

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke)
Energy Ohio, Inc., for an Adjustment to Rider) Case No. 14-0375-GA-RDR
MGP Rates.)

In the Matter of the Application of Duke) Case No. 14-0376-GA-ATA
Energy Ohio, Inc., for Tariff Approval.)

In the Matter of the Application of Duke)
Energy Ohio, Inc., for an Adjustment to Rider) Case No. 15-0452-GA-RDR
MGP Rates.)

In the Matter of the Application of Duke) Case No. 15-0453-GA-ATA
Energy Ohio, Inc., for Tariff Approval.)

In the Matter of the Application of Duke)
Energy Ohio, Inc., for an Adjustment to Rider) Case No. 16-0542-GA-RDR
MGP Rates.)

In the Matter of the Application of Duke) Case No. 16-0543-GA-ATA
Energy Ohio, Inc., for Tariff Approval.)

In the Matter of the Application of Duke)
Energy Ohio, Inc., for an Adjustment to Rider) Case No. 17-0596-GA-RDR
MGP Rates.)

In the Matter of the Application of Duke) Case No. 17-0597-GA-ATA
Energy Ohio, Inc., for Tariff Approval.)

In the Matter of the Application of Duke)
Energy Ohio, Inc., for an Adjustment to Rider) Case No. 18-0283-GA-RDR
MGP Rates.)

In the Matter of the Application of Duke) Case No. 18-0284-GA-ATA
Energy Ohio, Inc., for Tariff Approval.)

In the Matter of the Application of Duke)
Energy Ohio, Inc., for Implementation of the) Case No. 18-1830-GA-UNC
Tax Cuts and Jobs Act of 2017.)

In the Matter of the Application of Duke)
Energy Ohio, Inc., for Approval of Tariff) Case No. 18-1831-GA-UNC
Amendments.)

In the Matter of the Application of Duke)
Energy Ohio, Inc., for an Adjustment to Rider) Case No. 19-0174-GA-RDR
MGP Rates.)

In the Matter of the Application of Duke) Case No. 19-0175-GA-ATA
Energy Ohio, Inc., for Tariff Approval.)

In the Matter of the Application of Duke)
Energy Ohio, Inc., for Authority to Defer) Case No. 19-1085-GA-AAM
Environmental Investigation and Remediation)
Costs.)

In the Matter of the Application of Duke) Case No. 19-1086-GA-UNC
Energy Ohio, Inc., for Tariff Approval.)

In the Matter of the Application of Duke)
Energy Ohio, Inc., for an Adjustment to Rider) Case No. 20-0053-GA-RDR
MGP Rates.)

In the Matter of the Application of Duke) Case No. 20-0054-GA-ATA
Energy Ohio, Inc., for Tariff Approval.)

DIRECT TESTIMONY OF AMY B. SPILLER

ON BEHALF OF

DUKE ENERGY OHIO, INC.

IN SUPPORT OF STIPULATION

August 31, 2021

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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 2018, I
3 was named Vice President of Government and Community Affairs for Duke
4 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 its customers. On June 1, 2018, I was named to my current
7 position of State 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 Duke
11 Energy Ohio's customers continue to have access to safe, reliable, and reasonably
12 priced electric and natural gas service and that these services are provided in
13 accordance with applicable federal and state laws and regulations. I am also
14 involved in external efforts relating to governmental and regulatory affairs,
15 interacting with state and community leaders and regulators on matters relevant to
16 Duke Energy Ohio's business and presence in Ohio. I am responsible for the
17 Company's community relations and economic development efforts, as well as
18 Duke Energy's charitable contributions in the Greater Cincinnati region.

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

21 A. Yes. In 2018, I testified in support of the Stipulation and Recommendation in
22 Case No. 17-32-EL-AIR, *et al.*, which resolved several cases, including the

1 Company's then-pending electric distribution base rate case and electric security
2 plan.

3 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THESE**
4 **CONSOLIDATED PROCEEDINGS?**

5 A. The purpose of my testimony is to support the Stipulation and Recommendation
6 (Stipulation) filed in these proceedings on August 31, 2021. In doing so, I discuss
7 the Stipulation and explain how it:

- 8 • Resolves multiple complex proceedings that have been before the
9 Commission for several years;
- 10 • Provides certainty for customers and the Company relative to the
11 Company's ability to recover environmental investigation and
12 remediation costs related its former manufactured gas plants (MGPs);
- 13 • Results in reduced natural gas base rates;
- 14 • Enhances the competitive market for retail natural gas service through
15 a transition to an auction format for gas supply for the Company's
16 non-shopping customers;
- 17 • Provides additional customer benefits; and,
- 18 • Satisfies the Commission's three-part test for reasonableness of a
19 settlement.

