

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the :  
Application of Duke :  
Energy Ohio, Inc. to : Case No. 18-837-GA-RDR  
Adjust Rider AU for 2017 :  
Gas Grid Modernization :  
Costs. :

- - -

PROCEEDINGS

before Ms. Sarah Parrot, Attorney Examiner, at the  
Public Utilities Commission of Ohio, 180 East Broad  
Street, Room 11-C, Columbus, Ohio, called at  
10:02 a.m. on Thursday, May 2, 2019.

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APPEARANCES:

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On behalf of Duke Energy Ohio, Inc.

Dave Yost, Ohio Attorney General  
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On behalf of the Staff of the Public  
Utilities Commission of Ohio.

Bruce J. Weston, Consumers' Counsel  
Office of the Ohio Consumers' Counsel  
By Mr. Terry L. Etter  
and Ms. Amy Botschner O'Brien  
Assistant Consumers' Counsel  
65 East Street, 7th Floor  
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On behalf of the Residential Customers of  
Duke Energy Ohio, Inc.

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1 Thursday Morning Session,  
2 May 2, 2019.

3 - - -

4 EXAMINER PARROT: The Public Utilities  
5 Commission of Ohio has set for hearing, at this time  
6 and place, Case No. 18-837-GA-RDR, which is captioned  
7 In the Matter of the Application of Duke Energy Ohio,  
8 Incorporated to Adjust Rider AU for 2017 Grid  
9 Modernization Costs.

10 Good morning, everyone. My name is Sarah  
11 Parrot. I am the Attorney Examiner assigned by the  
12 Commission to hear this case.

13 Let's start with appearances, beginning  
14 with the Company.

15 MS. WATTS: Thank you, Your Honor, and  
16 good morning. On behalf of Duke Energy Ohio,  
17 appearing today, I am Elizabeth H. Watts. Also on  
18 the record is Rocco O. D'Ascenzo. We are at 139 East  
19 Fourth Street, Cincinnati, Ohio 45201.

20 EXAMINER PARROT: Thank you.  
21 Staff.

22 MR. LINDGREN: On behalf of the  
23 Commission Staff, Ohio Attorney General Dave Yost, by  
24 Thomas G. Lindgren, Assistant Attorney General,  
25 30 East Broad Street, 16th Floor, Columbus, Ohio

1 43215.

2 EXAMINER PARROT: Thank you.

3 Ohio Consumers' Counsel.

4 MR. ETTER: Thank you, Your Honor. Good  
5 morning. On behalf of residential utility consumers,  
6 the Office of Ohio Consumers' Counsel, Bruce Weston,  
7 Consumers' Counsel, Terry L. Etter, Assistant  
8 Consumers' Counsel. Also on the record for the Amy  
9 Botschner O'Brien, also Assistant Consumers' Counsel.  
10 We are at 65 East State Street, 7th Floor, Columbus,  
11 Ohio 43215.

12 EXAMINER PARROT: Thank you, everyone.

13 Are there any preliminary matters to  
14 address before we get started with our exhibits and  
15 witnesses for the day?

16 MS. WATTS: None from the Company, Your  
17 Honor.

18 MR. ETTER: None for OCC.

19 MR. LINDGREN: None for Staff, Your  
20 Honor.

21 EXAMINER PARROT: All right. Ms. Watts,  
22 we'll turn things over to you.

23 MS. WATTS: Thank you, Your Honor.  
24 First, may we mark some exhibits?

25 EXAMINER PARROT: Let's do that.

MS. WATTS: For the Company, may we have marked as Duke Energy Ohio Exhibit 1, the Application in this proceeding that was filed on June 29, 2018.

EXAMINER PARROT: So marked.

(EXHIBIT MARKED FOR IDENTIFICATION.)

MS. WATTS: And we would then ask to have marked as Duke Energy Ohio Exhibit 2, the Direct Testimony of Sarah E. Lawler that was filed on June 29, 2018 also.

EXAMINER PARROT: So marked.

(EXHIBIT MARKED FOR IDENTIFICATION.)

MS. WATTS: As Duke Energy Ohio Exhibit 3, we would ask to have marked the Comments that were filed with the Commission on November 9th of 2018.

EXAMINER PARROT: So marked.

(EXHIBIT MARKED FOR IDENTIFICATION.)

MS. WATTS: And as our last exhibit insofar as I know right now, Duke Energy Ohio Exhibit 4, we would ask to have marked the Supplemental Direct Testimony of Sarah E. Lawler that was filed on April 23rd, 2019.

EXAMINER PARROT: So marked.

(EXHIBIT MARKED FOR IDENTIFICATION.)

MS. WATTS: Thank you.

1 EXAMINER PARROT: Mr. Etter, if you want  
2 to go ahead. Let's go ahead and just mark all the  
3 exhibits.

4 MR. ETTER: Oh, okay. Well, we have some  
5 exhibits that we'll probably be entering on cross.

6 EXAMINER PARROT: Sure, and that's  
7 excluding those.

8 MR. ETTER: Okay. So we'd like to mark  
9 as OCC Exhibit 5, the Direct Testimony of James D.  
10 Williams which was filed in this case on November  
11 23rd, 2018.

12 EXAMINER PARROT: All right. So marked.  
13 (EXHIBIT MARKED FOR IDENTIFICATION.)

14 MR. ETTER: And OCC Exhibit 6, OCC's  
15 Comments that were filed on I believe October 26th,  
16 2018.

17 EXAMINER PARROT: All right. The  
18 Comments are marked OCC Exhibit 6.

19 (EXHIBIT MARKED FOR IDENTIFICATION.)

20 MR. ETTER: That's it for now.

21 EXAMINER PARROT: All right.

22 Mr. Lindgren.

23 MR. LINDGREN: Thank you. I would ask to  
24 have marked as Staff Exhibit 1, the Staff's Review  
25 and Recommendations that were filed on the docket on



1 October 4, 2018.

2 EXAMINER PARROT: All right. It's marked  
3 Staff Exhibit 1.

4 (EXHIBIT MARKED FOR IDENTIFICATION.).

5 EXAMINER PARROT: Thank you, everyone.  
6 Let's go ahead and proceed then with our  
7 first witness.

8 MS. WATTS: Thank you, Your Honor. Duke  
9 Energy Ohio would call to the witness stand, Sarah  
10 Lawler.

11 EXAMINER PARROT: Please raise your right  
12 hand.

13 (Witness sworn.)

14 MS. WATTS: Your Honor, may we approach?

15 EXAMINER PARROT: You may.

16 - - -

17 SARAH LAWLER

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

20 DIRECT EXAMINATION

21 By Ms. Watts:

22 Q. Good morning.

23 A. Good morning.

24 Q. Would you state your name for the record,  
25 please.

1 A. Sarah Lawler.

2 Q. Ms. Lawler, do you have before you what  
3 has been marked as Duke Energy Ohio Exhibit 1 and  
4 Duke Energy Ohio -- I'm sorry -- Duke Energy Ohio  
5 Exhibit 2 and Duke Energy Ohio Exhibit 4?

6 A. Yes, I have my Direct Testimony and my  
7 Supplemental Testimony.

8 Q. Okay. And that's the testimony that you  
9 prepared for this proceeding, correct?

10 A. Correct.

11 Q. And if I were to ask you the questions  
12 contained in that testimony again today, would your  
13 answers be the same?

14 A. They would.

15 Q. And are they true and accurate to the  
16 best of your knowledge?

17 A. They are.

18 Q. Do you have any additions or corrections?

19 A. I do not.

20 MS. WATTS: Ms. Lawler is available for  
21 cross-examination.

22 EXAMINER PARROT: Thank you.

23 Mr. Etter.

24 MR. ETTER: Your Honor, at this time  
25 would you entertain some motions to strike?

1 EXAMINER PARROT: Go ahead.

2 MR. ETTER: First of all, on page 2 of  
3 the Supplemental Testimony, Exhibit 4. Unfortunately  
4 there are no line numbers so I'll have to kind of  
5 identify this. It's the first paragraph on page 2  
6 and the second line after the word "testimony,"  
7 there's the phrase "on issues mostly unrelated to the  
8 subject matter at issue in this proceeding."

9 This is a reiteration of Duke's legal  
10 argument that Duke made in its motion to strike, in  
11 December of last year, that the PUCO has already  
12 rejected.

13 She is not an attorney, she doesn't claim  
14 to be an attorney, so this appears to be a legal  
15 opinion and she is not qualified to provide a legal  
16 opinion.

