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BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

PUCO

Consolidated Duke Energy Ohio, Inc.,)	Case Nos.	03-93-EL-ATA
Rate Stabilization Plan Remand, and)		03-2079-EL-AAM
Rider Adjustment Cases)		03-2081-EL-AAM
)		03-2080-EL-ATA
)		05-725-EL-UNC
)		06-1069-EL-UNC
)		05-724-EL-UNC
)		06-1085-EL-UNC
)		06-1068-EL-UNC

SECOND SUPPLEMENTAL TESTIMONY OF

JUDAH ROSE

ON BEHALF OF

DUKE ENERGY OHIO

___ Management policies, practices, and organization

___ Operating income

___ Rate base

___ Allocations

___ Rate of return

___ Rates and tariffs

 x Other - Reasonableness of the Public Utilities Commission of Ohio's Market-Based Standard Service Offer ordered in its November 23, 2004, Entry on Rehearing.
 - Continued reasonableness of Duke Energy Ohio's Competitive Market Option Market-Based Standard Service Offer.

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1 I. INTRODUCTION

2 Q. PLEASE STATE YOUR NAME, POSITION, AND BUSINESS ADDRESS.

3 A. My name is Judah Rose. I am a Managing Director of ICF International (ICF). My
4 business address is 9300 Lee Highway, Fairfax, Va. 22031.

5 Q. HAVE YOU TESTIFIED PREVIOUSLY IN THESE PROCEEDINGS?

6 A. Yes, I initially filed Direct testimony on April 15, 2004, and Supplemental Direct
7 testimony on May 20, 2004.

8 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

9 A. The specific purposes of my testimony are twofold. First, I describe in some detail the
10 reasonableness of the Public Utilities Commission of Ohio's (Commission) approval of
11 Duke Energy Ohio's (DE-Ohio) Market Based Standard Service Offer (MBSSO) in its
12 November 23, 2004, Entry on Rehearing as a market price based upon the evidence
13 available to the Commission at the time. I also support the reasonableness of the market
14 price resulting from the Commission's November 23, 2004, Entry on Rehearing under
15 market conditions existing today. Second, I describe in detail and support the continuing
16 reasonableness of DE-Ohio's proposed Competitive Market Option (CMO) MBSSO
17 originally proposed January 10, 2003, based on the record evidence available to the
18 Commission at that time and the continuing viability of that proposal in today's market.

19 Q. HOW IS THE REMAINDER OF YOUR TESTIMONY ORGANIZED?

20 A. The remainder of my testimony is organized into four additional sections. The first
21 summarizes my key conclusions. The second provides a summary of the existing
22 evidence that supports the Commission's November 23, 2004, Entry on Rehearing, as a
23 market price at the time the Commission issued its Entry on Rehearing. Third, I present
24 evidence demonstrating that the MBSSO ordered by the Commission on November 23,

1 2004, is a reasonable market price today. Fourth, I review and discuss the CMO MBSSO
2 pricing offer.

3 **II. SUMMARY**

4 **Q. PLEASE SUMMARIZE YOUR CONCLUSIONS.**

5 A. The previously existing record evidence demonstrates that the Commission's November
6 23, 2004, Entry on Rehearing established an MBSSO within the range of market prices
7 being charged in the competitive retail electric market at that time. In fact, the evidence
8 shows that the MBSSO established by the Commission was successful because it
9 established a stable market price in an increasing price market, allowing consumers to
10 reap the benefits of stability as market prices rose. The updated evidence of record shows
11 that the MBSSO established November 23, 2004, is still within the range of current
12 market prices, but if a new market price, such as the CMO MBSSO, were established
13 today it would be higher. Therefore, the current MBSSO remains a good deal for
14 consumers. Finally, I conclude that the CMO continues to represent a traditional
15 transparent methodology to establish a market price for competitive retail electric service.