20 I also introduce the Company's other witness who will testify in support of
21 the Stipulation in these proceedings.

II. DISCUSSION

A. BACKGROUND OF DUKE ENERGY OHIO'S MANUFACTURED GAS PLANT INVESTIGATION AND REMEDIATION ACTIVITIES

1 **Q. PLEASE SUMMARIZE THE HISTORY OF THE RIDER MGP**
2 **PROCEEDINGS BEFORE THE COMMISSION.**

3 A. The Commission first acknowledged Duke Energy Ohio's responsibility for
4 environmental investigation and remediation of contamination related to two
5 former MGP sites in its Finding and Order dated November 12, 2009, in Case No.
6 09-712-GA-AAM (2009 MGP Deferral Order). In the 2009 MGP Deferral Order,
7 the Commission authorized Duke Energy Ohio to defer costs related to the
8 environmental investigation and remediation of two former MGP sites, finding
9 that such costs "are business costs incurred by Duke [Energy Ohio] in compliance
10 with Ohio regulations and Federal statutes."¹ That order further permitted the
11 Company to accrue carrying costs on the deferred amounts, at the Company's
12 embedded cost of debt, until the date when recovery would begin. The
13 Commission also observed that the recovery of these costs would be addressed in
14 a subsequent base rate case.

15 On July 9, 2012, in Case No. 12-1685-GA-AIR, *et al.*, Duke Energy Ohio
16 filed its application for an increase in its base natural gas rates (2012 Gas Rate

¹ *In the Matter of the Application of Duke Energy Ohio, Inc., for Authority to Defer Environmental Investigation and Remediation Costs*, Case No. 09-712-GA-AAM, Finding and Order, p. 3 (Nov. 12, 2009).

1 Case).² As part of the 2012 Gas Rate Case, Duke Energy Ohio also requested
2 recovery of the MGP environmental investigation and remediation amounts that
3 had been deferred, plus carrying charges, from 2008 through the end of the test
4 period or December 31, 2012. The 2012 Gas Rate Case was partially settled, with
5 the settling parties agreeing to the creation of Rider MGP to recover Commission-
6 approved MGP investigation and remediation expenses. The issue of MGP cost
7 recoverability was litigated, with the Commission authorizing Duke Energy Ohio
8 to recover approximately \$55 million in MGP investigation and remediation
9 expense, after certain adjustments, through Rider MGP.³ The Commission further
10 ordered Duke Energy Ohio to seek approval, annually, to adjust Rider MGP to
11 recover the prior year's costs.⁴ As carrying costs on unrecovered balances were
12 denied, conventional annual rider adjustments were fairly anticipated by the
13 Company.

14 Several parties sought rehearing of the Commission's decision to
15 authorize recovery of MGP-related expenses and eventually appealed the issue to
16 the Ohio Supreme Court. Ultimately, the Court upheld the Commission, affirming
17 that Duke Energy Ohio's MGP investigation and remediation expenses are a
18 recoverable cost of providing utility service.⁵

19 Pursuant to the Commission's Opinion and Order in the 2012 Gas Rate
20 Case, as affirmed, Duke Energy Ohio has, on an annual basis between 2014 and

² *In the Matter of the Application of Duke Energy Ohio, Inc., for an Increase in its Natural Gas Distribution Rates*, Case No. 12-1685-GA-AIR, *et al.*, Opinion and Order, pp. 70-74 (Nov. 13, 2013) (hereinafter, the Commission's Order).

³ *Id.*

⁴ *Id.*, p. 73.

⁵ *In re Duke Energy Ohio, Inc.*, 150 Ohio St.3d 437; 82 N.E.3d 1148 (Feb. 28, 2017).

2020, submitted applications for recovery of prudently incurred costs of remediating the impacts of its former MGP operations. Below are the outstanding cases initiated by the Company to update its Rider MGP, as ordered by the Commission:

TABLE ONE

CASE NO.	TIME PERIOD	MGP COSTS
14-0475-GA-RDR	Calendar year 2013	\$ 8,282,890
15-0452-GA-RDR	Calendar year 2014	\$ 686,031
16-0542-GA-RDR	Calendar year 2015	\$ 1,061,056
17-0596-GA RDR	Calendar year 2016	\$ 1,296,160
18-0283-GA-RDR	Calendar year 2017	\$ 14,651,798
19-0174-GA-RDR	Calendar year 2018	\$ 19,804,031
20-0053-GA-RDR	Calendar year 2019	\$ 39,435,627
	Total	\$ 85,217,593

Q. IN ADDITION TO THE SEVEN FILINGS TO ADJUST RIDER MGP, HAS THE COMPANY SUBMITTED OTHER MGP-RELATED FILINGS TO THE COMMISSION?