17 EXAMINER PARROT: Is that your only  
18 request to strike or do you have others?

19 MR. ETTER: That's the first one. Do you  
20 want me --

21 EXAMINER PARROT: If you'd prefer to take  
22 them one by one, we can do that. I don't know how  
23 many you have.

24 MR. ETTER: I have three at the moment.

25 On that same page, page 2, on the

1 paragraph that ends that page and at the beginning of  
2 the paragraph that goes over to the top of page 3.,  
3 it's the first paragraph under the answer. I  
4 would -- we would like to have stricken everything  
5 after the word "Yes."

6 Once again, this is giving a legal  
7 opinion and she is not an attorney. Even though she  
8 prefaces it by saying "I am advised by counsel," the  
9 last two sentences of the paragraph provide legal  
10 conclusions that are not attributed to counsel, so  
11 she's giving a legal opinion and is unqualified to do  
12 so since she not an attorney.

13 EXAMINER PARROT: Okay.

14 MR. ETTER: The last one is on page 5.  
15 The last paragraph that begins "Of course, the OCC is  
16 free...." That sentence goes over to the top of  
17 page 6 as well. Once again, this is an argument, a  
18 legal argument that Duke made in its motion to  
19 strike, which was denied by the PUCO, and so, as a  
20 non-attorney, she is unqualified to provide a legal  
21 opinion.

22 EXAMINER PARROT: Response?

23 MS. WATTS: Thank you, Your Honor.

24 With respect to the first item where  
25 Mr. Etter moved to strike on page 2, and I'm going to

1 deal with the first and the third at the same time  
2 because, if I'm not mistaken, it's a similar  
3 argument.

4 The point that the issues in this case  
5 are unrelated to the subject matter that OCC raised,  
6 notwithstanding that we moved to strike Mr. Williams'  
7 testimony and that motion was not granted, is still  
8 very much an important part of the Company's case,  
9 and this witness is prepared to support that  
10 assertion in her testimony; so striking that would  
11 debilitate the record pretty significantly and we  
12 think that would be inappropriate in this case.

13 MR. ETTER: If I may respond, Your Honor?

14 EXAMINER PARROT: Go ahead.

15 MR. ETTER: These are legal arguments  
16 that do not need the support of the witness. The  
17 Company is free to make those arguments on brief.  
18 They don't need to have an unqualified witness  
19 provide these opinions.

20 EXAMINER PARROT: And then on the -- oh,  
21 sorry, go ahead. Response to that?

22 MS. WATTS: I was just going to say that  
23 we do not agree they're legal arguments. We would  
24 assert they're factual arguments that we can support  
25 in the record.

1 EXAMINER PARROT: And then the second  
2 part of the motion to strike at the bottom of page 2.

3 MS. WATTS: If Mr. Etter is arguing that  
4 it's inappropriate for Ms. Lawler to testify with  
5 respect to a matter on advice of counsel, it's common  
6 in Commission proceedings to allow such assertions  
7 particularly when they're set apart by a recognition  
8 that Ms. Lawler is not counsel and she's not speaking  
9 as a lawyer, notwithstanding in the course of her  
10 work with Duke Energy she's required to work with the  
11 Commission's rules and statutes and have an  
12 understanding of those, so she's speaking from that  
13 base of knowledge and not as a lawyer.

14 EXAMINER PARROT: Ms. Lawler, at this  
15 time I will ask you: You're not here today  
16 testifying in the capacity of an attorney?

17 THE WITNESS: I am not.

18 EXAMINER PARROT: You are not, yourself,  
19 an attorney, correct?

20 THE WITNESS: I am not, correct.

21 EXAMINER PARROT: All right. I am going  
22 to allow Ms. Lawler's testimony to stand in its  
23 entirety, Mr. Etter, and we will allow the Commission  
24 to determine what weight should be given, if any, to  
25 the arguments.

1 MR. ETTER: Thank you, Your Honor.

2 EXAMINER PARROT: Anything further?

3 MR. ETTER: No.

4 EXAMINER PARROT: Okay. If you'd like to  
5 proceed with your cross.

6 - - -

7 CROSS-EXAMINATION

8 By Mr. Etter:

9 Q. Good morning, Ms. Lawler.

10 A. Good morning.

11 Q. If you would turn to page 2 and let's  
12 examine that first statement that you make that was  
13 not stricken.

14 MS. WATTS: Excuse me, Mr. Etter. Direct  
15 or Supplemental?

16 MR. ETTER: Supplemental Testimony.

17 MS. WATTS: Thank you.

18 Q. You discuss there, you say that OCC's  
19 comments and Mr. Williams' testimony discuss issues  
20 mostly unrelated to the subject matter at issue in  
21 the proceeding, correct?

22 A. Correct.

23 Q. Isn't it true that Duke filed a motion to  
24 strike Mr. Williams' testimony, claiming that it was  
25 unrelated to the subject matter of the proceeding?

1 A. Yes, I believe so.

2 Q. And isn't it true that the PUCO denied  
3 Duke's motion to strike?

4 A. That's correct.

5 Q. And in its motion to strike, Duke did not  
6 address OCC's comments as being unrelated to this  
7 proceeding; is that correct?

8 A. I don't recall.

9 MR. ETTER: May I approach, Your Honor?

10 EXAMINER PARROT: You may.

11 MR. ETTER: Your Honor, at this time I'd  
12 like to mark as OCC Exhibit 1, Duke's Motion to  
13 Strike Testimony of the Office of the Ohio Consumers'  
14 Counsel, Motion to Continue Date for Filing Testimony  
15 and Hearing, and Request for Expedited Treatment by  
16 Duke Energy Ohio, Inc., and that was filed on  
17 November 28th of 2018 in this case.

18 EXAMINER PARROT: So marked.

19 (EXHIBIT MARKED FOR IDENTIFICATION.)

20 Q. (By Mr. Etter) Now, Ms. Lawler, do you  
21 have before you what I just marked as OCC Exhibit 1?

22 A. I do.

23 Q. In the heading of this pleading, by Duke,  
24 it just says that Duke moves to strike the testimony  
25 of OCC, correct?



1           A.     "Motion to Strike Testimony of the Office  
2 of the Ohio Consumers' Counsel, Motion to Continue  
3 Date for Filing Testimony and Hearing, and Request  
4 for Expedited Treatment by Duke Energy Ohio, Inc.,"  
5 yes.

6           Q.     So it just refers to OCC's testimony and  
7 not OCC's comments, correct?

8           A.     That's correct. It does not refer to  
9 "Comments" in the title, no.

10          Q.     Okay. And in the first paragraph of this  
11 motion on page 1, Duke just mentions that it's moving  
12 to strike the testimony. It does not mention that  
13 it's moving to strike the comments, correct?

14          A.     Correct.

15          Q.     Thank you.

16                 Now, on page 2 of your Supplemental  
17 Testimony, in the paragraph labeled "1" under "OCC's  
18 only witness, Mr. Williams, recommends," you state  
19 that Mr. Williams recommends an independent review of  
20 Duke's natural gas grid modernization program and  
21 that the review should be funded by Duke's  
22 stakeholders. Do you see that?

23          A.     Yes.

24          Q.     In fact, didn't Mr. Williams say it  
25 should be funded by Duke's shareholders and not

1 Duke's stakeholders?

2 A. He probably did say shareholders. I  
3 don't recall exactly, but --

4 Q. Do you have Mr. Williams' testimony  
5 before you?

6 A. I don't.

7 MS. WATTS: Terry, we can stipulate it  
8 probably should have said "shareholders" if you like.

9 MR. ETTER: Okay. Thank you.

10 Q. Now, on page 2, also page 2 of your  
11 Supplemental Testimony, in the last paragraph at the  
12 very bottom of the page. Let me see if I can find it  
13 here.

14 Oh, yes.

15 In the second line of the answer of the  
16 last question on that page, you state that you are  
17 advised by counsel that OCC and the Commission are  
18 free to invoke Chapter 4905.26 of the Revised Code.  
19 Do you see that?

20 A. I do.

21 Q. And are you recommending here that OCC or  
22 the PUCO invoke 4905.26?

23 A. I don't believe I said that, no.

24 Q. But the PUCO is capable of or even OCC is  
25 capable of invoking 4905.26.

1           A.    That's what my counsel has advised me,  
2   yes.

3           Q.    Now, if you look at the next sentence of  
4   that paragraph, you state that under alternative  
5   regulation there's no requirement for Duke to commit  
6   to a rate case, correct?

7           A.    I'm sorry, where do I say that?  Is it  
8   the sentence starting "The Company's Rider AU"?

9           Q.    I'm sorry, I didn't catch that.

10          A.    I don't see where I've said that.

11          Q.    Oh, okay.  Well, you say the Company's  
12   Rider AU was established under the alternative  
13   regulations that explicitly allow for such riders,  
14   and you are advised by counsel that there's no  
15   condition in R.C. 4929 that conditions approval of  
16   such riders upon a commitment to file a rate case.  
17   Do you see that?

