***OCC EXHIBIT\_\_\_\_\_\_\_***

**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

|  |  |  |
| --- | --- | --- |
| In the Matter of the Application of Duke Energy Ohio, Inc., for Authority to Establish a Standard Service Offer Pursuant to Ohio Revised Code Section 4928.143 in the Form of an Electric Security Plan.In the Matter of the Application of Duke Energy Ohio, Inc., for Authority to Amend Tariffs, including its Certified Supplier Tariff, P.U.C.O. No. 20 and to Implement New Tariffs.In the Matter of the Application of Duke Energy Ohio, Inc., for Accounting Authority, including any Necessary Deferrals. | ))))))))))))) | Case No. 24-278-EL-SSOCase No. 24-279-EL-ATACase No. 24-280-EL-AAM |

**DIRECT TESTIMONY**

**OF**

**JOSEPH P. BUCKLEY**

**On Behalf of the**

**Office of the Ohio Consumers’ Counsel**

*65 East State Street, Suite 700*

*Columbus, Ohio 43215*

**October 30, 2024**

**TABLE OF CONTENTS**

**PAGE**

[I. INTRODUCTION 1](#_Toc181193286)

[II. TRANSITIONING TO A COMPETITIVE RETAIL ELECTRIC MARKET 5](#_Toc181193287)

[III. ADDITIONAL RESTRUCTURING LEGISLATION IN 2008 7](#_Toc181193288)

[IV. MARKET RATE OFFERS 9](#_Toc181193289)

[V. “MORE FAVORABLE IN THE AGGREGATE” TEST 14](#_Toc181193290)

[VI. CONCLUSION 20](#_Toc181193291)

# INTRODUCTION

***Q1. PLEASE STATE YOUR NAME, BUSINESS ADDRESS, AND POSITION.***

***A1*.** My name is Joseph P. Buckley. My business address is 65 East State Street, Suite 700, Columbus, Ohio 43215. I am an Analyst in the Analytical Services Department for the Office of the Ohio Consumers’ Counsel (“OCC”).

***Q2. PLEASE SUMMARIZE YOUR EDUCATIONAL BACKGROUND.***

***A2*.** I earned a Bachelor of Science degree in Business Administration from The Ohio State University and a Master of Business Administration degree from the University of Dayton.

***Q3. PLEASE SUMMARIZE YOUR PROFESSIONAL*** ***EXPERIENCE AS IT RELATES TO UTILITY REGULATION.***

***A3.*** From July 1987 to July 2022, I was employed by the PUCO. During that time, I held several positions (*e.g*., Rate Analyst, Utility Specialist I and Utility Specialist 3) in various divisions and departments that focused on utility financial and accounting issues, including rate of return. In addition, I served on multiple federal/state joint audits and was Chairman and Vice Chairman of the Mid-Continent Independent System Operator (“MISO”), finance committee.

In 2000, I earned the Certified in Financial Management designation, awarded by the Institute of Management Accountants. In 2011, I was awarded the professional designation Certified Rate of Return Analyst by the Society of Utility and Regulatory Financial Analysts in recognition of my experience and successful completion of a written examination.

***Q4. HAVE YOU PREVIOUSLY SUBMITTED TESTIMONY BEFORE THE PUCO?***

***A4.*** Yes. When I worked at the PUCO, I testified on numerous occasions to advocate the positions of the PUCO Staff. Over the course of my career at the PUCO, I submitted testimony numerous times recommending rate of return ranges during rate proceedings. I also was responsible for other topics, including management and operations review (“M&OR”), affiliate transactions, and significantly excessive earnings test (“SEET”), among others.

***Q5*. *WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?***

***A5.*** To conduct an analysis of the ESP and MRO, weighing both quantitative and qualitative factors to determine the most advantageous option.

***Q6.* *PLEASE EXPLAIN THE GENERAL BACKGROUND OF TRADITIONAL ELECTRIC UTILITY REGULATION.***

***A6.*** **The Traditional Electric Power Industry**

A traditional vertically integrated electric company was a monopoly that controlled every aspect of the electricity supply chain, from generation to consumption.

This model dominated the electric power industry for much of the 20th century.