A. Yes. In 2016, the Company sought an extension of its authority to defer environmental investigation and remediation costs related to one of the former MGP sites given the existence of exigent circumstances.⁶ The Commission approved this request, extending deferral authority through December 31, 2019, again subject to the Company's right to seek an extension due to exigent

⁶ *In the Matter of the Application of Duke Energy Ohio, Inc., for Authority to Defer Environmental Investigation and Remediation Costs*, Case No. 16-1106-GA-AAM, Application (May 16, 2016).

1 circumstances.⁷ And given such circumstances, Duke Energy Ohio filed in 2019
2 to further extend this deferral authority (Deferral Extension Application).⁸

3 **Q. WHAT IS THE PROCEDURAL STATUS OF THESE PROCEEDINGS?**

4 A. Issues involving cost recovery of MGP investigation and remediation
5 expenditures incurred between January 1, 2013, and December 31, 2018, have
6 been litigated and briefed by the parties. These cases are, therefore, decisional.
7 Neither the Company's application for 2019 MGP cost recovery nor the
8 Company's Deferral Extension Application has been litigated. The Commission
9 has not ruled on any of the Company's requests to adjust Rider MGP since its
10 Opinion and Order in the 2012 Gas Rate Case.

11 **Q. HAS DUKE ENERGY OHIO COMPLETED ALL MGP-RELATED**
12 **INVESTIGATION AND REMEDIATION RELATED TO ITS TWO**
13 **FORMER MGP SITES?**

14 A. Since 2008, Duke Energy Ohio has actively investigated and remediated areas
15 impacted by the operation of its two former MGPs, on sites branded as East End
16 and West End for ease of reference. The Company performed substantial work
17 and endeavored to remediate in a timely yet prudent manner, in full compliance
18 with all applicable environmental regulations and processes. Nonetheless, due to
19 exigent circumstances outside the Company's control and despite its best efforts,
20 the Company was not able to complete all necessary investigation and

⁷ *In the Matter of the Application of Duke Energy Ohio, Inc., for Authority to Defer Environmental Investigation and Remediation Costs*, Case No. 16-1106-GA-AAM, Finding and Order, pp. 13-15 (Dec. 21, 2016).

⁸ *In the Matter of the Application of Duke Energy Ohio, Inc., for Authority to Continue Deferral of Environmental Investigation and Remediation Costs and for Approval to Amend Rider MGP*, Case No. 19-1085-GA-AAM, Application (May 10, 2019).

1 remediation by the current Commission-established deadline of December 31,
2 2019, due to issues of accessibility. It is notable that the timeline directives were
3 determined solely by the Commission’s opinion as to how much time would be
4 “necessary and essential in order to protect the public interest and ensure that
5 remediation efforts were carried out expeditiously, but also responsibly.”⁹
6 Moreover, the Commission recognized that exigent circumstances may warrant
7 revising its timelines to provide the Company additional time.¹⁰ As the Company
8 explained in its Deferral Extension Application, additional deferral authority is
9 necessary to complete investigation and remediation work in areas that are
10 currently inaccessible at the East End site, as well as areas, as determined
11 necessary, in and along the Ohio River’s sediments and banks in the vicinity of
12 the East End and West End sites.

13 The East End areas remain inaccessible due to the presence of in-service
14 natural gas infrastructure, referred to as “Critical Natural Gas Infrastructure,”
15 which consists of subterranean propane storage and delivery facilities. If these
16 facilities were inadvertently damaged during the course of remediation, it could
17 not only create a significant safety concern for customers, the Company and its
18 employees, and the surrounding community, but could render the Company’s
19 entire natural gas delivery system incapable of supporting winter peaks, resulting
20 in wide-spread system failure and outages in the dead of winter. Remediation

⁹ *In the Matter of the Application of Duke Energy Ohio, Inc., for Authority to Defer Environmental Investigation and Remediation Costs*, Case No. 16-1106-GA-AAM, *et al.*, Finding and Order, ¶36 (Dec. 21, 2016)(emphasis added).

¹⁰ *In the Matter of the Application of Duke Energy Ohio, Inc., for Authority to Defer Environmental Investigation and Remediation Costs*, Case No. 16-1106-GA-AAM, *et al.*, Finding and Order, ¶1 (Dec. 21, 2016).

1 work cannot proceed in these areas until they become accessible, which requires
2 the Company to be able to complete the retirement and decommissioning of the
3 propane facilities. On March 1, 2021, Duke Energy Ohio began construction of its
4 Central Corridor Pipeline, which is needed, in part, to enable the retirement of
5 those propane facilities.¹¹ After this new pipeline is placed in service and the
6 existing, active propane facilities and cavern is retired and decommissioned, MGP
7 investigation and remediation work can begin on the presently inaccessible areas.