18          A.    Yes.

19          Q.    Can the PUCO approve the rider and still  
20   order Duke to have a gas distribution rate case at  
21   some given point?

22          A.    In this proceeding I'm not aware that  
23   they -- I'm not sure.

24          Q.    Do you know whether the PUCO has actually  
25   done that in the past?

1           A.    If they've -- in a rider proceeding, if  
2 they've approved a rider and at the same time ordered  
3 the Company to come in for a rate case?

4           Q.    Yes.

5           A.    I'm not aware if they have or not.

6           MR. ETTER:  May I approach, Your Honor?

7           EXAMINER PARROT:  You may.

8           MR. ETTER:  Your Honor, what I've handed  
9 you is an Opinion and Order in Case No.  
10 13-1939-EL-RDR which is Ohio Power Company's  
11 SmartGrid Rider proceeding.  This is an Opinion and  
12 Order from February 1st of 2017, and I'd like that  
13 marked as OCC Exhibit 2.

14           EXAMINER PARROT:  So marked.

15           (EXHIBIT MARKED FOR IDENTIFICATION.)

16           MS. WATTS:  Your Honor, I'd like to  
17 object if Counsel intends to use this document for  
18 cross-examination.

19           EXAMINER PARROT:  Well, let's wait until  
20 we get to a question.

21           MS. WATTS:  Okay.

22           EXAMINER PARROT:  It's marked OCC  
23 Exhibit 2.

24           Q.    (By Mr. Etter) If you would turn to page  
25 26, paragraph 67.

1           A.    Okay.  I'm there.

2           Q.    Do you see there where the PUCO says that  
3           they note that AEP Ohio's most recent distribution  
4           base rate case was conducted more than four years ago  
5           and, under the Stipulation in that case, the  
6           Company's installation of 894,000 smart meters or AMI  
7           meters is expected to take four years, and the  
8           implementation of 250 DACR circuits and VVO  
9           deployments are both expected to take six years.  Do  
10          you see that?

11          A.    I see those sentences, yes.

12          Q.    And after that the PUCO says "We find  
13          that a future distribution base rate case is a  
14          reasonable measure to assure that all reduced costs  
15          and other benefits of the GS2 implementation are  
16          passed through to customers."  Do you see that?

17          A.    Yes.

18          Q.    So in this case the PUCO did order a base  
19          rate case in approving a rider; is that correct?

20          A.    I mean, I don't know if they ordered it.  
21          I see that they say it's a reasonable measure.  I  
22          haven't looked at this document before.

23          Q.    Well, if you --

24                  MS. WATTS:  Your Honor, may I object at  
25          this point again?  First of all, if Counsel needs to

1 make an argument along these lines, it's certainly a  
2 legal argument that could be made on brief.

3 Secondly, this witness -- this is not a  
4 Duke Energy case, so this witness has no particular  
5 knowledge about this particular case or any of the  
6 details underlying what went into the Commission's  
7 Order.

8 And lastly, I would note that it was  
9 entered pursuant to a Stipulation, so it's an  
10 approval of a Stipulation that the witness doesn't  
11 have in front of her and has no knowledge of also; so  
12 questions around this particular case and the  
13 elements in the Commission's Order are not something  
14 that this witness has any knowledge of, and the  
15 questions are improper.

16 MR. ETTER: Your Honor, the witness made  
17 the statement that the law does not condition  
18 approval of riders on distribution base -- the  
19 conduct of a distribution base rate case, but here's  
20 a situation where the PUCO did, in fact, order a base  
21 distribution rate case in a rider proceeding, and I  
22 was just testing the witness's knowledge on PUCO  
23 processes and what the PUCO can and cannot do under  
24 R.C. 4929 which she raised in her testimony.

25 MS. WATTS: Your Honor, I would note that

1 this particular provision does not relate to Revised  
2 Code 4929 in any respect.

3 EXAMINER PARROT: Can I have the question  
4 reread?

5 (Record read.)

6 EXAMINER PARROT: All right. I'm going  
7 to allow the answer -- the question and answer to  
8 stand.

9 MR. ETTER: Thank you, Your Honor.

10 Q. (By Mr. Etter) My next question is on  
11 page 27. There, the PUCO directed the Staff to file  
12 notice of a new docket for status reports referenced  
13 above, upon completion of the Company's gridSMART 2  
14 deployment, and they directed AEP Ohio to file a base  
15 distribution rate case within six months after the  
16 gridSMART 2 deployment; is that correct? It's at the  
17 top of page 27.

18 A. It's correct. I'm sorry, yes, it's  
19 correct that you read what's on this page, yes.

20 Q. Thank you.

21 Now, if you turn to page 3 of your  
22 testimony. Your Supplemental Testimony, I'm sorry.

23 A. Okay.

24 Q. We're just going to deal with the  
25 Supplemental Testimony, I think, today.

1 A. Got it. Thank you. I'm there.

2 Q. Okay. And if you go to the first full  
3 paragraph and the eighth line down in that paragraph.

4 A. Okay.

5 Q. You state that "There has been no new  
6 investment in gas smart grid costs included in this  
7 rider since before 2014," correct?

8 A. That's correct.

9 Q. Do you know when Duke's last gas  
10 distribution rate case was?

11 A. It was in 2012.

12 Q. 2012?

13 A. I believe.

14 Q. And the Order in that case was in  
15 2013; is that correct?

16 A. I think that's correct, yes.

17 Q. Okay. And wasn't the test year in that  
18 case January 1, 2012 through December 31, 2012?

19 A. I know the date certain in that case was  
20 March 31, 2012. I'm not completely certain what the  
21 test year was. That sounds right. I wasn't part of  
22 that case, but it sounds right.

23 Q. Subject to check.

24 A. Subject to check, yeah. Thank you.

25 Q. Thank you.



1                   Were you involved in Duke's last electric  
2 rate case, Case 17-32?

3                   A.    I was -- I was in the Rates Department  
4 when we were going through that case. I was not part  
5 of the case.

6                   Q.    Are you familiar with the testimony of  
7 Donald Schneider that was filed in that case on  
8 March 16, 2017?

9                   A.    I'm aware that he filed testimony. I  
10 haven't read it.

11                  Q.    Are you aware of what he termed a  
12 business continuity effort by Duke, for years 2017  
13 and 2018, that involves replacing 80,000 electric  
14 Echelon meters and 48,800 Badger gas communication  
15 modules?

16                  A.    I'm aware of the Business Continuity  
17 Program, yes.

18                  Q.    Do you know whether Rider AU is  
19 collecting the original investment costs for the  
20 Badger communication modules?

21                  A.    Rider AU is collecting any gas SmartGrid  
22 costs that were incurred since the time of the last  
23 base rate case; so anything that would have been  
24 placed in service since March 31, 2012.

25                  Q.    Thank you.

1                   Now, are you aware of the Order in Case  
2 No. 17-32 from December 23, 2018?

3           A.    I am.

4           Q.    Does the Order address replacement of  
5 Badger communication modules and other infrastructure  
6 changes that were funded under Rider AU?

7           A.    So the case you're referencing is an  
8 electric case, right? I'm not aware that the Order  
9 talks about anything as it relates to gas  
10 investments.

11           Q.    Now, at the bottom of page 3 of your  
12 Supplemental Testimony, the very last sentence --  
13 well, next-to-last sentence actually. It's the  
14 fourth line down in that paragraph. You say,  
15 "Contrary to the assertions of Mr. Williams, there is  
16 absolutely no reason to go back and reevaluate the  
17 prudence of the Company's investment that has already  
18 been deemed prudent in the past." Do you see that?

19           A.    I do.

20           Q.    When, in the past, was Duke's grid  
21 modernization gas investment deemed prudent?

22           A.    Well, we've had -- the Staff has  
23 issued -- has filed reports and they've performed  
24 discovery in each and every one of our rider filings  
25 that we filed, and it's my understanding that there

1 is a prudency review that the Staff performance as  
2 part of those rider filings.

3 Q. But it has to be deemed prudent by the  
4 PUCO; is that correct?

5 A. I'm not aware if it has to be deemed  
6 prudent by the PUCO, if I'm following the question.

7 Q. Do you know that nearly all of Duke's  
8 grid modernization rider cases have been resolved  
9 through settlements?

10 A. I don't know if I would say "nearly all."  
11 I know there have been some stipulations in the past.  
12 I wasn't involved.

13 Q. Do you know what the PUCO standard for  
14 approving a settlement is?

15 A. I'm not sure I understand the question.

16 Q. Well, does the PUCO rule on individual  
17 parts of a settlement or does it rule on the  
18 settlement as a whole?