Here’s a breakdown of how it worked:

**The Value Chain**

1. **Generation:** The company owned and operated power plants, using various energy sources like coal, natural gas, nuclear, hydro, or renewable energy to produce electricity.
2. **Transmission:** The company built and maintained high-voltage power lines to transport electricity from power plants to distribution centers.
3. **Distribution:** The company owned and operated the local power lines that delivered electricity to homes, businesses, and industries.
4. **Retail:** The company sold electricity directly to customers, setting rates and billing them.

**Key Characteristics**

* **Monopoly Power:** The company was the sole provider of electricity within its service territory, giving it significant market power.
* **Regulation:** To protect consumers from potential abuses of monopoly power, these companies were typically regulated by government agencies to ensure fair pricing and reliable service.
* **Cost Recovery:** The company was allowed to collect its appropriate costs (including investments in generation, transmission, and distribution) through electricity rates charged to customers. Regulators were required to provide utilities with an opportunity to earn a reasonable rate of return on their assets, commensurate with the rate of return earned by like businesses facing similar risks.

**Restructuring the Industry**

In response to economic challenges, technological advancements, and a growing desire for competition, many regions have undergone electric power industry restructuring. This involved separating the different components of the electricity value chain. While generation and retail sales have become more competitive markets in many areas, electricity distribution has largely remained a regulated monopoly.

**The Role of Distribution**

Electricity distribution, involving the network of poles, wires, and transformers that deliver power to consumers, is typically considered a natural monopoly. The high costs and inefficiencies of duplicating this infrastructure make it impractical to introduce competition. As such, distribution companies are often regulated to ensure fair prices and reliable service.

 This created the possibility of a conflict of interest. Electric utilities might use their transmission and distribution business to subsidize the generating business operated by an affiliated company. This could harm consumers by suppressing competition and forcing consumers to pay for subsidies through transmission and distribution rates. “Corporate separation” refers to the laws and regulations that protect consumers by prohibiting the non-competitive transmission and distribution business from subsidizing the competitive retail electric generation business.

# TRANSITIONING TO A COMPETITIVE RETAIL ELECTRIC MARKET

***Q7. DID OHIO RESTRUCTURE ITS RETAIL ELECTRIC MARKET?***

***A7.*** Yes. In 1999, Ohio enacted Amended Substitute Senate Bill 3 (“S.B. 3”), which was a comprehensive set of laws to restructure Ohio’s retail electricity market. Prior to restructuring, electric distribution utilities provided electric service to all consumers in their certified service territory. Restructuring changed electric generation service into a competitive business that could be offered by other service providers. Even though electric generation service became a competitive business, utilities were required to provide generation service for those consumers who did not switch to a competitive supplier or who returned to the utility for generation service after switching to a competitive supplier. This obligation is known as the “supplier of last resort” or “default supplier.”

***Q8. WHAT WERE THE KEY FACTORS INFLUENCING OHIO’S ELECTRIC MARKET RESTRUCTURING, AND WHAT WERE THE RESULTING CHANGES?***

***A8.*** The Legislature recognized that a competitive retail electric market would need time to develop. Accordingly, S.B. 3 provided for a five-year “market development period” from 2001 through 2005. During this time, electric utilities were required to provide electric service at frozen rates. Utilities were also required to unbundle (separate) the generation portion of their business from the distribution and transmission segments. Utilities also unbundled their rates to establish separate rate schedules for each distinct type of service.

Competitive retail electric service (“CRES”) providers were allowed to compete by selling generation services at unregulated prices. It was generally thought that this five-year market development period would provide enough time for a robust retail electric market to develop in Ohio.

***Q9. WERE ELECTRIC MARKETS UNDERGOING ANY OTHER STRUCTURAL CHANGES AT THIS TIME?***

***A9.*** Yes. Regional transmission organizations (“RTOs”) established wholesale electricity markets across multi-state regions. Ohio’s four electric distribution utilities (Duke, AEP, FirstEnergy and AES) have belonged to one of two RTOs at various times – the Midcontinent Independent System Operator (“MISO” – formerly known as the Midwest Independent System Operator) or PJM. Today Ohio’s electric distribution utilities fulfill their “default supply” obligation by buying wholesale electricity from the PJM energy and capacity markets through a competitive bidding process.