8 The Company has also conducted environmental investigation in and
9 along the Ohio River, in the vicinity of East End and West End. Whether
10 environmental remediation must occur in either of these locations is presently
11 unknown.

12 **Q. WHAT IS THE TOTAL AMOUNT OF MGP-RELATED**
13 **INVESTIGATION AND REMEDIATION EXPENSE AT ISSUE IN THE**
14 **PENDING PROCEEDINGS?**

15 A. As reflected in Table One above, Duke Energy Ohio has incurred \$85,217,593 in
16 environmental investigation and remediation expense for activity completed
17 between 2013 and 2019. Relative to the activity undertaken in 2019 or otherwise
18 anticipated after inaccessible areas become accessible, the Company has recorded
19 an approximate \$19 million reserve.

¹¹ *In the Matter of the Application of Duke Energy Ohio, Inc., for a Certificate of Environmental Compatibility and Public Need for the C314 V Central Corridor Pipeline Extension Project*, Case No. 16-253-GA-BTX, Opinion, Order, and Certificate, p. 29 (Nov. 21, 2019).

1 **Q. PLEASE SUMMARIZE THE DISPUTE AS TO THE RECOVERABILITY**
2 **OF THE COMPANY’S ENVIRONMENTAL INVESTIGATION AND**
3 **REMEDiation EXPENSE SINCE ITS 2012 RATE CASE.**

4 A. In the consolidated cases for costs incurred from 2013 through 2018, the parties
5 disputed, to various degrees, the recoverability and reasonableness of the
6 Company’s MGP remediation efforts. Although the Staff’s reports agree that the
7 Company is entitled to recover MGP expenses from all natural gas customers,
8 there is a dispute regarding the eligibility of recovery for remediation performed
9 in specific areas of the MGP sites and the amount that should be recoverable – a
10 position the Company opposed. Other parties to these consolidated proceedings
11 generally contest the recoverability of any MGP-related costs. The evidentiary
12 record in the consolidated proceedings is complete.

13 Staff recommends that the majority of the costs incurred in 2019 for
14 environmental remediation and expense be recovered from customers, as detailed
15 in its Staff Report filed in Case No. 20-0053-GA-RDR, *et al.*¹² The evidentiary
16 record in this proceeding is not complete.

17 Although Duke Energy Ohio has identified exigent circumstances
18 warranting an extension of its ability to defer environmental investigation and
19 remediation costs in its Deferral Extension Application, Staff recommends that
20 the Commission deny this request. The evidentiary record in this proceeding is
21 not complete.

¹² *In the Matter of the Application of Duke Energy Ohio, Inc. for an Adjustment to Rider MGP Rates*, Case No. 20-0053-GA-RDR, *et al.*, A Report by the Staff of the Public Utilities Commission, p. 5 (July 23, 2020) (“Staff recommends removal of \$3,897,929.62 and recovery of \$35,537,697.43”).

1 **Q. WHAT IS THE SIGNIFICANCE OF THE STATUS OF THESE VARIOUS**
2 **PROCEEDINGS BEFORE THE COMMISSION?**

3 A. As discussed in greater detail below, the status of these proceedings substantiates
4 the many benefits achieved through a comprehensive settlement of the captioned
5 proceedings. Notwithstanding the Ohio Supreme Court’s previous decision
6 regarding recoverability of MGP costs, a Commission decision in any – or all – of
7 these underlying proceedings would most likely prompt a protracted appellate
8 process by some party, if an unopposed stipulation were not in place. Such an
9 outcome would delay final resolution for the parties and, by extension, the
10 Company’s customers. The Stipulation, once approved by the Commission, will
11 resolve these issues and promptly enable significant customer benefits that are
12 otherwise not achievable through lengthy appellate review.

B. BACKGROUND OF DUKE ENERGY OHIO’S
 TAX CUTS AND JOBS ACT PROCEEDING

13 **Q. PLEASE BRIEFLY SUMMARIZE THE COMPANY’S APPLICATION IN**
14 **CASE NO. 18-1830-GA-UNC INVOLVING THE TAX CUTS AND JOBS**
15 **ACT OF 2017 (TCJA).**

16 A. Duke Energy Ohio initiated Case No. 18-1830-GA-UNC (TCJA Case) following
17 a Commission order directing all jurisdictional utilities to provide customers with
18 the benefits of the TCJA to which they were entitled.¹³ In its application, Duke
19 Energy Ohio proposed the following:

¹³ See *In the Matter of the Commission’s Investigation of the Financial Impact of the Tax Cuts and Jobs Act of 2017 on Regulated Ohio Utility Companies*, Case No. 18-47-AU-COI, Finding and Order, p. 18 (Oct. 24, 2018) (directing rate-regulated utilities to file applications to pass back TCJA benefits).