19 A. It's my understanding that they rule on  
20 the settlement as a whole.

21 Q. And in the last sentence on page 3, you  
22 state that the PUCO Staff's review in rider filings  
23 includes an assessment of the prudence of capital  
24 expenditures, correct?

25 A. Correct.

1           Q.    Do you have a copy of the PUCO's Staff  
2 review in this case?

3           A.    I don't have it right in front of me, no.

4           MR. ETTER:   May I approach, Your Honor?

5           EXAMINER PARROT:   You may.

6           MR. ETTER:   Your Honor, what I've handed  
7 the witness is the PUCO Staff Review and  
8 Recommendations in this case, dated October 4, 2018,  
9 which I think has already been marked as Staff  
10 Exhibit 1.

11          Q.    (By Mr. Etter) If you turn to page 2,  
12 Ms. Lawler. Just looking through there, do you see  
13 anything that uses the term "prudent" or "prudency"?

14          A.    I don't see the word "prudence," but I  
15 will say that this rider filing, there were no new  
16 investments in this rider filing, so there was no  
17 need for the Commission to do a prudency review in  
18 this case.

19          Q.    But you stated, though, in all rider  
20 filings the Staff does a prudency review but they  
21 didn't do it in this case.

22          A.    Well, if there's investments to be deemed  
23 prudent, they would, but there were no investments --  
24 there were no investments to be deemed prudent in  
25 this case. This case is only reflecting depreciation

1 of the existing assets. There haven't been any new  
2 investments in any rider filing since 2014.

3 Q. So this is basically an accounting  
4 review?

5 A. I don't know if I would call it an  
6 "accounting review." It's a review of the rider  
7 filing that we made with the Commission to request  
8 our annual update to the Rider AU rate which is a  
9 decrease to the customer bill to reflect that lower  
10 investment.

11 Q. Now, if you turn to page 5 of your  
12 Supplemental Testimony. At the very top of the page,  
13 the first sentence there, you discuss the delay in  
14 resolving this case before April 1st, and you place  
15 the blame on OCC, correct?

16 A. The sentence reads "Because of OCC's  
17 continuing efforts to impede resolution of this case,  
18 it is now already past the time, April 1st, when the  
19 new lower rates would have gone into effect."

20 Q. Didn't Duke file the original motion to  
21 continue the date for filing testimony and hearing in  
22 this case on November 28th, 2018?

23 A. Subject to check. I don't remember the  
24 actual dates.

25 Q. Yeah, if you look at OCC Exhibit 1 which

1 I handed you, the motion to strike testimony.

2 A. Yes.

3 Q. At the bottom of the very first page, the  
4 last sentence, the motion says "The Company also  
5 requests that the Commission postpone the filing of  
6 testimony in this proceeding in order to permit  
7 sufficient time for the Commission to rule on this  
8 motion, and the Company requests expedited  
9 treatment"; is that correct?

10 A. I'm sorry, could you reference me one  
11 more time? Are you saying on page 4?

12 Q. It's Exhibit 1, OCC Exhibit 1.

13 A. Yeah.

14 Q. On the very first page.

15 A. Oh, the first page.

16 Q. First page.

17 A. I'm sorry.

18 Q. It's the fifth line down.

19 A. "The Company also requests that the  
20 Commission postpone the filing of testimony in this  
21 proceeding in order to permit sufficient time for the  
22 Commission to rule on this motion...." Yes, I see  
23 that.

24 Q. So, in fact, it was Duke that asked for a  
25 continuance of the proceeding, not OCC.

1           A.     Duke was just asking to have sufficient  
2     time to respond to the OCC's comments.

3           Q.     Right, but there's nothing in the  
4     pleading that offers a particular briefing schedule  
5     or hearing schedule.

6           A.     I don't believe so. You know, our  
7     filing, you know, we made our filing on June 30th,  
8     the Staff Report was in October, and after that there  
9     was nothing else that needed to happen except for the  
10    Commission to issue an Order, suggesting rates go  
11    into effect April 1st, but because the OCC filed  
12    their comments and testimony, that delayed that  
13    process, and anything we filed --

14           MR. ETTER: Your Honor, I move to strike  
15    everything, the last comment made by the witness. It  
16    was not responsive to my question. My question was  
17    whether Duke asked for a continuance, and she  
18    discussed things prior to Duke's motion for a  
19    continuance.

20           MS. WATTS: Her answer is directly  
21    responsive to the issue that Mr. Etter is raising. I  
22    don't see how it can be construed otherwise.

23           EXAMINER PARROT: I agree that she's just  
24    trying to fully explain her answer. The motion is  
25    denied.

1           Q.     (By Mr. Etter) But Duke asked for a  
2     continuance after OCC had filed its comments and its  
3     testimony.

4           A.     To give us time to respond to those  
5     comments and testimony, yes.

6           Q.     Correct. Thank you.

7                     Now, at the bottom of page 5 and at the  
8     top of page 6, you state that OCC is free to make  
9     arguments in a proceeding where the Company is  
10    actually seeking recovery of such costs but not in  
11    this case; is that correct? You're saying that OCC  
12    is free to make its arguments in another case but not  
13    this one.

14          A.     I think I'm referring to the conversation  
15    about new expected charges and those charges are not  
16    in this case.

17          Q.     Is there another Duke case, going on now,  
18    where OCC could ask for a gas distribution rate case?

19          A.     Is there another case, going on right  
20    now, where the OCC could ask for, I don't know. I  
21    don't believe so. I don't know how that would work.

22          Q.     Do you know whether OCC has asked for a  
23    gas distribution rate case in other proceedings, Duke  
24    proceedings?

25          A.     I do believe you've suggested, in our



1 Rider AMRP filings, that we file a base rate case.

2 Q. And is that proceeding still going on?

3 A. It is not. The Commission issued an  
4 Order a few weeks ago. We put rates into effect  
5 May 1st.

6 Q. And was a gas distribution rate case  
7 ordered in that proceeding?

8 A. There was not a gas distribution rate  
9 case ordered in that proceeding, no.

10 Q. Are you familiar with Duke's electric  
11 grid modernization case in 10-2326?

12 A. I am not familiar with that case. Could  
13 you repeat the case number?

14 Q. 10-2326.

15 A. I am not.

16 Q. I believe I didn't ask you one question  
17 back on page 3 at the top. You state that if the  
18 Ohio legislature intended for approval of riders to  
19 be conditioned by commitments -- on commitments to  
20 file future rate cases, it surely would have created  
21 a provision in R.C. 4929 toward that end. Do you see  
22 that?

23 A. I do see that, yes.

24 Q. Have you ever worked on legislation?

25 A. I'm not sure --

1 MS. WATTS: Objection as to form.

2 A. -- I understand the question.

3 MR. ETTER: Pardon?

4 MS. WATTS: Objection as to form.

5 Q. Have you ever -- as part of your duties  
6 at Duke, do you work on legislation?

7 A. I'm not understanding. I don't know if I  
8 know what "working on legislation" means.

9 Q. Have you analyzed legislation?

10 A. I don't think I've analyzed specific  
11 legislation, no. I'm aware of different legislation  
12 that we have conversations about internally.

13 Q. Have you lobbied the legislature on  
14 behalf of Duke?

15 A. I'm not a lobbyist.

16 Q. And I take it you did not participate in  
17 the process regarding the law that enacted R.C. 4929?

18 A. I did not.

19 MR. ETTER: That's all I have. Thank  
20 you.

21 EXAMINER PARROT: Staff?

22 MR. LINDGREN: No questions, Your Honor.

23 EXAMINER PARROT: I have a few, I think.

24 THE WITNESS: Okay.

25 EXAMINER PARROT: If you know.

1           So I'm looking at your testimony towards  
2     the bottom of page 5, where you say -- well, you're  
3     kind of quoting part of Mr. Williams' testimony where  
4     he states that "customers would be charged  
5     \$45 million to replace the meter reading system  
6     installed as part of its grid modernization  
7     initiative." Then you go on to say "That is not at  
8     issue in this case."

9           I'm trying to figure out when the  
10    Commission will see that issue in a case, if you know  
11    --

12           THE WITNESS: Well --

13           EXAMINER PARROT: -- for its gas  
14    operations.

15           THE WITNESS: For its gas operations.  
16    You know --

17           MS. WATTS: Your Honor, I would -- sorry.

18           EXAMINER PARROT: Go ahead, you can note  
19    it. Go ahead if you have an objection.

20           MS. WATTS: I think her answer would  
21    require her to divulge attorney-client privileged  
22    information.

23           EXAMINER PARROT: I'm not asking you to  
24    get into anything that an attorney at Duke has  
25    advised you, but if you're able to speak to this

1 issue without divulging communications you've had  
2 with your attorneys, I'm going to ask you to answer  
3 my question.