16 **III. THE EXISTING RECORD EVIDENCE SUPPORTING THE MARKET PRICE**
17 **SET BY THE COMMISSION IN ITS NOVEMBER 23, 2004, ENTRY ON**
18 **REHEARING**

19
20 **Q. WHAT WAS THE EVIDENCE OF RECORD AT THE ORIGINAL HEARING IN**
21 **THESE CASES REGARDING THE WHOLESALE POWER MARKETS THAT**
22 **MAY HAVE CONTRIBUTED TO THE COMMISSION'S VIEW THAT THE**
23 **MARKET WAS NOT READY FOR THE TRANSITION TO GREATER**
24 **DEREGULATION?**

25 A. I testified that there were "well-publicized transmission, company credit, and price
26 related problems (e.g., price index and California price manipulation cases) that may

1 have contributed to this view. These include the August 14, 2003 blackout and
2 regulatory developments which have taken longer to fully unfold such as MISO Day 2,
3 PJM expansion into more of Ohio, implementation of SMD, etc.”

4 **Q. WHAT DID THE COMMISSION DO AS A RESULT OF ITS CONCERNS?**

5 A. The Commission asked the utilities, including The Cincinnati Gas & Electric Company,
6 DE-Ohio’s predecessor, to file MBSSOs it called rate stabilization plans (RSP) to provide
7 rate certainty for consumers, financial stability for the utility, and the further development
8 of competitive markets. As a result, DE-Ohio proposed an RSP MBSSO that resulted in
9 a Stipulation filed with the Commission. When the Commission rejected the Stipulation,
10 DE-Ohio offered an alternative proposal in its Application for Rehearing. Ultimately the
11 Commission rejected DE-Ohio’s alternative proposal and formulated its own RSP
12 MBSSO in its November 23, 2004, Entry on Rehearing.

13 **Q. AT THE TIME OF THE FIRST HEARING DID YOU TESTIFY THAT THE**
14 **WHOLESALE MARKET PROVIDES THE BASIS FOR A COMPETITIVE**
15 **RETAIL MARKET AND THE CMO PROPOSAL?**

16 A. Yes, I testified in depth that the wholesale market provides a sufficient basis for a
17 competitive retail market and the CMO proposal. As I testified previously, there is
18 already a retail market functioning on a wholesale power market foundation. All retail
19 CRES power is based on wholesale supply and, as evidenced in 2004, there was a 20%
20 shift in the C&I consumer base of DE-Ohio to CRES providers.

21 **Q. WHAT ELSE WAS OCCURRING IN THE WHOLESALE POWER MARKETS?**

22 A. I testified that the wholesale power markets were being restructured to include multi-
23 utility regional transmission organizations such as the Midwest Independent System

1 Operator, Inc. (MISO) and that the MISO helps to assure adequate supply and proper
2 functioning of wholesale power markets.

3 **Q. WHY DOES THE COMMISSION'S RSP MBSSO AND DE-OHIO'S CMO**
4 **MBSSO INCLUDE PROVIDER OF LAST RESORT (POLR) CHARGES?**

5 A. DE-Ohio is the statutory provider of last resort (POLR). The state of Ohio has placed an
6 emphasis on reliability even while requiring a market priced supply. Both the
7 Commission and DE-Ohio decided to create a structure that ensures reliability through a
8 market price that includes both the POLR and a price to compare, each at a reasonable
9 market price.

10 **Q. PLEASE GENERALLY EXPLAIN THE RSP MBSSO.**

11 A. DE-Ohio witness John P. Steffen has provided detailed testimony explaining the RSP
12 MBSSO Stipulation agreed to by DE-Ohio and many parties to these proceedings and
13 differences between the Stipulation and the November 23, 2004, RSP MBSSO ordered by
14 the Commission. The main differences between the CMO MBSSO, originally offered by
15 DE-Ohio, and the RSP MBSSO ordered by the Commission are: (1) the market prices in
16 the RSP MBSSO are effectively negotiated between the utility and the Commission
17 instead of direct price negotiation with consumers; (2) the RSP MBSSO is a relatively
18 stable price over an agreed upon period of time instead of a market price that changes
19 daily; and (3) the RSP MBSSO assigns additional risk to the utility and less risk to
20 consumers than the CMO MBSSO because it makes a bet on a price at a point in time.
21 As such, the RSP MBSSO represents a hedged price for consumers.