- Reduction in natural gas base rates to account for a reduction in the federal income tax (FIT) rate;
- Creation of a new rider – Rider GTCJA – to address credits attributed to the creation of the excess accumulated deferred income taxes (EDITs) and deferrals the Company has recorded since January 1, 2018, through the date of the Commission’s order approving the Company’s application (Stub Period); and
- Modifying the Company’s existing Rider AMRP and Rider AU to refund EDITs associated with investments being recovered in those riders.

Duke Energy Ohio witness Sarah E. Lawler provides additional detail regarding the FIT deferral and EDIT balances in her supplemental direct testimony.

Q. WHAT IS THE STATUS OF THE TCJA CASE?

A. Staff suggested certain modifications to the Company’s proposal that it did not accept. Significantly, Staff recommended including the proposed base rate decrease as a component of Rider GTCJA in lieu of a base rate adjustment and using the Company’s balance sheet as of December 31, 2017, as the basis for calculating the balances for both “normalized” (or “protected”) and “non-normalized” (or “unprotected”) EDITs.¹⁴

An evidentiary hearing on these issues occurred on August 7, 2019, and the matter is pending decision by the Commission.

¹⁴ *Id.*, Review and Recommendations of the Staff of the Public Utilities Commission of Ohio (Apr. 17, 2019) (Review and Recommendations).

C. SUMMARY OF THE STIPULATION

1 **Q. HAVE YOU REVIEWED THE STIPULATION FILED IN THESE**
2 **PROCEEDINGS?**

3 A. Yes, I am familiar with the Stipulation.

4 **Q. PLEASE IDENTIFY THE PROCEEDINGS RESOLVED VIA THE**
5 **STIPULATION.**

6 A. This comprehensive settlement resolves the following applications pending before
7 the Commission:

- 8 • Duke Energy Ohio's seven pending requests to adjust Rider MGP for the
9 periods of January 1, 2013, through December 31, 2019 (as identified in
10 Table One);
- 11 • Duke Energy Ohio's request to implement the TCJA, including Rider
12 GTCJA; and
- 13 • Duke Energy Ohio's request to extend its MGP deferral authority for
14 ongoing investigation and remediation beyond December 31, 2019, as a
15 result of exigent circumstances.

16 In addition, the Stipulation provides clarity with regard to future
17 environmental remediation that may be required and commits Duke Energy Ohio
18 to initiating a competitive procurement process for natural gas supply for those
19 customers who do not switch to a competitive retail natural gas supplier. The
20 Stipulation also makes provision for financial assistance for qualifying customers
21 and the production of aggregate data to aid in informed decision making.

1 **Q. PLEASE SUMMARIZE THE OVERARCHING RESULT OF THE**
2 **STIPULATION.**

3 A. The Stipulation provides numerous benefits to the Company’s natural gas
4 customers and affords clarity and certainty for all stakeholders by resolving the
5 many complex and undecided regulatory proceedings I previously described. The
6 Stipulation addresses recovery of MGP investigation and remediation costs
7 already incurred in a manner that eliminates customers’ obligation to pay for such
8 costs via Rider MGP and it eliminates customers’ exposure to specific MGP
9 investigation and remediation costs that may be incurred in the future, as detailed
10 in the Deferral Extension Application. Importantly, the benefits of this Stipulation
11 are not only reflected in the resolution of known MGP-related liabilities. Rather,
12 the Stipulation also makes provision for a reduction in current natural gas base
13 rates, a bill credit for all-natural gas customers,¹⁵ and utility bill assistance for
14 qualifying natural gas customers of Duke Energy Ohio. The Stipulation also
15 supports the expansion of the competitive natural gas market as the Company will
16 seek authority to transition from the current gas-cost recovery (GCR) process to a
17 standard service offer (SSO) through which natural gas supply would be
18 competitively procured. Finally, this Stipulation supports Duke Energy Ohio’s
19 financial health, which is fundamental to maintaining good credit standings and
20 ultimately mitigating against abrupt cost increases for customers.

¹⁵ See Stipulation, para. 10 (Rate IT will receive a volumetric-based credit over 12 -months. All other natural gas customers will receive a one-time lump-sum bill credit on natural gas bills.)