4 THE WITNESS: Theoretically, you know,  
5 we're going to incur these costs, they're going to be  
6 placed in service in our books and records, and the  
7 next time we would come in for a base rate case,  
8 those costs would be reflected in that data; so,  
9 theoretically, that would be the time at which the  
10 Commission would see those costs.

11 EXAMINER PARROT: So, until that time, is  
12 it basically Duke's expectation that it will just  
13 continue to file these annual Rider AU cases and that  
14 those costs will not be -- basically will be carved  
15 out, I guess?

16 THE WITNESS: They are not going to be  
17 part of this rider filing, that's right. There's no  
18 plans to put those costs in this rider filing.

19 EXAMINER PARROT: Okay. Thank you very  
20 much.

21 THE WITNESS: Okay.

22 EXAMINER PARROT: I think that's all I  
23 needed.

24 Any redirect?

25 MS. WATTS: No redirect, Your Honor.

1 Thank you.

2 EXAMINER PARROT: Thank you very much.

3 MS. WATTS: Thank you for allowing me to  
4 put my objection on the record.

5 (Laughter all around.)

6 EXAMINER PARROT: I'm sorry, I wasn't  
7 sure if it was to my question or --

8 MS. WATTS: It sort of was.

9 (Laughter all around.)

10 EXAMINER PARROT: Noted. Noted for the  
11 record. And your exhibits, Ms. Watts, do you want to  
12 go ahead and move those?

13 MS. WATTS: Yes. Thank you, Your Honor.  
14 We would move Exhibits 2 and 4.

15 EXAMINER PARROT: All right. Are there  
16 any objections to the admission of Duke's Exhibits 2  
17 or 4?

18 MR. ETTER: No objection, Your Honor.

19 MR. LINDGREN: No objection.

20 EXAMINER PARROT: All right. They are  
21 admitted at this time.

22 (EXHIBITS ADMITTED INTO EVIDENCE.)

23 MR. ETTER: Your Honor, about OCC's  
24 Exhibits 1 and 2. Duke's motion to strike that's  
25 part of this proceeding, can we just take

1 administrative notice of that?

2 EXAMINER PARROT: That's, I think, okay  
3 with me if the Company has no objection to that  
4 which -- Mr. Etter has just asked that we take  
5 administrative notice, to the extent it's necessary  
6 to do so, of Duke's motion to strike that was filed  
7 in this case.

8 MS. WATTS: That's always sort of a  
9 controversial thing because I don't really think I  
10 can stop you from taking administrative notice, but I  
11 do --

12 MR. ETTER: Just for the record.

13 MS. WATTS: -- believe that the Opinion  
14 and Order in Case No. 13-1939 is completely  
15 irrelevant to this particular case, and the witness  
16 was unable to answer questions related to this, so I  
17 would move to -- I would oppose its admission as an  
18 exhibit or for administrative notice because I don't  
19 believe it's relevant.

20 MR. ETTER: Your Honor, the relevance is,  
21 as we discussed earlier, that she directly put in her  
22 testimony regarding what alternative regulation does  
23 and does not allow regarding riders and distribution  
24 rate cases.

25 This is an instance where the PUCO did

1 act on alternative regulation. It was a different  
2 chapter of the Revised Code, it was the electric  
3 rules, but it was still alternative regulation of the  
4 electric industry, and the PUCO in that case did  
5 order a distribution rate case that was not included  
6 in the Stipulation that it approved, so it is  
7 relevant and we would ask that you take  
8 administrative notice of that Order.

9 EXAMINER PARROT: My position on  
10 Commission Orders is that they stand on their own.  
11 It's not necessary to take administrative notice of  
12 it. You are free to make whatever use you wish to in  
13 your briefs, Mr. Etter, but I am not going to notice  
14 or admit it as an exhibit in this case, but again,  
15 you are fully free to make reference to it in your  
16 briefs in this case.

17 MR. ETTER: Okay. Thank you, Your Honor.

18 EXAMINER PARROT: I don't believe it's  
19 necessary either to take administrative notice of a  
20 motion in this docket, but to the extent, again, you  
21 are free to use any reference you need to in your  
22 briefs with respect to Duke's motion to strike.

23 MR. ETTER: Okay. Thank you.

24 EXAMINER PARROT: All right. Any further  
25 witnesses from the Company?

1 MS. WATTS: No further witnesses, Your  
2 Honor.

3 EXAMINER PARROT: I will turn things over  
4 to you then, Mr. Etter.

5 MR. ETTER: OCC calls Jim Williams.

6 EXAMINER PARROT: Please raise your right  
7 hand.

8 (Witness sworn.)

9 EXAMINER PARROT: Please have a seat.

10 THE WITNESS: Thank you.

11 MR. ETTER: May I approach, Your Honor?

12 EXAMINER PARROT: You may.

13 MR. ETTER: Your Honor, what I've handed  
14 you is what was previously marked as OCC Exhibit 5,  
15 and it's the testimony of James D. Williams that was  
16 filed in this case on November 23rd, 2018. At this  
17 time, I would like to move for admission of  
18 Exhibit 5.

19 EXAMINER PARROT: We will reserve a  
20 ruling on that until we get through Mr. Williams'  
21 cross.

22 MR. ETTER: Okay. Thank you. I just  
23 didn't want to forget it.

24 - - -

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JAMES D. WILLIAMS

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

DIRECT EXAMINATION

By Mr. Etter:

Q. Good morning, Mr. Williams.

A. Good morning.

Q. Can you state your name and position with  
OCC?

A. Yes. My name is James D. Williams. My  
business address is 65 East State Street, 7th floor,  
Columbus, 43215, and I'm a Utility Consumer Policy  
Expert.

Q. You have filed testimony on behalf of the  
OCC; is that correct?

A. Yes, I have.

Q. And do you have a copy of what's been  
marked as OCC Exhibit 5?

A. Yes, I do.

Q. And this was your testimony that was  
filed in this case on November 23rd, 2018?

A. Yes, it is.

Q. Did you prepare or cause to be prepared  
this testimony that's been marked as OCC Exhibit 5?

A. I did.

1 Q. And do you have any corrections to your  
2 testimony?

3 A. One minor correction on page 7, line 15,  
4 at the beginning of the sentence. "Customers do" and  
5 there's a "y" that was inserted there. It should be  
6 "Customers do not...." That's the only thing I've  
7 seen.

8 Q. Okay. Thank you. And there are no other  
9 corrections to your testimony?

10 A. No, there's not.

11 Q. And if I were to ask you the questions in  
12 your testimony today that are in your corrected  
13 testimony, would you answer them in the same way?

14 A. Yes, I would.

15 MR. ETTER: Thank you, Your Honor. We  
16 offer Mr. Williams for cross-examination.

17 EXAMINER PARROT: Ms. Watts.

18 MS. WATTS: Thank you, Your Honor.

19 - - -

20 CROSS-EXAMINATION

21 By Ms. Watts:

22 Q. Good morning, Mr. Williams.

23 A. Good morning.

24 Q. I'm going to apologize upfront because  
25 you and I have been through this many, many times

1 now.

2 A. At least once before.

3 Q. So I'm going to ask you some very  
4 familiar questions if you don't mind.

5 A. Please.

6 Q. Sir, you are not an engineer, correct?

7 A. I am not.

8 Q. And you are not an attorney.

9 A. I am not.

10 Q. And insofar as I understand, you're also  
11 not an accountant, correct?

12 A. I am not.

13 Q. Could you tell me what you reviewed in  
14 preparing your testimony in this case?

15 A. Sure.

16 I reviewed the Company Application. I  
17 reviewed the Direct Testimony that was filed by  
18 Ms. Lawler. I reviewed, I believe, some data  
19 requests. I relied upon testimony that was filed by  
20 other Duke witnesses, specifically Mr. Schneider, and  
21 arguments that were raised in the Duke electric  
22 distribution base rate case.

23 Q. Is that everything?

24 A. That's everything I can think of as I sit  
25 here at the moment.

1 Q. And did you review anything additional in  
2 preparation for your testimony here today?

3 A. No, that's the materials that I refreshed  
4 myself with.

5 Q. Okay. Thank you.

6 A. Sure.

7 Q. Sir, you've been involved in previous  
8 Duke Energy rider proceedings, correct?

9 A. I have.

10 Q. Do you recall when the first such rider  
11 proceeding was?

12 A. Where I was involved or --

13 Q. Where you were involved, yes.

14 A. I believe it was the 2013 or 2014 case is  
15 the first time I was actively involved in any of the  
16 SmartGrid stuff. There was someone else at OCC that  
17 was handling those prior to that time.