***Q10. WHAT WAS THE CONDITION OF OHIO’S RETAIL ELECTRIC MARKET AS IT APPROACHED THE END OF THE MARKET DEVELOPMENT PERIOD (DECEMBER 31, 2005)?***

***A10.*** Despite expectations, Ohio’s retail electric market developed slowly during the market development period. Few customers switched suppliers, and generation auctions yielded no bids. Rising fuel and environmental costs, coupled with concerns about price volatility, led the PUCO to extend the market development plans beyond 2005 through rate stabilization plans. The Ohio Supreme Court discussed these challenges in detail in Ohio Consumers’ Counsel v. Pub. Util. Comm. (2007),[[1]](#footnote-2) noting the need for continued legislative evaluation of market competition.

# ADDITIONAL RESTRUCTURING LEGISLATION IN 2008

***Q11. DID OHIO ENACT ADDITIONAL LEGISLATION THAT CHANGED THE RETAIL ELECTRIC MARKET?***

***A11.*** Yes. In 2008, Ohio enacted Am.Sub.S.B. 221 (“S.B. 221”), which substantially changed the retail electric market. S.B. 221 required electric distribution utilities to provide a “standard service offer” that includes all competitive retail electric services needed for a firm supply of electric service.[[2]](#footnote-3) Utilities could provide a standard service offer in the form of a “market rate offer”[[3]](#footnote-4) or an “electric security plan.”[[4]](#footnote-5) Electric security plans allowed utilities to use their own generating plants (or those owned by an affiliated company) to supply electricity to consumers. S.B. 221 also required utilities to obtain PUCO approval before selling their generating plants or transferring ownership to an affiliated company.[[5]](#footnote-6)

***Q12. DO ELECTRIC DISTRIBUTION UTILITIES CONTINUE TO USE THEIR OWN GENERATING PLANTS (OR THOSE OWNED BY AN AFFILIATE) TO SUPPLY ELECTRICITY UNDER ELECTRIC SECURITY PLANS?***

***A12.***  No. The PUCO has ended this practice. Electric distribution utilities began to provide electric security plans that procured electricity through competitive auctions beginning with FirstEnergy in 2009. The other electric distribution utilities adopted this practice in subsequent years: Duke (2011),[[6]](#footnote-7) AES (2013) and AEP (2014). The timeline for adoption of competitive auctions is shown below:



# MARKET RATE OFFERS

***Q13. HAVE ANY ELECTRIC DISTRIBUTION UTILITIES EVER FILED AN APPLICATION FOR APPROVAL OF A MARKET RATE OFFER?***

***A13.*** Yes. FirstEnergy filed applications for approval of a market rate offer in 2008 and 2009, while Duke filed an application for approval of a market rate offer in 2010.[[7]](#footnote-8)

***Q14. DID FIRSTENERGY OR DUKE IMPLEMENT A MARKET RATE OFFER?***

***A14.*** No.

***Q15. WHEN DUKE FILED ITS APPLICATION FOR APPROVAL OF A MARKET RATE OFFER IN 2010, DID DUKE STATE WHETHER A MARKET RATE OFFER WAS APPROPRIATE UNDER THEN-EXISTING RETAIL MARKET CONDITIONS?***

***A15.*** Yes. Duke filed testimony from James E. Rogers, its CEO, stating that the market conditions were suitable for a market rate offer.[[8]](#footnote-9)

***Q16. HOW DID THE PUCO REACT TO THE FILING?***

***A16.*** The PUCO issued an order regarding Duke’s application for a market rate offer. While the order does not explicitly state a final decision on Duke’s application, it provides valuable insights into the PUCO’s approach to evaluating market rate offers and the key issues at play in this case.

**Key Findings and Considerations:**

* **Blending Price:** The PUCO acknowledged the complexity of the requirement to blend the price for the existing electric security plan and the new market rate offer during a transition period. The PUCO emphasized the need to balance the interests of consumers and Duke. The PUCO indicated that it would carefully consider the appropriate percentages of market price and electric security plan price to be included in the blended price.
* **Market Dynamics:** The PUCO recognized the importance of a competitive market for the success of market rate offers. The PUCO stated that it would assess market conditions, including factors like market power and market manipulation, to ensure a fair and efficient market.
* **Consumer Protection:** The PUCO reiterated its commitment to protecting consumers’ interests. The PUCO stated that it would monitor market developments and take appropriate actions to prevent unreasonable prices or unfair practices.
* **Transfer of Generation Assets:** The PUCO indicated that the transfer of Duke’s legacy generation assets to an affiliate would be addressed in a separate case. This decision suggests that the PUCO would carefully evaluate the potential impacts of the transfer on consumers and the competitive market.