1 **Q. PLEASE EXPLAIN HOW THE STIPULATION RESOLVES THE**
2 **COMPANY’S SEVEN PENDING RIDER MGP ANNUAL ADJUSTMENT**
3 **FILINGS.**

4 A. Duke Energy Ohio witness Lawler explains and supports the calculation of the
5 costs, credits, and rate impacts included in the Stipulation. As stated previously,
6 Duke Energy Ohio has incurred \$85,217,593 in MGP investigation and
7 remediation costs between March 1, 2013, and December 31, 2019,¹⁶ but a
8 dispute exists regarding the recoverability of some of these costs. As a concession
9 for purposes of this comprehensive settlement and the resolution of contested
10 issues, the parties are agreeing that \$11,357,579 in MGP investigation and
11 remediation expense is not recoverable.¹⁷ As Ms. Lawler explains, the remaining
12 MGP investigation and remediation costs incurred through December 31, 2019,
13 will be fully offset using a combination of unprotected EDITs as of March 31,
14 2012, and a portion of the proceeds from a settlement with property insurers
15 (hereinafter, Insurance Proceeds). As a result, all recoverable MGP costs incurred
16 through 2019 will be zeroed out without any additional charges to natural gas
17 customers.

18 **Q. HOW DOES THE SETTLEMENT RESOLVE THE COMPANY’S**
19 **APPLICATION TO EXTEND ITS MGP DEFERRAL AUTHORITY?**

20 A. Under the terms of the Stipulation, the Company will withdraw its deferral
21 request for post-2019 MGP investigation and remediation expense. This is a

¹⁶ See Table 1, above.

¹⁷ See Case No. 14-0375-GA-RDR, *et al.*, Duke Energy Ohio Exhibit 14, Supplemental Testimony of Todd Bachand, p. 23 (testifying that, at most, the \$7.46 million could be attributable to the Ohio River investigation and Area West of the West on the East End MGP parcel). *See also* Case No. 20-0053-GA-RDR, Staff Report, p. 5 (recommending disallowance of \$3.897 million).

1 material concession on the part of Duke Energy Ohio as its application to extend
2 its deferral authority was justified given the existence of exigent circumstances, a
3 prerequisite to the Commission enlarging the deferral period. Specifically, the
4 East End Middle Parcel is presently occupied by operating natural gas
5 infrastructure that includes a decades-old propane storage cavern and peaking
6 station. Extensive excavation cannot reasonably occur while these facilities are
7 relied upon to serve natural gas customers, yet the retirement of such facilities is
8 undeniably conditioned on the Company's ability to place in service new
9 infrastructure. The needed approvals, following protracted litigation, were
10 obtained and construction of the new infrastructure that will enable the retirement
11 of the existing facilities at the East End site is in progress.

12 As stated above, the Company recorded a reserve for the environmental
13 investigation and remediation activity yet to be performed for which it is legally
14 obligated relative to the presently inaccessible areas. Upon approval of the
15 Stipulation, Duke Energy Ohio will withdraw its Deferral Extension Application
16 and will have to write off the approximate \$19 million reserve previously
17 accounted for as part of ongoing investigation and for the eventual remediation of
18 the inaccessible areas. As more fully explained by Ms. Lawler, this write off will
19 be offset by other accounting adjustments as a result of the settlement provisions
20 addressing the natural gas TCJA proceeding. The net result is that customers will
21 not be asked to pay for these costs in the future as tax accounting adjustments will
22 be recorded to partially offset the write-off of the environmental expenses. Duke
23 Energy Ohio is assuming the risk that the actual remediation costs exceed the

1 Company's current estimates, but, as a concession for purposes of settlement, will
2 not seek to recover those costs in the future.

3 **Q. PLEASE EXPLAIN HOW THE STIPULATION ADDRESSES THE**
4 **POTENTIAL NEED TO PERFORM REMEDIATION ACTIVITIES IN**
5 **THE OHIO RIVER.**

6 A. As the Company explained in its Deferral Extension Application, the Company
7 does not know whether, and to what extent, remediation will be required in the
8 Ohio River. The Stipulation provides that Duke Energy Ohio has the right to seek
9 Commission approval to defer those remediation costs, if necessary, in the future.
10 The Company is agreeing to several conditions relating to this future deferral
11 application. First, the Company is agreeing that it will only make a deferral
12 application for any necessary Ohio River MGP remediation after an Ohio EPA or
13 U.S. EPA order, consent decree, or settlement has imposed a legal obligation to
14 incur costs to remediate in and/or under the Ohio River, or after a written
15 statement issued by the Ohio EPA or U.S. EPA that remediation in and/or under
16 the Ohio River is necessary to meet applicable standards under controlling
17 environmental laws. Second, the Company is agreeing to a five-year time
18 limitation for filing such a deferral application, which time limitation begins on
19 the date the Commission approves the Stipulation without material modification.
20 Parties retain their right to support or oppose the Company's application in the
21 future, should it be filed.