22 The Commission's RSP MBSSO at issue in these proceedings is, like the CMO
23 MBSSO option, a competitive market price even though it meets other goals, such as
24 providing stable prices for competitive retail electric generation service. Under the

1 Commission's RSP MBSSO Entry on Rehearing the price to compare is fixed at 85% of
2 "little g" for a four-year period, plus the Fuel and Purchased Power (FPP) rider, plus the
3 by-passable portion of the other MBSSO components such as the Rate Stabilization
4 Charge (RSC), Annually Adjusted Component (AAC), and System Reliability Tracker
5 (SRT). In contrast, the prices offered by CRES providers are free to respond to market
6 conditions. If there is a period during which forward electricity prices (e.g., for delivery
7 next year or over the next few years) fall, allowing the retail price to dip below the RSP
8 MBSSO price to compare for a moderate amount of time, switching could become
9 attractive to a large portion of the load. Market prices have been falling over the last year
10 or so as shown on Exhibits 1 - 3. For example, between January 2006 and December
11 2006, the price for on-peak 2007 delivery fell 16 percent.

12 **Q. WHAT IS THE DISTINCTIVE FEATURE OF THE COMMISSION'S**
13 **APPROVED RSP MBSSO RELATIVE TO THE CMO MBSSO IN TERMS OF**
14 **PRICE TO COMPARE?**

15 A. Under the RSP MBSSO ordered by the Commission on November 23, 2004, the price to
16 compare is fixed for four years, except for changes to the FPP and by-passable portions
17 of the SRT (not by-passable for residential), AAC, and RSC. In contrast, under the CMO
18 MBSSO, the price varies annually for each consumer. Under the RSP MBSSO, the price
19 to compare will approximately equal the price that consumers faced January 1, 2005.

20 **Q. IS THE RSP MBSSO POLR ALSO DIFFERENT THAN THE CMO MBSSO**
21 **POLR?**

22 A. Yes, the RSP MBSSO POLR is also different as discussed in the testimony of DE-Ohio
23 witness Jack Steffen.

1 **Q. UNDER THE RSP MBSSO, DOES THE RECORD EVIDENCE DEMONSTRATE**
2 **THAT CRES PROVIDERS HAVE AN OPPORTUNITY TO COMPETE WITH**
3 **THE MBSSO?**

4 A. Yes.

5 **Q. WAS THE RSP MBSSO PRICE TO COMPARE A COMPETITIVE MARKET**
6 **PRICE?**

7 A. Yes.

8 **Q. HOW DOES THE RECORD EVIDENCE DEMONSTRATE THAT THE RSP**
9 **MBSSO PRICE TO COMPARE WAS A COMPETITIVE MARKET PRICE AT**
10 **THE TIME IT WAS ORDERED BY THE COMMISSION?**

11 A. The record shows that I contrasted the price to compare of the CMO MBSSO to the price
12 to compare of the Stipulated RSP MBSSO. The evidence demonstrated that the CMO
13 MBSSO price to compare could be below the Stipulated RSP MBSSO, and therefore,
14 that competitors could offer consumers lower prices. This comparison could only be
15 done for the non-residential consumers at the time because the CMO MBSSO did not
16 apply to residential consumers, and hence, there was nothing to compare to the Stipulated
17 RSP MBSSO market price for residential consumers. The evidence shows that the RSP
18 MBSSO market price ordered by the Commission is also within the range of market
19 prices produced by the CMO MBSSO option. As discussed below, however, other
20 measures of competitiveness exist in the residential sector.

