?**

3    A.    Yes. The capability and knowledge of the Signatory Parties and their counsel is  
4    readily apparent. The signatory parties include the Company, Staff of the  
5    Commission, and a broad cross-section of customer groups, including  
6    representation from low-income service organizations, municipalities,  
7    sophisticated industrial, commercial, and manufacturing consumer groups and as  
8    individual customers. These parties regularly participate in rate proceedings  
9    before the Commission, are very knowledgeable in regulatory matters, and were  
10   represented by experienced, competent counsel.

11           Because I participated in the process that culminated in the Stipulation, I  
12   can confirm that all of the issues raised by the signatory parties, and even those  
13   raised by the non-signatory parties in these proceedings were thoroughly  
14   reviewed, discussed, and, to the extent agreement could be reached, were resolved  
15   during negotiations. Despite the divergent interests among them, all parties had an  
16   opportunity to express their opinions in the negotiating process. All parties had  
17   the opportunity to conduct significant discovery and have had ample time, more  
18   than a year, to review the Company's applications and initial testimony in these  
19   proceedings. As I previously discussed, this Stipulation resolves several complex  
20   regulatory proceedings before this Commission, and, as a package, represents a  
21   comprehensive and reasonable balance of issues raised in each of these  
22   proceedings.

1           Between November 1, 2017, and April 12, 2018, all parties were invited to  
2           numerous settlement conferences. Parties with out-of-state counsel were given an  
3           opportunity to participate via telephone to ensure that the negotiations were  
4           inclusive. In addition, in those discussions, parties and Staff had the benefit of  
5           able counsel as well as subject matter experts in areas including, but not limited  
6           to, competitive procurements, wholesale capacity markets, retail competition, and  
7           rate design.

8           Further, as I detailed above, and as more fully described in the other  
9           Company witnesses supporting the Stipulation, the settlement discussions resulted  
10          in a series of compromises, thereby confirming that serious bargaining most  
11          certainly occurred.

12   **Q.   DOES THE STIPULATION VIOLATE ANY IMPORTANT**  
13   **REGULATORY PRINCIPLE OR PRACTICE?**

14   A.   No. Based upon my experience, involvement in these proceedings, and review of  
15          the Stipulation, I believe that it complies with all relevant and important  
16          principles and practices. Moreover, as I previously discussed, this Stipulation  
17          advances important regulatory policies in that it actually promotes state policy as  
18          contained in R.C. 4928.02.

19   **Q.   DOES THE STIPULATION BENEFIT CONSUMERS AND THE PUBLIC**  
20   **INTEREST?**

21   A.   Yes. As I previously discussed, and as agreed by the signatory parties, the  
22          Stipulation provides several significant benefits across all of our customer groups  
23          and for other interested stakeholders, while advancing and remaining consistent

1 with state policy. Significantly, this Stipulation provides long-term certainty and  
2 predictability for customers, auction suppliers, CRES providers, and the  
3 Company. As Mr. Wathen explains, this Stipulation results in a negligible change  
4 to customer rates. This Stipulation supports the Commission's PowerForward  
5 initiative that will provide significant opportunities to advance and enhance the  
6 customer's ability to have greater control and information regarding their utility  
7 service and overall improve the customer-experience. The Stipulation provides  
8 support for low-income weatherization initiatives.

#### **IV. IDENTIFICATION OF WITNESSES SUPPORTING THE STIPULATION**

9 **Q. PLEASE IDENTIFY THE COMPANY WITNESSES WHO ARE**  
10 **SUPPORTING THIS STIPULATION.**

11 **A.** I identify below the other individuals who will present testimony in support of the  
12 Stipulation, as well as the subject matters of their respective testimony:

- 13 • Richard Brown, Professional Engineer, Ph.D., Exponent Inc., Dr. Brown will  
14 discuss the reliability indices and the performance metrics agreed upon in the  
15 Stipulation and how they are reasonable and are designed to ensure that  
16 customers will receive safe, reliable service.
- 17 • Steven W. Fetter, President, Regulation Unfettered discusses the importance  
18 and significance of the Stipulation to investors and to allow the Company to  
19 continue to have access to reasonable opportunities in capital markets;
- 20 • Judah Rose, Executive Director, ICF provides an analysis of the value of the  
21 hedge provided by OVEC through the term of the Stipulation.

- 1           • John L. Sullivan III, Director, Corporate Finance and Assistant Treasurer,  
2           discusses the importance of the Stipulation as it relates to Duke Energy Ohio's  
3           ability to maintain its credit quality and financial integrity;  
4           • William Don Wathen Jr., Director Rates and Regulatory Strategy,  
5           Ohio/Kentucky, discusses the terms of the Stipulation, and that it results in an  
6           ESP that is better in the aggregate than what could be achieved through a  
7           Market Rate Offer.

**V.    CONCLUSION**

8   **Q.    DOES THIS CONCLUDE YOUR TESTIMONY?**

9   **A.    Yes.**

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Summary: Testimony Direct Testimony of Amy B. Spiller in Support of Stipulation on Behalf of Duke Energy Ohio, Inc. electronically filed by Mrs. Adele M. Frisch on behalf of Duke Energy Ohio, Inc. and D'Ascenzo, Rocco O and Kingery, Jeanne W and Watts, Elizabeth H