**Overall, the PUCO’s order demonstrates a balanced approach to evaluating market rate offer applications.** The PUCO considered the key requirements of R.C. 4928.141 and R.C. 4928.142, while also acknowledging the complexities and challenges associated with market rate offers. The PUCO’s focus on consumer protection, market dynamics, and the appropriate blending price indicates that it would carefully scrutinize Duke’s application and make a decision that best serves the interests of Ohio’s consumers.

***Q17. TODAY HAS THE RETAIL ELECTRIC MARKET REACHED THE POINT WHERE AN ELECTRIC DISTRIBUTION UTILITY COULD PROVIDE A STANDARD SERVICE OFFER IN THE FORM OF A MARKET RATE OFFER WITHOUT CAUSING VOLATILE PRICING AND RATE SHOCK FOR CONSUMERS?***

***A17.*** Yes. Electric distribution utilities have been using competitive auctions to procure electricity for their electric supply plans since 2009. These competitive auctions generally attract many wholesale bidders and result in competitive prices. In addition, many competitive retail suppliers offer electricity at competitive prices.

***Q18. HAS THE PUCO STATED WHETHER THE RETAIL ELECTRIC MARKET IS COMPETITIVE?***

***A18.*** Yes. PUCO Chair Jenifer French has testified: “Competitive wholesale and retail offerings that contribute to healthy and robust markets encourage choice and provide for a healthy environment to encourage economic development and job growth.”[[9]](#footnote-10)

***Q19.* *ARE ELECTRIC SECURITY PLANS STILL NECESSARY?***

***A19.*** I don’t believe they are. While they have served as a valuable tool during Ohio’s transition to a competitive electricity market, it’s time to reassess their necessity. The market has matured significantly, and the benefits of a full transition to market rate offers now outweigh the potential risks associated with electric security plans.

 **Why Eliminate Electric Security Plans?**

1. **Market Maturity:** The Ohio electricity market has demonstrated its ability to function competitively. The initial concerns about market instability and consumer protection have largely been addressed.
2. **Reduced Need for Price Stability:** Electric security plans were designed to provide price stability during a period of market transition. The market has matured, with robust competitive auctions now occurring for the Duke-Ohio load, with many participating bidders and resulting in competitive prices.

3. **Regional Transmission Organizations have matured:** For example, PJM has fostered market transparency and efficiency through reforms to increase competition and reduce market power concentration. Today PJM regularly holds competitive auctions to procure generation and transmission for 65 million consumers over a 13-state region at competitive prices.[[10]](#footnote-11) An independent market monitor oversees the market to make sure that the market participants follow competitive practices.

4. **Electric Distribution Utilities no longer own generation:** The original rationale for electric security plans was to allow electric distribution utilities to commit their own generating plants to supply consumers, as an alternative to a competitive auction. This rationale no longer exists because utilities no longer own generating plants. Today the generation for an electric security plan is procured through a competitive auction, so there is no difference between an electric security plan and a market rate offer as to how generation is procured to serve consumers. In addition, this makes the concern about blending the generation price for a market rate offer with the generation price of an electric security plan moot.

5. **Consumers have access to a wide variety of competitive offers from competitive suppliers:** the PUCO’s Apples-to-Apples web page shows that competitive suppliers have 150 different generation supply offers available to Duke residential consumers, all at competitive prices.[[11]](#footnote-12)

# “MORE FAVORABLE IN THE AGGREGATE” TEST

***Q20. PLEASE EXPLAIN THE STATUTORY “MORE FAVORABLE IN THE AGGREGATE” TEST FOR DUKE’S ELECTRIC SECURITY PLAN.***

***A20.*** Under R.C. 4928.143(C)(1), the PUCO shall approve an electric security plan

. . . if it finds that the electric security plan so approved, including its pricing and all other terms and conditions, including any deferrals and any future recovery of deferrals, is more favorable in the aggregate as compared to the expected results that would otherwise apply under section [4928.142](https://codes.ohio.gov/ohio-revised-code/section-4928.142) of the Revised Code.[[12]](#footnote-13)