21 **Q. SHOULD THE ILLUSTRATIVE CMO MBSSO CALCULATION SHOWN IN**
22 **YOUR PRIOR TESTIMONY FOR A DM CONSUMER RESULTING IN A 2004**
23 **CMO MBSSO PRICE TO COMPARE OF 6.25 CENTS/KWH BE THE ONLY**
24 **CMO MEASURE TO USE IN A COMPARISON WITH THE RSP MBSSO?**

1 A. No, other CMO MBSSO calculations were also used in my prior testimony. This is due
2 to the potential variation in the CMO MBSSO. While the Commission ordered RSP
3 MBSSO price to compare is relatively fixed, the CMO MBSSO would have varied over
4 the same period. Indeed, for a new consumer it would vary every day. One reason this
5 can occur is that daily wholesale market conditions can vary greatly over time. One
6 measure of the potential range of forward wholesale prices I referenced was historical
7 price data. As shown in original Attachment JLR-33, wholesale forward prices for
8 delivery in the following years varied considerably in the 2001-2003 period. There was
9 also a strong correlation between spot and next year forward prices (57%) and an even
10 stronger correlation between next year's price and the subsequent year's forward prices
11 (98%). In other words, if on a given day, next year's wholesale power price falls, the
12 price for supply for the following years, *e.g.*, years two and three, are also very likely to
13 fall and vice versa. As discussed in my earlier testimony, another source of variation
14 could be increases in information about consumers' cost of service. One key example is
15 increased information about actual consumer load shapes and another example is better
16 knowledge of the covariance between consumer's load shapes and wholesale prices.
17 Similarly, consumer differences within classes can create opportunities. Lastly, changes
18 in competition could also affect margins.

19 **Q. HOW DOES THE RECORD EVIDENCE DEMONSTRATE THAT THE CMO**
20 **MBSSO VARIES OVER TIME IN LIGHT OF CHANGING FORWARD**
21 **WHOLESALE POWER PRICES?**

22 A. Previously introduced Attachment JLR-34 shows the 2004 CMO MBSSO price to
23 compare based on wholesale forward power prices of 2003 transactions for delivery in

1 2004 were 16% higher than the 2003 CMO price to compare based on average forward
2 wholesale power prices of 2002 transactions for delivery in 2003.

3 **Q. WHY IS THIS VARIATION IN CMO MBSSO PRICE IMPORTANT WHEN**
4 **DISCUSSING THE COMPETITIVENESS OF THE NOVEMBER 23, 2004, RSP**
5 **MBSSO ORDERED BY THE COMMISSION?**

6 A. The record evidence shows that in 2001 to 2003, 13% of the days had prices at or below
7 prices used for the 2003 CMO price to compare (*i.e.*, below or at the average 2002 price
8 for 2003 delivery wholesale power Into Cinergy) as shown in Attachment JLR-35. This
9 price was low by recent historic standards reflecting in part low natural gas prices in
10 2002. The Commission properly used this history as a guide for the 2005 to 2008 period,
11 which has roughly 1,000 trade days. The Commission understood that the CMO
12 MBSSO price to compare could be at or below the 2003 CMO MBSSO market price
13 during 100 to 160 of the approximately 1000 trading days available. That understanding
14 is significant because competitors only need one period for prices to drop below the
15 Commission ordered RSP MBSSO price level to out-compete the RSP MBSSO on a
16 price basis and lock in consumers for a specified period. As previously discussed this
17 price phenomena is why DE-Ohio assumes greater risk under the RSP MBSSO than it
18 does under a CMO MBSSO.

19 **Q. DID YOU PROVIDE OTHER EXAMPLES OF VARIATION IN CMO MBSSO**
20 **PRICES TO COMPARE OVER THE 4 YEAR FIXED PRICE PERIOD?**

21 A. Yes, original Attachment JLR-36 shows how CMO MBSSO prices might be lowered due
22 to increasing information about actual consumers and the costs of providing service.