1 **Q. PLEASE EXPLAIN HOW THE STIPULATION RESOLVES THE**
2 **PENDING TCJA PROCEEDING.**

3 A. The Stipulation resolves the TCJA case in its entirety, yielding an outcome that
4 promptly benefits customers. First, a key provision of the Stipulation is the
5 agreement that the valuation of the EDITs will be as of March 31, 2012, the date
6 certain of the Company's last natural gas base rate case and the amount of rate
7 base currently reflected in base rates. Secondly, as stated above, the unprotected
8 EDITs calculated as of March 31, 2012, totaling \$28,106,996, will be
9 immediately applied to the \$73,860,014 balance of MGP remediation and
10 investigation costs. This leaves a balance of \$45,753,018 of remaining MGP costs
11 that will be offset completely with the majority of the Insurance Proceeds. As a
12 result, the entire balance of MGP costs will be offset, meaning customers will not
13 see any bill impacts as a result of the MGP costs incurred through December 31,
14 2019. Additionally, Rider MGP, which is currently suspended, will be terminated.

15 As outlined in the Stipulation and discussed in more detail in Ms. Lawler's
16 testimony, the protected EDITs that have converted to unprotected EDITs will be
17 credited back to customers in the bill credit discussed below. The remaining
18 protected EDITs will be normalized and will be credited to natural gas customers
19 via Rider GTCJA.

20 Since January 1, 2018, Duke Energy Ohio has been deferring the
21 difference between the FIT in base rates and the reduction to 21 percent as
22 established in the TCJA, known as the Stub Period. The dollars associated with
23 this Stub Period deferral, as determined by the date on which the Commission

1 approves this Stipulation without material modification, will be provided to
2 customers as direct bill credits. Ms. Lawler discusses this in more detail in her
3 testimony.

4 Finally, to account for the lower FIT going forward, Duke Energy Ohio is
5 agreeing to reduce its natural gas base rates. This will produce an approximate
6 5.3558 percent reduction for all natural gas customers until such base rates may
7 be adjusted in the future.

8 **Q. PLEASE DESCRIBE HOW THE REMAINING INSURANCE PROCEEDS**
9 **WILL BE REFUNDED TO NATURAL GAS CUSTOMERS.**

10 A. The Stipulation provides that \$3,309,458 in Insurance Proceeds will be allocated
11 to provide bill assistance for qualifying senior and low-income residential natural
12 gas customers who have been adversely affected by the COVID epidemic. The
13 Stipulation provides for this financial assistance to be provided in phases, with
14 \$309,458 immediately available and the remaining funds made available within
15 60 days of approval of the Stipulation without material modification. The funds
16 will be distributed by agreed-upon third parties, which will provide reporting on
17 the fund distributions. The third-party administration costs of advertising, and
18 qualifying eligible customers will be paid for out of these Insurance Proceeds, but
19 are capped at ten percent of the program funds.

20 The Stipulation also provides that an additional \$500,000 shall be made
21 available to seniors within 60 days of approval of the Stipulation without material
22 modification.

1 Finally, the remaining \$1 million of Insurance Proceeds will be credited
2 back to customers as part of the bill credit discussed previously and will be
3 directed entirely to non-residential customers.

4 **Q. PLEASE EXPLAIN HOW THE STIPULATION FURTHERS THE**
5 **COMPETITIVE NATURAL GAS MARKET BY MOVING THE**
6 **COMPANY TO A NATURAL GAS STANDARD SERVICE AUCTION**
7 **PROCESS.**

8 A. A significant benefit of this Stipulation is the Company's agreement to exit its
9 GCR and transition to a competitive auction structure to procure natural gas
10 supply for non-shopping customers. Currently, Duke Energy Ohio procures
11 natural gas supply via a mixture of short-term and long-term natural gas supply
12 contracts. This Stipulation, however, will require the Company to transition to a
13 competitive auction to procure supply, in the format of an SSO that is similar to
14 how the Company procures competitive retail electric service for its non-shopping
15 electric customers. Under the terms of the Stipulation, the Company will
16 immediately initiate stakeholder meetings to discuss the transition and commits to
17 filing its application to transition to the auction shortly after approval of the
18 Stipulation without material modification. The Company will seek approval of the
19 transition, including a plan for conducting an auction as early as January 2022,
20 but no later than three months following approval of the Company's SSO
21 application, with anticipated implementation in November 2022.¹⁸ The Company
22 will also provide a plan to smoothly transition from its current GCR model to the

¹⁸ The Company needs three months from the date of approval to conduct the auction in order to have sufficient time to successfully run the auction and three months following the first auction's completion to implement.