***Q21. HOW DOES DUKE WITNESS SARAH LAWLER EXPLAIN THAT THE “MORE FAVORABLE IN THE AGGREGATE” TEST SHOULD BE APPLIED?***

***A21.*** Ms. Lawler states at page 16 of her testimony that the cost of generation under the electric security plan is equal to the cost of generation supply under a market rate offer because, in each case, a competitive auction would be used to procure generation supply. She next states that there are no quantitative differences between the electric security plan versus a market rate offer because, in the long run, the costs collected through the electric security plan’s distribution riders would equal the costs collected through distribution base rate case filings that Duke would make if it implemented a market rate offer. Finally, she testifies that certain qualitative differences make the electric security plan superior to a market rate offer.

***Q22. DO YOU AGREE WITH MS. LAWLER?***

***A22.*** No. R.C. 4928.143(C)(1) does not state that the PUCO should compare an electric security plan with its distribution riders versus a market rate offer with base distribution rate case filings.[[13]](#footnote-14) The test should compare an electric security plan with its distribution riders versus a market rate offer – period. Additionally, the statute does not expressly allow the PUCO to consider qualitative factors, so I disagree with that part of Ms. Lawler’s analysis as well.

I am aware, however, that the Supreme Court of Ohio (in 2016)[[14]](#footnote-15) interpreted R.C. 4928.143(C)(1) differently, to allow the comparison that Ms. Lawler adopts.

***Q23. UNDER CURRENT MARKET CONDITIONS, WOULD YOUR INTERPRETATION RENDER THE STATUTE MEANINGLESS BY ALWAYS MAKING ELECTRIC SECURITY PLANS LESS FAVORABLE THAN MARKET RATE OFFERS?***

***A23.*** Yes, in today’s market, electric security plans will never be more favorable in the aggregate than market rate offers. This will not adversely impact consumers because today we have a well-functioning wholesale electric market.

Today there is also a well-developed retail electric market and utilities no longer own generating plants. As a result, electric security plans use the same competitive auction process for procuring generation as would occur in a market rate offer. As a result, there is no difference in the generation component of an electric security plan versus a market rate offer.

However, this wasn’t always the case. When S.B. 221 was enacted in 2008, all four Ohio electric distribution utilities used their own generation for electric security plans. By using their own generating plants, the utilities could offer more favorable terms, especially during the early development of the retail electric market. This provided stability and certainty that incentivized utilities to offer their own generation at competitive prices.

***Q24. DOESN’T THE STATUTE REQUIRE THE PUCO TO WEIGH OTHER FACTORS (IN ADDITION TO THE GENERATION COMPONENT) IN DECIDING WHETHER AN ELECTRIC SECURITY PLAN IS MORE FAVORABLE IN THE AGGREGATE THAN A MARKET RATE OFFER?***

***A24.*** Yes. R.C. 4928.143(C)(1) states that the PUCO must consider “pricing and all other terms and conditions, including any deferrals and any future recovery of deferrals” in deciding whether an electric security plan is more favorable in the aggregate than a market rate offer. An electric security plan can include various cost collection mechanisms, such as distribution riders, that cannot be included in a market rate offer.

***Q25. HAS THE SUPREME COURT RULED THAT THE PUCO CAN DETERMINE WHETHER AN ELECTRIC SECURITY PLAN IS MORE FAVORABLE IN THE AGGREGATE THAN A MARKET RATE OPTION BY COMPARING AN ELECTRIC SECURITY PLAN WITH ITS VARIOUS COST-RECOVERY MECHANISMS VERSUS A MARKET RATE OFFER WITH HYPOTHETICAL DISTRIBUTION RATE CASE REVENUES?***

***A25.*** Yes. In *In re Application of Ohio Edison Co*, the Supreme Court ruled:

(¶ 25) On appeal, NOPEC argues that the MRO statute, R.C. 4928.142, does not permit the inclusion of hypothetical distribution-rate-case revenues as part of the MRO/ESP comparison. But NOPEC’s argument fails to recognize that unlike an MRO, an ESP will include all sorts of cost-recovery mechanisms at the outset, see R.C. 4928.143(B)(2)(a). Therefore, under NOPEC’s statutory interpretation, the MRO will always appear to be quantitatively more favorable but will never reflect the true cost of the MRO over time.[[15]](#footnote-16)

While there was a period (2008-2014) when an electric security plan could, under specific circumstances, appear more favorable than a market rate offer for Duke, it’s important to recognize the significant evolution of the electricity market and RTOs since then. With the increased maturity of these markets, the potential for market-based solutions to effectively manage supply and demand has grown.