23 **Q. WHY WAS THIS SIGNIFICANT TO THE COMMISSION ORDERED RSP**
24 **MBSSO?**

1 A. It illustrated how CRES providers may learn more about consumers, and hence, be able
2 to lower their price offering. Under either MBSSO, CRES providers can do this without
3 limitation. Under the November 23, 2004, RSP MBSSO, DE-Ohio cannot respond to the
4 development of such information. Under the CMO, the calculated MBSSO price to
5 compare might adjust. The calculated price is a price cap (*e.g.*, with block on peak load
6 shapes assumed). Lower prices to compare are possible based on actual load shape under
7 the limits of the flex down provision – significant CRES market share was required for
8 the MBSSO price to compare to be flexed down.

9 **Q. DOES THE RECORD EVIDENCE INCLUDE ADDITIONAL REASONS WHY**
10 **THE CMO MBSSO PRICE TO COMPARE OR THE PRICE OF CRES**
11 **PROVIDERS MIGHT BE LOWER THAN IN THE ILLUSTRATIVE**
12 **CALCULATION THAT EQUALS THE CAPPED PRICE?**

13 A. Yes, Attachment JLR-37 – Supplemental to my first supplemental testimony shows
14 CMO MBSSO prices based on four hypothetical adjustments: (1) lower power prices
15 (*i.e.*, at 2003 MBSSO levels instead of 2004), (2) with greater load shape information and
16 non-block pricing, (3) lower margins *i.e.*, 7% operating risk versus 13.4%), and (4) lower
17 supply management fees (*i.e.*, 4% instead of 7%). Lower costs, lower risks or greater
18 competition could cause lower margins and fees.

19 **Q. WHAT WERE THE RESULTS OF THESE VARIATIONS INCLUDED IN THE**
20 **RECORD EVIDENCE?**

21 A. The results showed that depending on market conditions, the CMO MBSSO might either
22 be above, below, or close to the RSP MBSSO price to compare. As shown in
23 Attachment JLR-37-Supplemental to my first supplemental testimony, the RSP MBSSO
24 price to compare was 17% to 33% below the 2004 CMO MBSSO price to compare, the

1 RSP price to compare was 5% to 59% above the 2003 CMO MBSSO price to compare
2 with the consumer load shape and lower margins and fees. This supports the view that an
3 RSP MBSSO price to compare can support competition since the CMO MBSSO price to
4 compare could be below the RSP MBSSO price to compare.

5 **Q. IS THERE OTHER RECORD EVIDENCE THAT THE PRICE TO COMPARE**
6 **UNDER THE NOVEMBER 23, 2004, RSP MBSSO IS REASONABLE?**

7 A. Yes, in Attachment JLR-38-Supplemental, the price to compare was compared to
8 generation prices for other Ohio utilities. The DE-Ohio price was comparable. This is
9 consistent with the Commission ordered RSP MBSSO price being competitive and not
10 below cost – *i.e.*, not predatory.

11 **Q. IS THERE OTHER RECORD EVIDENCE THAT THE COMMISSION**
12 **ORDERED RSP MBSSO PRICE IS COMPETITIVE?**

13 A. Yes, at prices offered by CRES providers at January 1, 2005, which were similar to the
14 Commission ordered RSP MBSSO price, CRES providers were offering service.

15 **Q. DOES THE COMMISSION ORDERED RSP MBSSO ALSO HAVE OTHER**
16 **REQUIRED CHARACTERISTICS?**

17 A. Yes. It is a competitive retail electric service price including all the services required to
18 provide firm generation supply. The market price is also non-discriminatory as the price
19 varies for consumers based on load characteristics of the consumer. The RSP MBSSO
20 provides sufficient information to consumers on prices and to CRES providers to be in
21 compliance with CRES rules.

