

**BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)	
Duke Energy Ohio, Inc., to Adjust)	
Rider DR-IM and Rider AU for 2013)	Case No. 14-1051-GE-RDR
Grid Modernization Costs.)	

**DUKE ENERGY OHIO'S
MEMORANDUM CONTRA MOTION TO STRIKE AFFIDAVIT**

The Office of the Ohio Consumers' Counsel (OCC) seeks a ruling from the Public Utilities Commission of Ohio, (Commission) striking an affidavit that was attached to the memorandum contra filed by Duke Energy Ohio, Inc., (Duke Energy Ohio or Company) on January 9, 2015.

To the extent it is necessary to respond to this frivolous motion, the Company submits that OCC's motion is meritless and wasteful of the Commission's administrative resources. OCC pointed out a typographical error in the affidavit that does not impact the substance of the statement. Moreover, since the Affidavit clearly bears an appropriate title and signature, it leaves little doubt as to the identity of the affiant. However, in order to address any confusion, a corrected affidavit is attached to this memo contra.

The undue burden that OCC's most recent filing imposes upon the Commission is further reflected in its incorrect interpretation of the Commission's rules and standard motion practice before it. Specifically, OCC points out that there is no provision contained within Rule 4901-1-23(C)(3) that explicitly mentions that an affidavit may be included with a memorandum contra a motion to compel. However, there is nothing even arguably improper about including such an

affidavit. While none may be explicitly provided for, affidavits are commonly included with legal pleadings. OCC offers no legal support for its assertion as indeed there is no such support.

For the reasons set forth above, Duke Energy Ohio respectfully requests that the Commission deny the motion to strike the affidavit attached to the Company's memorandum contra motion to compel.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was delivered by U.S. mail (postage prepaid), personal delivery, or electronic mail, on this 13th day of January, 2015, to the following parties.


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AFFIDAVIT OF ELIZABETH H. WATTS

State of Ohio)
) SS
County of Franklin)

Comes now Affiant, Elizabeth H. Watts, after having been duly cautioned and sworn, and hereby states as follows:

1. I am one of the attorneys of record for Duke Energy Ohio, Inc., (Duke Energy Ohio) in connection with this proceeding.
2. On January 7, 2015, I engaged in a conversation with Kimberly Bojko, in her role as outside counsel for the Office of the Ohio Consumers' Counsel (OCC).
3. Said conversation centered around certain discovery requests that had been propounded by (OCC) in this proceeding, including interrogatories, requests for the production of documents, and notices of deposition. The discovery in question related, generally, to issues concerning customer disconnections.
4. I asked Ms. Bojko to explain how she believed such discovery was seeking information relevant to or admissible in this proceeding. She responded with no

substantive explanation, only stating that OCC would know its relevance after seeing the discovery responses.

Further Affiant Sayeth Naught.


Elizabeth H. Watts

Sworn to and subscribed before me, a notary public for the state of Ohio, on this the 13th day of January, 2015.


Notary Public

JEANNE K. WOODRUFF
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION HAS NO EXPIRATION