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BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO 2006 NOV 28 PM 5: 15

PUCO

In the Matter of the Application )  
Of Duke Energy Ohio, Inc. )  
To Adjust and Set the Annually Adjusted ) Case No. 06-1085-EL-UNC  
Component of its Market Based )  
Standard Service Offer )

PREPARED TESTIMONY  
OF  
L'NARD E. TUFTS  
PUBLIC UTILITIES COMMISSION OF OHIO  
ACCOUNTING AND ELECTRICITY DIVISION

STAFF EX. \_\_\_\_\_

Submitted November 28, 2006

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document delivered in the regular course of business.  
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1. Q. Please state your name and business address.

A. My name is L'Nard E. Tufts. My business address is 180 East Broad Street, Columbus, Ohio 43215.

2. Q. What is your current position with the Public Utilities Commission of Ohio and that are your duties?

A. I am a Public Utility Administrator in the Accounting and Electricity Division of the Utilities Department.

3. Q. Please outline your educational background and work experience?

A. I received a Bachelor of Science Degree in Business Administration with a major in Accounting from The Ohio State University in 1982. I was employed as an Accounting Intern at TRW, Inc. during the summers prior to graduation. I began my employment with the Commission in 1982 in the Accounts and Valuation Division of the Utilities Department. I have been involved in various rate case audits, continuing regulation, special audits, and rule reviews.

4. Q. What is the purpose of your testimony in this proceeding?

A. I have the overall responsibility of supervising the Staff's investigation. Specifically, I will discuss the Staff's review of the Applicant's filing in this proceeding. Next, I will discuss the Staff's findings regarding its

investigation of the Tax Law Component proposed by Duke Energy Ohio, Inc. (Applicant) in this proceeding.

5. Q. What information was the Applicant required to file?

A. The Applicant filed an Application to recover in 2007 costs associated with its annually adjusted component (AAC) in compliance with the Commission's Entry on Rehearing (November 23, 2004) in Case No. 03-93-EL-UNC. In that proceeding, the Commission authorized a preset level for the Applicant's AAC Rider for 2005 and 2006. The AAC Rider is intended to recover costs associated with homeland security, tax law changes and environmental compliance including reagent costs. The entry ordered the Applicant to apply for additional recovery in 2007 and 2008.

The Application and testimony contained the Applicant's proposed tariffs and revenue requirement calculation for homeland security, tax law changes and environmental compliance, including reagent costs, based on the twelve months ending May 31, 2006. The Applicant filed a minimal amount of information in its Application and the supporting documentation was not readily available.

6. Q. What are the Staff's findings?

A. Staff was unable to make some findings due to the lack of information necessary to provide a recommendation. Staff findings, positions, and

recommendations will be discussed to the extent possible in later sections of this testimony as well as other Staff testimony.

7. Q. What was the scope of the Staff's investigation?

A. The Staff approached this investigation as it would any cost based rate proceeding. That is, to verify the Applicant's revenue requirement proposal by tracing amounts through their accounting records. These include: source document information, fixed asset records, construction tracking system, and Company estimates. The Staff's approach also included verifying the physical existence of plant items through on-site inspections.

8. Q. What tax law changes are included in this Application?

A. The Application reflects the impact of a Federal tax law that allows a deduction for domestic production activities. Internal Revenue Code, Section 199, Income Attributable to Domestic Production Activities, specifies the production of electricity in the United States as an activity that qualifies for the deduction.

The Application also reflects State of Ohio tax law changes. The Ohio Corporation Franchise Tax is being phased-out at 20%, per year, for taxable years ending in 2005 through 2009. At the same time the Ohio Commercial Activity Tax (CAT) is being phased-in.

9. Q. What was the Staff's findings regarding the Applicant's revenue requirement calculation for tax law changes?

A. The Applicant's methodology for the Federal and State taxes appears to be reasonable. The tax rates are also appropriate. The calculations are based on The Applicant's native load generation. Additional information provided to support the Applicant's calculations was a summary Management Income Statement (unaudited). A follow-up request for supporting detail received a response of 5 Management Income Statements in summary form covering different periods. These required adding and subtracting amounts for the various periods to arrive at an amount for the twelve months ending May 31, 2006. The total for expense information remained unchanged from the original response, however, the revenues decreased from \$1,067,576,218 to \$1,026,513,259. This change is significant as the tax changes are based on revenues and income. The Company was not able to explain why the revenue numbers changed. The revenue reduction increased the tax reduction from (\$5,315,149) to (\$4,389,290). Another change was the allocation factors applicable to Ohio and Kentucky's share of the IRC Section 199 deduction. Follow-up requests were issued requesting additional information for monthly financial statements, the operation and maintenance expense detail, the documents to establish a trail from monthly

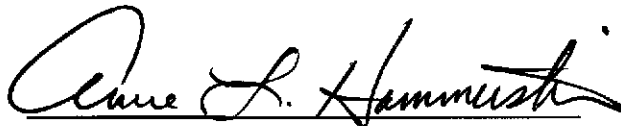
regulatory books (FERC USOA) to the management income statements, and support for Ohio's and Kentucky's allocation factors. The Staff has not received a response to this follow-up request.

12. Q. Does this conclude your testimony?

A. Yes.

## CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **TESTIMONY** submitted on behalf of the Staff of the Public Utilities Commission of Ohio, was served by regular U.S. mail, postage prepaid, or hand-delivered, upon the following parties of record, this 28<sup>th</sup> day of November, 2006.



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