18 Q. And were you involved, beginning in 2013  
19 or 2014, with respect to both gas and electric?

20 A. Yes.

21 Q. And have you had occasion to go back at  
22 any time and review any of the proceedings in any of  
23 the prior cases before 2013?

24 A. Yes, I glanced at some of the previous  
25 proceedings. One that I am generally familiar with

1 is Case 10-2326-GE-RDR that involved an operational  
2 review of Duke's gas and electric SmartGrid Program  
3 and establishing the level of operational savings  
4 that should be continued until the Company -- until  
5 these investments are put into base rates and actual  
6 operational savings are established through a  
7 distribution rate case proceeding.

8 Q. And I don't know that that will come up  
9 again, but if it does, can we agree to refer to that  
10 as the Mid-Term Review Case?

11 A. That sounds good to me.

12 Q. You stated that you reviewed Ms. Lawler's  
13 testimony, her initial testimony in this case,  
14 correct?

15 A. I did.

16 Q. Did you review the attachments also?

17 A. I did.

18 Q. Did you have any specific observations or  
19 objections with respect to the math that is in those  
20 attachments?

21 A. No; and nor is there anything reflected  
22 like that in my testimony.

23 Q. Okay. I appreciate that. Thank you.

24 Just to be clear, you didn't find any  
25 accounting irregularities or any issues with the math

1 in her schedules.

2 A. I did not.

3 Q. Can you describe what investment is being  
4 recovered -- let me strike that, please.

5 Would you describe what investment the  
6 Company seeks to have recovered in this proceeding?

7 A. I believe that the Company is seeking the  
8 depreciation of items that would be included as part  
9 of Duke's gas SmartGrid Program that was deployed a  
10 few years ago and that was determined by the PUCO to  
11 be fully deployed in October of 2015.

12 Q. Do you know, in fact, when the gas  
13 portion of Duke Energy Ohio's SmartGrid deployment  
14 was completed?

15 A. My understanding, from Ms. Lawler's  
16 testimony, was that part of the installation was  
17 completed in '14, but the PUCO determined the entire  
18 program to be fully deployed in 2015 which then  
19 triggered an electric distribution rate case. There  
20 was no similar provision for gas.

21 Q. Correct. Thank you.

22 Segueing for a minute. I believe you are  
23 aware that Duke Energy Ohio established a SmartGrid  
24 Collaborative, correct?

25 A. My understanding is that, yes, back in

1 the 2010-'11 time frame there was a collaborative.

2 I, myself, was not actively involved in  
3 that collaborative. Although, there were occasions  
4 where the OCC staff person that was involved in the  
5 collaboratives asked me to attend to obtain opinions  
6 on different topics that were being discussed.

7 Q. And do I understand that you may have  
8 attended two or three of those collaboratives?

9 A. I would say at least two or three, yes.

10 Q. Okay. And other than that, the person on  
11 behalf of OCC who attended those meetings was Wilson  
12 Gonzales, correct?

13 A. Wilson Gonzales was the person in our  
14 office who was addressing most of the technical  
15 issues at that time.

16 Q. Did you assist in preparing OCC's  
17 comments in this proceeding?

18 A. Yes, I did.

19 Q. And do you recall that Duke Energy moved  
20 to strike your testimony in this proceeding?

21 A. I -- I believe I saw that, and I was  
22 certainly aware of that from counsel.

23 Q. And that motion was granted insofar as  
24 you're aware?

25 A. The motion --

1 MR. ETTER: Objection, Your Honor. I  
2 think she's mischaracterizing what happened.

3 Q. Insofar as you know, Duke Energy moved to  
4 strike your testimony and that motion was denied,  
5 correct?

6 MR. ETTER: You said "granted."

7 MS. WATTS: I'm sorry. I caught that on  
8 the --

9 THE WITNESS: Yes, my understanding is  
10 that motion was denied and that's part of the reason  
11 we're here today.

12 MS. WATTS: Okay. Thank you.

13 Q. (By Ms. Watts) Would you turn to page 6  
14 of your testimony, please.

15 A. I'm there.

16 Q. At lines 4 and 5, you refer to the fact  
17 that issues in this case were addressed extensively  
18 in OCC's comments and testimony filed in Case No.  
19 17-690-GA-RDR.

20 A. Yes, that is correct.

21 MS. WATTS: Your Honor, I move to strike  
22 reference to the testimony which -- I'm sorry. I  
23 withdraw that motion.

24 Q. On page 3 of your testimony, sir, you are  
25 asking the Commission to order an independent review



1 of Duke Energy's natural gas grid modernization  
2 program, correct?

3 MR. ETTER: Can you point us to where  
4 that's --

5 MS. WATTS: Sure. At line 13 on page 3.

6 MR. ETTER: Thank you.

7 THE WITNESS: I'm there.

8 Q. (By Ms. Watts) Is that a correct  
9 statement of what you're recommending?

10 A. Yes, it is.

11 Q. What natural gas grid modernization  
12 program are you referring to in line 14?

13 A. I'm referring to the testimony that was  
14 filed by Mr. Schneider in 17-32-EL-AIR that discussed  
15 an AMI transition plan and a business continuity  
16 effort that involved replacing Duke's electric  
17 SmartGrid Programs, all the communications  
18 infrastructure, and also addressed replacing many --  
19 some portion of the gas communication modules and  
20 equipment; the very equipment that customers are  
21 paying for and continue to be depreciated in this  
22 case.

23 Q. And you have reviewed the Application in  
24 this case, correct?

25 A. Yes, I have.

1           Q.    Did you find, in that Application, any  
2 request for recovery of any new equipment?

3           A.    No, I did not, but again I'm relying upon  
4 the fact that, according to Mr. Schneider, Duke is  
5 replacing gas infrastructure, started that process in  
6 2017, and fully expected to have it completed in  
7 2018.

8           Q.    And again, Mr. Schneider's testimony that  
9 you're referring to was not in this case, correct?

10          A.    No, it was not, but yet, I do believe  
11 that it's very important to discuss a more holistic  
12 approach of things that are going on with these  
13 SmartGrid Programs, to the extent that we're aware  
14 that Duke is replacing infrastructure that it just  
15 installed, that these are the types of issues that  
16 the Commission would be interested in.

17          Q.    So to the extent that Duke Energy Ohio  
18 proceeds with that infrastructure replacement  
19 program, do you expect the Company to -- where would  
20 you expect the Company to recover costs for that  
21 work?

22          A.    You know, I think ideally those costs  
23 would be recovered as part of some future base rate  
24 case, not necessarily the base rate case that I'm  
25 referring to here.

1           The concern I had, in fact this morning,  
2   is I think it's the first time I've heard that Duke  
3   does not have a plan to recover those costs in Rider  
4   AU, that it intends to do that as part of a future  
5   distribution rate case, and I think that would be the  
6   appropriate location for those types of costs to be  
7   recovered.

8           Q.    If your understanding is that the Company  
9   will not be seeking to recover those costs in Rider  
10  AU, does that change your testimony at all today?

11          A.    No, it does not.

12          Q.    And why not?

13          A.    Again, I believe that the Commission,  
14  that there needs to be an independent review of the  
15  approach that's being proposed by Duke or that's  
16  being used by Duke to replace the equipment, that was  
17  installed as part of Rider AU, to make sure that's  
18  even necessary.

19                Second, I'm recommending that a base rate  
20  case be filed, separate and apart from where those  
21  costs get rolled into, so that the operational  
22  savings can be properly adjusted from the SmartGrid  
23  investment that was already made.

24          Q.    And at such time that Duke Energy files  
25  an Application for recovery of costs associated with

1 the infrastructure replacement for gas SmartGrid,  
2 would you expect to have an opportunity to raise  
3 those issues?

4 MR. ETTER: I'd like to object, Your  
5 Honor, as to form. She's asking about a hypothetical  
6 rate case that Duke proposes. I'm not sure that  
7 Mr. Williams could answer that question.

8 EXAMINER PARROT: Well, he's recommending  
9 a rate case, so I think it's a fair question. To the  
10 extent you follow the question, go ahead and answer.

11 THE WITNESS: I would like to have that  
12 question repeated.

13 EXAMINER PARROT: Yes, let's repeat it  
14 again.

15 (Record read.)

16 A. Yes, I do, but again I would like to be  
17 clear that that base rate case is not the rate case  
18 I'm addressing here. My recommendation is a base  
19 rate case be performed to reflect what the actual  
20 revenues and expenses are, based upon the previous  
21 system, and to establish base rates at some baseline  
22 level that might then be adjusted based upon the  
23 replacement of infrastructure that's occurring by  
24 Duke now.

25 Q. On page 4 of your testimony, sir, you

1 recommend, at line 4, that the Commission require  
2 Duke to file a natural gas distribution rate case.  
3 Do you see that?