While the Supreme Court’s ruling in *In re Application of Ohio Edison Co.[[16]](#footnote-17)* provided valuable guidance at the time, it’s worth considering how the landscape has changed. Factors such as increased competition, more sophisticated market mechanisms, and enhanced RTO capabilities may influence the relative attractiveness of different supply arrangements for Duke.

It’s essential to conduct a thorough analysis, considering the specific circumstances and regulatory environment, to determine the most advantageous approach for ensuring a reliable and affordable electricity supply for Duke consumers.

***Q26. DOES THE PUCO ALSO EVALUATE THE QUALITATIVE DIFFERENCES BETWEEN AN ELECTRIC SECURITY PLAN AND A MARKET RATE OFFER IN DECIDING WHETHER AN ELECTRIC SECURITY PLAN IS MORE FAVORABLE IN THE AGGREGATE THAN A MARKET RATE OFFER?***

***A26.*** Yes. This occurred in FirstEnergy’s most recent electric security plan case.[[17]](#footnote-18) The PUCO evaluated whether there were any quantitative differences and whether there were any qualitative differences in deciding whether an electric security plan was more favorable in the aggregate than a market rate offer.[[18]](#footnote-19)

***Q27. DO YOU AGREE WITH THIS APPROACH?***

***A27.*** No. There is nothing in R.C. 4928.143(C)(1) that authorizes the PUCO to evaluate qualitative factors. The statute states that the PUCO must evaluate “pricing and all other terms and conditions, including any deferrals and any future recovery of deferrals” These are all quantitative factors that can be compared to a market rate offer with hypothetical distribution rate case revenues. There is nothing in the statute that authorizes the PUCO to evaluate qualitative factors in deciding whether an electric security plan is more favorable in the aggregate than a market rate offer.

R.C. 4928.143(B)(2) lists the cost collection mechanisms that may be included in an electric security plan. The statute does not discuss qualitative factors that can be included in an electric security plan. By including an evaluation of qualitative factors, the PUCO goes beyond the plain language of the statute.

***Q28. HOW SHOULD THE PUCO APPLY THE “MORE FAVORABLE IN THE AGGREGATE TEST” IN THIS CASE?***

***A28.*** For the reasons discussed above, the PUCO should conclude that the electric security plan is not more favorable in the aggregate than a market rate offer.

# CONCLUSION

Q29. DOES THIS CONCLUDE YOUR TESTIMONY?

***A29.*** Yes. However, I reserve the right to incorporate new information that may subsequently become available through outstanding discovery requests or otherwise.

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of this Direct Testimony of Joseph P. Buckley on Behalf of the Office of the Ohio Consumers’ Counselwas served on the persons stated below via electronic transmission, this 30th day of October 2024.

*/s/ John Finnigan*

John Finnigan

 Assistant Consumers’ Counsel

The PUCO’s e-filing system will electronically serve notice of the filing of this document on the following parties:

**SERVICE LIST**

|  |  |
| --- | --- |
| ambrosia.wilson@ohioago.govjanet.gregory@ohioago.govconnor.semple@ohioago.govknordstrom@theOEC.orgctavenor@theOEC.orgjdunn@oneenergyllc.comktreadway@oneenergyllc.comemcconnell@elpc.orgEWalton@elpc.orgtrent@hubaydougherty.comPaul@carpenterlipps.combrian.gibbs@nationwideenergypartners.comkevin.frank@cincinnati-oh.govmpritchard@mcneeslaw.comrdove@keglerbrown.comAdministrative Law Judges:matthew.sandor@puco.ohio.govnicholas.walstra@puco.ohio.govclint.white@puco.ohio.gov | rocco.dascenzo@duke-energy.comjeanne.kingery@duke-energy.comlarisa.vaysman@duke-energy.comelyse.akhbari@duke-energy.commkurtz@BKLlawfirm.comjkylercohn@BKLlawfirm.comdproano@bakerlaw.compwillison@bakerlaw.combojko@carpenterlipps.comeasley@carpenterlipps.comstacie.cathcart@igs.comnatalia.messenger@igs.commjsettineri@vorys.comglpetrucci@vorys.comjreckert@vorys.comcgrundmann@spilmanlaw.comdwilliamson@spilmanlaw.comslee@spilmanlaw.com |