1 SSO auction model, with necessary true-ups and reconciliations. The Signatory
2 Parties agree that Duke Energy Ohio is entitled to recover all costs associated
3 with the transition to, and implementation of, an auction format.

4 **Q. ARE THERE ANY FURTHER BENEFITS PROVIDED BY THE**
5 **STIPULATION?**

6 A. Yes. As a result of the Stipulation, natural gas customers will be given additional
7 information related to choice and the competitive market and the Office of the
8 Ohio Consumers' Counsel (OCC) will be provided with information to enable an
9 aggregate comparison between charges paid to suppliers and under the
10 Company's future SSO.

III. STANDARD FOR CONSIDERING
ADOPTION OF A STIPULATION

11 **Q. PLEASE IDENTIFY THE CRITERIA USED BY THE COMMISSION**
12 **WHEN REVIEWING A STIPULATION.**

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

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

19 A. Yes. The capability and knowledge of the Signatory Parties and their counsel is
20 readily apparent. The signatory parties include the Company, the OCC, Staff of
21 the Commission, and Ohio Energy Group. Other intervening parties, including the
22 Ohio Manufacturers' Association Energy Group, The Kroger Co., and Ohio

1 Partners for Affordable Energy have agreed not to oppose the Stipulation. All of
2 these parties regularly participate in rate proceedings before the Commission, are
3 very knowledgeable in regulatory matters, and are represented in these
4 proceedings by experienced, competent counsel.

5 The process that culminated in the Stipulation addressed all of the issues
6 raised by the signatory parties in these proceedings, with those issues being
7 thoroughly reviewed, discussed, and, to the extent agreement could be reached,
8 resolved during negotiations. Despite the divergent interests among them, all
9 parties had an opportunity to express their opinions in the negotiating process.
10 These cases have been pending before the Commission for several years, and all
11 parties had the opportunity to conduct significant discovery and have had more
12 than ample time to review the Company's applications and initial testimony in
13 these proceedings. As I previously discussed, this Stipulation resolves several
14 complex regulatory proceedings before the Commission, and, as a package,
15 represents a comprehensive and reasonable balance of issues raised in each of
16 these proceedings.

17 **Q. DOES THE STIPULATION VIOLATE ANY IMPORTANT**
18 **REGULATORY PRINCIPLE OR PRACTICE?**

19 **A.** No. Based upon my experience, involvement in these proceedings, and review of
20 the Stipulation, I believe that it complies with all relevant and important
21 principles and practices. This Stipulation provides certainty to all stakeholders by
22 resolving complex regulatory proceedings that have been pending before the
23 Commission for many years. The Stipulation resolves cost recovery issues in a

1 way that will not result in any rate increase for customers. To the contrary, it
2 results in an overall reduction in natural gas base rates, a monthly credit related to
3 protected EDITs through the Company's Rider GTCJA, and immediate bill
4 credits for all customers. The Stipulation also reserves funds for bill relief for
5 qualifying customers. Moreover, as I previously discussed, this Stipulation
6 advances important regulatory policies including enhancing the competitive
7 natural gas market and providing more information to customers regarding their
8 natural gas service and related choices.

9 **Q. DOES THE STIPULATION BENEFIT CONSUMERS AND THE PUBLIC**
10 **INTEREST?**

11 A. Absolutely. As I previously discussed, and as agreed by the Signatory Parties, the
12 Stipulation provides numerous significant benefits across all customer groups and
13 for other interested stakeholders, while advancing and remaining consistent with
14 state policy. As I previously explained, the most significant benefits include the
15 following:

- 16 • Certainty regarding the treatment of MGP remediation and
17 investigation costs;
- 18 • Immediate bill credits for customers;
- 19 • An approximate 5.4 percent reduction in natural gas base rates;
- 20 • Termination of Rider MGP;
- 21 • Clarity around the Company's opportunity to seek Commission
22 authority to continue deferring MGP remediation costs if it has to
23 perform remediation work in the Ohio River;

- 1 • Funding for qualifying low-income and seniors who have been
2 impacted by COVID; and
3 • Enhancing the competitive market through transition to a competitive
4 natural gas procurement process for non-shopping customers.

IV. CONCLUSION

5 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

6 **A. Yes.**

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Summary: Testimony Direct Testimony of Amy B. Spiller On Behalf of Duke Energy Ohio, Inc.
In Support of Stipulation electronically filed by Mrs. Tammy M Meyer on behalf of Duke Energy
Ohio Inc. and D'Ascenzo, Rocco and Kingery, Jeanne W.