4 A. Yes, I do.

5 Q. Can you tell me what you believe is the  
6 Commission's authority to require a utility to file a  
7 rate case?

8 A. I believe that the Commission has broad  
9 authority over regulating investor-owned utilities in  
10 the State, to, at a minimum, influence and  
11 potentially even order a base rate case similar to  
12 the example that I believe we talked about earlier  
13 today in Ms. Lawler's testimony.

14 Q. And that example was with respect to --  
15 what was the case number, 13-1939, is that the case  
16 you're referring to?

17 A. Yes.

18 Q. And that case involved a Stipulation  
19 amongst the parties, did it not?

20 A. Yes, that case did evolve from a  
21 settlement.

22 Q. And just to be clear, this is not a Duke  
23 Energy Ohio case, correct? Were you involved in this  
24 case?

25 A. Yes, I was.

1 Q. Did you have any involvement in the  
2 formulation of the Stipulation?

3 A. I had a lot of involvement in the  
4 opposition to the original settlement and to a  
5 subsequent settlement that addressed a global set of  
6 cases.

7 Q. Was there any reference to Revised Code  
8 Section 4929 in this case?

9 A. I believe it would have been 4928.

10 Q. Would you turn to page 6 of your  
11 testimony, please.

12 A. I'm there.

13 Q. On lines 1 and 2, you state that "Duke's  
14 request for consumers to pay to replace its gas meter  
15 reading system comes after less than two years of use  
16 on the system." Do you see that?

17 A. I see that.

18 Q. And then you cite to Case 10-2326; is  
19 that correct?

20 A. That is correct.

21 Q. Can you help me understand what the  
22 reference to that case is and how it connects to your  
23 statement that customers are paying for meters that  
24 have only been in use for two years?

25 A. Case 10-2326, which was also a settlement

1 for both gas and electric with Duke, it included a  
2 provision for once the PUCO Staff determined that the  
3 Duke SmartGrid Program was fully deployed, for Duke  
4 to file a distribution rate case within some period  
5 of time after that, I believe it was within a year.

6 The determination was made by Staff, I  
7 think it was in October of 2015 or -- I'm trying to  
8 remember when exactly Staff determined the deployment  
9 was complete -- it was either in October of '15 or  
10 October of '16, but that prompted the base rate case.

11 My point in the testimony was the system  
12 has been installed, deployed for a very short period  
13 of time, and now Duke is seeking and has proposed to  
14 replace that system.

15 Q. Do you know when Duke Energy Ohio  
16 installed its first gas meter AMI?

17 A. The specific date of that, no, I don't.  
18 I believe some of those dated back though, subject to  
19 check, to 2010.

20 Q. Is it possible that some of them were  
21 installed as early as 2009?

22 A. That's possible.

23 Q. And so if that's possible, is it your  
24 understanding that meters were installed more or less  
25 continuously between 2009 and 2015?

1           A.    Meters were installed over some period of  
2 time. I don't know all the factors that Staff  
3 considered when it determined the deployment was  
4 complete; I'm just saying it was completed.

5           Q.    Right. So can we agree that some of  
6 those meters at least were in use for much longer  
7 than just two years?

8           A.    Yes, I would agree with that.

9           Q.    Do you know specifically when the Company  
10 completed installation of its gas meters?

11          A.    I don't have any firsthand knowledge. I  
12 just -- I would rely upon the testimony of Ms. Lawler  
13 that said it was completed in '14. There was no  
14 additional capital investment made after '14.

15          Q.    Now, the case that we've agreed to call  
16 the Mid-Term Review, Case No. 10-2326, that was  
17 resolved by a Stipulation that included OCC, correct?

18          A.    Yes, it did.

19          Q.    And Case No. 12-1811 with respect to  
20 Rider AU costs, do you know, in fact, whether OCC  
21 joined in that Stipulation?

22          A.    Was that a joint case with electric and  
23 gas? What was the case number?

24          Q.    12-1811-GE-RDR.

25          A.    I know in some of the earlier years that



1 OCC had joined in settlements on some of the  
2 SmartGrid Programs. Later, we had opposed certain  
3 parts of at least the electric SmartGrid Program.

4 Q. Do you know, in fact, whether OCC joined  
5 the Stipulation in Case No. 13-1141-GE-RDR?

6 A. Not specifically.

7 Q. Okay. How about with respect to Case  
8 No. 15-883-GE-RDR, do you know if OCC joined in that  
9 Stipulation?

10 A. Not specifically. I know we've opposed  
11 certain years and other years we did join the  
12 settlement.

13 MS. WATTS: Your Honor, may we approach?

14 EXAMINER PARROT: You may.

15 A. Now I remember this case.

16 Q. Sir, have you had a moment to review that  
17 Stipulation?

18 A. I have.

19 MR. ETTER: Your Honor, I object to the  
20 introduction of this Stipulation and questions  
21 regarding it. If you turn to page 2 of the  
22 Stipulation, the second full paragraph, it says that  
23 the Stipulation is submitted for purposes of these  
24 proceedings only, and neither this Stipulation nor  
25 any Commission Order considering this Stipulation

1 shall be deemed binding in any other proceeding, nor  
2 shall it be offered or relied upon in any other  
3 proceedings except as necessary to enforce the terms  
4 of the Stipulation.

5 This isn't being presented to enforce the  
6 terms of the Stipulation. It's being presented as  
7 cross-examination in another case, in a case not  
8 involving this Stipulation and, therefore, it's  
9 inappropriate for Duke to put this into the record of  
10 this proceeding or to ask questions -- ask  
11 Mr. Williams questions about it.

12 MS. WATTS: Your Honor, this Stipulation  
13 was entered into in 2015, past the time when the last  
14 investment was made in any SmartGrid deployment, and  
15 OCC stipulated to settlement of this case which  
16 included the recovery of the investment that was made  
17 up to that date.

18 MR. ETTER: Your Honor, I object. I  
19 object to her characterization of the Stipulation.  
20 She's actually putting into the record in this case  
21 what the Stipulation says and that's not appropriate.  
22 She's violating the Stipulation that was signed in  
23 15-883.

24 EXAMINER PARROT: Go ahead and finish.

25 Q. (By Ms. Watts) Mr. Williams, have you

1       seen this document before?

2               A.     Yes, I have.

3               Q.     And were you --

4                       EXAMINER PARROT:  I'm sorry, hold on.  I  
5       meant finished with your --

6                       MS. WATTS:  Oh, I'm sorry.  Okay.

7                       EXAMINER PARROT:  -- response to his  
8       objection.  He sort of interjected there.  So go  
9       ahead and finish before we proceed with the  
10      questioning.

11                      MS. WATTS:  There is a provision that  
12      allows this Stipulation to be used to enforce the  
13      terms of the Stipulation.  The terms of the  
14      Stipulation include recovery of the costs associated  
15      with investment in SmartGrid deployment for gas  
16      customers.  I am enforcing -- seeking to enforce the  
17      terms of this Stipulation because it's my  
18      understanding that Mr. Williams is now arguing  
19      against the recovery of such costs.

20                      EXAMINER PARROT:  Well, let's go ahead  
21      and see how the questions go from here.  Go ahead,  
22      Ms. Watts.

23               Q.     (By Ms. Watts) Sir, have you seen this  
24      document before?

25               A.     I have.

1           Q.    Were you involved in this case on behalf  
2 of OCC?

3                   MR. ETTER:  Objection, Your Honor.  May I  
4 have a continuing objection to this line of question?

5                   EXAMINER PARROT:  Overruled as to that  
6 one.  Let's take them one at a time.

7                   THE WITNESS:  What was the question,  
8 please?

9                   (Record read.)

10           A.    Yes.

11           Q.    And at the time you were involved in this  
12 case, did you review the Company's Application and  
13 whatever testimony may have been filed along with  
14 that Application?

15           A.    I'm sure I would have.

16           Q.    Would you turn to page 5 of that  
17 document, please.

18           A.    I'm there.

19           Q.    Do you see that provision, paragraph I.A.  
20 on page 5, allows for the Company to recover the  
21 revenue requirement for SmartGrid investment and  
22 associated expenses made through December 2014?

23                   MR. ETTER:  Objection.

24                   EXAMINER PARROT:  Same basis?

25                   MR. ETTER:  Same objection, Your Honor.

1 She's not allowed to use it against parties in other  
2 proceedings. She's getting into the actual heart of  
3 the -- the specifics of the Stipulation which  
4 violates the Stipulation.

5 EXAMINER PARROT: Overruled.

6 Go ahead, Mr. Williams.

7 THE WITNESS: Can you repeat the  
8 question?

9 (Record read.)