1. 114 Ohio St.3d 340, 2007-Ohio-4276. [↑](#footnote-ref-2)
2. R.C. 4928.141. [↑](#footnote-ref-3)
3. R.C. 4928.142. [↑](#footnote-ref-4)
4. R.C. 4928.143. [↑](#footnote-ref-5)
5. R.C. 4928.17(E). *See also In re Application of Columbus S. Power Co.,* 128 Ohio St.3d 402, 2011-Ohio-958 at ¶¶ 19-21. [↑](#footnote-ref-6)
6. News Release, *Duke Energy to begin process to exit its Midwest generation business* (Feb. 17, 2014). Duke owns a share of the Ohio Valley Electric Corporation (“OVEC”), which owns two coal plants. Duke collects costs for its share of these two plants through the Legacy Generation Rider authorized by R.C. 4928.148. [↑](#footnote-ref-7)
7. *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company for Approval of a Market Rate Offer to Conduct a Competitive Bidding Process for Standard Service Offer Electric Generation Supply, Accounting Modifications Associated with Reconciliation Mechanism, and Tariffs for Generation Service*, Case No. 08-936-EL-SSO, Application (July 31, 2008); *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company for Approval of a Market Rate Offer to Conduct a Competitive Bidding Process for Standard Service Offer Electric Generation Supply, Accounting Modifications Associated with Reconciliation Mechanism, and Tariffs for Generation Service*, Case No. 09-906-EL-SSO, Application (Oct. 20, 2009); *In the Matter of the Application of Duke Energy Ohio for Approval of a Market Rate Offer to Conduct a Competitive Bidding Process for Standard Service Offer Electric Generation Supply, Accounting Modifications, and Tariffs for Generation Service,* Case No. 10-2586-EL-SSO, Application (Nov. 15, 2010). [↑](#footnote-ref-8)
8. *In the Matter of the Application of Duke Energy Ohio, Inc. for Approval of a Market Rate Offer to Conduct a Competitive Bidding Process for a Standard Service Offer Electric Generation Supply, Accounting Modifications, and Tariffs for Generation Service*, Case No. 10-2586-EL-SSO, Direct Testimony of James E. Rogers (Nov. 15, 2010). [↑](#footnote-ref-9)
9. Testimony of Jenifer French, PUCO Chair, to House Public Utilities Committee on Energy Reliability, Sustainability and Affordability at 3 (Feb. 1, 2024). [↑](#footnote-ref-10)
10. PJM Fact Sheet, available at: <https://www.pjm.com/-/media/about-pjm/newsroom/fact-sheets/pjm-at-a-glance.ashx>. [↑](#footnote-ref-11)
11. PUCO Apples-to-Apples web page, available at: <https://energychoice.ohio.gov/ApplesToApplesComparision.aspx?Category=Electric&TerritoryId=4&RateCode=1>. [↑](#footnote-ref-12)
12. R.C. 4928.143(C)(1). [↑](#footnote-ref-13)
13. *Id.* [↑](#footnote-ref-14)
14. *In re Application of Ohio Edison Co.,* 146 Ohio St.3d 222, 2016-Ohio-3021 at ¶ 25. [↑](#footnote-ref-15)
15. *Id.* [↑](#footnote-ref-16)
16. *Id.* [↑](#footnote-ref-17)
17. *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Authority to Establish a Standard Service Offer Pursuant to R.C. 4928.143 in the Form of an Electric Security Plan*, Case No. 23-301-EL-SSO, Opinion and Order (May 15, 2024). [↑](#footnote-ref-18)
18. *Id.* at ¶ 272. [↑](#footnote-ref-19)