10 A. Yes, I do.

11 Q. And turning to page 9 of that document,  
12 please.

13 A. I'm there.

14 Q. And is OCC a signatory to this  
15 Stipulation?

16 MR. ETTER: Objection.

17 EXAMINER PARROT: Overruled.

18 A. OCC is a signatory party in the  
19 settlement. However, it's important to consider that  
20 the revenue requirement from this case was based upon  
21 a projection of operational savings that had been  
22 performed as part of the mid-deployment review.  
23 That's somewhat irrelevant to my testimony today  
24 where I'm asking that a base rate case be filed so  
25 that those operational savings, the real numbers, can

1 now be reflected into rates. I think that would be a  
2 proper characterization of this.

3 MS. WATTS: Your Honor, I'd like to have  
4 this document marked as Duke Energy Ohio Exhibit 5.

5 MR. ETTER: We object to the introduction  
6 of this exhibit, Your Honor.

7 EXAMINER PARROT: We'll take that up at  
8 the proper time. It's marked Duke Exhibit 5.

9 (EXHIBIT MARKED FOR IDENTIFICATION.)

10 Q. (By Ms. Watts) Sir, would you turn to  
11 page 6 of your testimony, please?

12 A. I'm there.

13 Q. Again with reference to your sentence at  
14 the top of the page, "Duke's request for consumers to  
15 pay to replace its gas meter reading system comes  
16 after less than two years of use." Do you see that?

17 A. I see that.

18 Q. What request are you referring to there?

19 A. The proposal made by Mr. Schneider in his  
20 testimony in 17-32.

21 Q. But not any request that you're aware of  
22 in this particular proceeding, correct?

23 A. No, I don't believe that Mr. Schneider  
24 testified in this case.

25 Q. Thank you.

1           Sir, are you testifying in this case that  
2 rates currently in effect for Rider AU are  
3 unreasonable, unlawful, or unjustly discriminatory?

4           A.    What I'm arguing in this case is that the  
5 level of operational savings, that were determined as  
6 part of the mid-term deployment, were estimates made  
7 at the time, nine years ago, and that until and  
8 unless Duke files a distribution rate case, we won't  
9 know whether or not the level of operational savings  
10 that are reflected in the revenue requirement for  
11 this case are actual known numbers, are actually  
12 verifiable or actually determined to be accurate, and  
13 customers are getting the full benefit of the  
14 SmartGrid program they paid for.

15                I would also say that that's not just  
16 this rider. Ms. Lawler mentioned today the AMRP  
17 Rider. The investment has been completed and now  
18 we're waiting for Duke to file a distribution rate  
19 case so that all revenues and expenses can be looked  
20 at together to determine that customers are being  
21 provided just and reasonable rates.

22                So I can't say that Duke isn't providing  
23 reasonable rates, but it's based upon a projection of  
24 rates, from nine years ago, of what that savings  
25 should be.

1           Q.    Are you aware that the OCC could file a  
2           complaint case if it found the rates to be  
3           inappropriate, unjust, unreasonable, or unduly  
4           discriminatory?

5           A.    I believe we had that discussion earlier  
6           today, and yes, that could be an option available to  
7           OCC.

8                       We believe that the Commission, though,  
9           has an opportunity, in this case, to determine that a  
10          rate case is needed. The investments have been  
11          complete. The next step is a distribution rate case  
12          to make sure customers are paying just and reasonable  
13          rates.

14          Q.    And, sir, is it your experience in  
15          distribution rate cases that the rates typically go  
16          down?

17          A.    I've seen rates go down, I've seen rates  
18          go up.

19                       I'll use your electric distribution rate  
20          case as an example. In 17-32, the distribution rates  
21          themselves, I believe, were adjusted downward as part  
22          of that case but, as part of a global settlement, a  
23          lot of other things got added to it that ended up  
24          impacting the cost to consumers. Had it just been a  
25          distribution rate case, customers would have seen a



1 savings in rate.

2 Q. And if the Company were to file a  
3 distribution rate case, that same dynamic could  
4 apply, could it not?

5 A. The same dynamic of a global settlement  
6 with lots of other cases?

7 Q. No. As occurred in 17-32, the Company's  
8 most recent distribution electric case, rates may  
9 have gone down but other items may have gone up,  
10 correct?

11 A. That is correct. But within a  
12 distribution rate case, all the revenues and expenses  
13 can be looked at together to determine what are just  
14 and reasonable rates.

15 Q. And can we agree they can sometimes go  
16 down and sometimes go up?

17 A. I've seen that go both ways.

18 MS. WATTS: I have no further questions,  
19 Your Honor.

20 EXAMINER PARROT: Staff?

21 MR. LINDGREN: Thank you.

22 - - -

23 CROSS-EXAMINATION

24 By Mr. Lindgren:

25 Q. Mr. Williams, you are not disputing any

1 of the findings contained in Staff's Review and  
2 Recommendations filed in this case, are you?

3 A. No, I'm not.

4 MR. LINDGREN: Thank you. That's all I  
5 have.

6 EXAMINER PARROT: Any redirect?

7 MR. ETTER: No redirect, Your Honor.

8 EXAMINER PARROT: Thank you very much.

9 THE WITNESS: Thank you.

10 EXAMINER PARROT: All right. Mr. Etter  
11 has already moved for the admission of OCC Exhibit 5.  
12 Are there any objections?

13 MR. LINDGREN: No objections.

14 MS. WATTS: No objections, Your Honor.

15 EXAMINER PARROT: All right. It is  
16 admitted.

17 (EXHIBIT ADMITTED INTO EVIDENCE.)

18 EXAMINER PARROT: Ms. Watts, were you  
19 going to move Duke Exhibit 5?

20 MS. WATTS: I am not going to move that,  
21 Your Honor. I think we can, as you referenced  
22 earlier, can refer to that on brief and there's no  
23 need to move it in.

24 EXAMINER PARROT: Okay. Very good.

25 MR. ETTER: Your Honor, I renew my motion

1 to strike that entire line of questioning regarding  
2 the Stipulation.

3 EXAMINER PARROT: And the objection is  
4 noted on the record.

5 Okay. Anything further from OCC,  
6 Mr. Etter?

7 MR. ETTER: Do you want the comments  
8 included as an exhibit?

9 EXAMINER PARROT: We've marked them as  
10 OCC Exhibit 6 for ease of reference in your briefs  
11 and in a Commission Order.

12 MR. ETTER: I had planned two other  
13 exhibits, 3 and 4, but didn't use them, so there will  
14 be a gap.

15 EXAMINER PARROT: Thank you for noting  
16 that. I was planning on noting that for the record.  
17 We do have a gap, which I think is fine, but we will  
18 just --

19 MR. ETTER: That's what happens when I  
20 get overprepared.

21 EXAMINER PARROT: We will note there's a  
22 gap there. We have OCC Exhibits 1 and 2. We marked  
23 5 and 6. We have a gap, but that's intentional, so  
24 thank you very much.

25 Let's go off the record at this point.

1 (Discussion off the record.)

2 EXAMINER PARROT: Let's go back on the  
3 record.

4 Mr. Lindgren, you had marked Staff  
5 Exhibit No. 1.

6 MR. LINDGREN: Yes, Your Honor. At this  
7 time, I would like to move for the admission of that  
8 document.

9 EXAMINER PARROT: Very good.

10 Are there any objections?

11 MS. WATTS: No objections, Your Honor.

12 EXAMINER PARROT: All right. Hearing  
13 none, Staff Exhibit 1 is admitted into the record.

14 (EXHIBIT ADMITTED INTO EVIDENCE.)

15 EXAMINER PARROT: While we were off the  
16 record, the parties discussed, amongst themselves, a  
17 briefing schedule and have agreed to file initial  
18 briefs by May 30th, with reply briefs due on  
19 June 6th.

20 Is there anything else to come before the  
21 Commission this morning?

22 MS. WATTS: Nothing further, Your Honor.  
23 Thank you for your time.

24 MR. ETTER: Thank you.

25 EXAMINER PARROT: I appreciate it. Thank

you, everyone. We are adjourned.

(Thereupon, the proceedings concluded at  
11:31 a.m.)

- - -

CERTIFICATE

I do hereby certify that the foregoing is a  
true and correct transcript of the proceedings taken  
by me in this matter on Thursday, May 2, 2019, and  
carefully compared with my original stenographic  
notes.



*Carolyn M. Burke*  
Carolyn M. Burke, Registered  
Professional Reporter, and  
Notary Public in and for the  
State of Ohio.

My commission expires July 17, 2023.

- - -

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**Case No(s). 18-0837-GA-RDR**

Summary: Transcript In the matter of the Application of Duke Energy Ohio, Inc. to Adjust Rider AU for 2017 Gas Grid Modernization Costs, hearing held on May 2nd, 2019. electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Burke, Carolyn