22 **Q. HOW DID THE COMMISSION ORDERED RSP MBSSO PRICE TO COMPARE**
23 **CONTRAST WITH THE RSP PRICE TO COMPARE IN YOUR ORIGINAL**
24 **TESTIMONY?**

1 A. It was higher because it included the by-passable portion of the other MBSSO
2 components such as the RSC, AAC, and SRT (not by-passable for residential). These
3 were not in my original testimony. The current RSP price to compare is also higher
4 reflecting recent price increases in fuel, emission allowances, and purchased power. The
5 simple average February 2007 RSP MBSSO price to compare is 4.56¢/kWh to
6 \$5.42¢/kWh compared to 4.09¢/kWh in my First Supplemental testimony (see Exhibit 4).

7 **Q. WHAT ARE THE IMPLICATIONS OF HIGHER RSP MBSSO PRICES TO**
8 **COMPARE FOR YOUR ARGUMENT THAT THE RSP MBSSO WAS A**
9 **COMPETITIVE MARKET PRICE?**

10 A. It reinforces my argument because a higher RSP MBSSO price to compare increases the
11 likelihood the CMO MBSSO price to compare could be lower.

12 **IV. EVIDENCE DEMONSTRATING THAT THE RSP MBSSO ORDERED BY THE**
13 **COMMISSION IS A REASONABLE MARKET PRICE TODAY**

14 **Q. HAVE YOU REACHED ANY CONCLUSIONS WITH RESPECT TO DE-OHIO'S**
15 **COMMISSION ORDERED RSP MBSSO IN NOVEMBER 2004 IN RELATION**
16 **TO TODAY'S MARKET?**

17 A. Yes. The Commission made a good bet. Over the past two years, market prices have
18 risen resulting in DE-Ohio's RSP MBSSO now being a lower cost market option for the
19 benefit of all consumers in DE-Ohio's service territory. Although DE-Ohio's RSP
20 MBSSO price has risen, for example, due to increased costs of fuel, this increase is not
21 proportional to the overall altitude of the market. While DE-Ohio's RSP MBSSO is still
22 within the range of supportable market prices, it is now lower in that range than it was in
23 November 2004.

24 **Q. PLEASE EXPLAIN THIS FURTHER.**

1 A. Exhibit 5 shows that the CMO MBSSO price-to-compare is currently 28 to 52 percent
2 greater on average than the price to compare under the February 2007 RSP MBSSO
3 indicating that if the Commission resets DE-Ohio's market price and the CMO is
4 adopted, the price would increase. Exhibit 6 shows the CMO price to compare and CMO
5 POLR by rate class.

6 **Q. IN CALCULATING YOUR CMO PRICE TO COMPARE, WHAT HAVE YOU**
7 **ASSUMED?**

8 A. I assumed wholesale prices would equal the average price in 2006 for 2007 delivery. I
9 also assumed that DE-Ohio would be able to use non-block pricing based on availability
10 of load data and updated parameters on such items as covariance, supply management
11 fee, credit adjustment, and operating risk adjustment.

12 **Q. WHAT IS THE CURRENT STATUS OF RETAIL COMPETITION AMONG DE**
13 **OHIO'S CONSUMERS?**

14 A. A substantial amount of load has returned to DE-Ohio as market prices increased after the
15 market development period and DE-Ohio could not respond pursuant to the terms of the
16 Commission ordered RSP MBSSO price.

17 **Q. IF SWITCHING RATES HAVE FALLEN SIGNIFICANTLY SINCE 2005, ISN'T**
18 **THAT AN INDICATION THAT THE COMMISSION ORDERED RSP MBSSO**
19 **PRICE IS NOT COMPETITIVE?**

20 A. No, after the implementation of the Commission ordered RSP MBSSO price, market
21 prices increased making it more difficult for CRES providers to compete because DE-
22 Ohio could not adjust its prices upward to follow the market, having agreed to a stable,
23 and somewhat constrained, market price. Even in an increasing price market, however,
24 CRES providers have managed to compete and retain some load, although less than they

1 had at January 1, 2005, the end of the Market Development Period. Over the last year
2 prices have been decreasing. If market prices continue to decrease CRES providers will
3 take load from DE-Ohio, and because of the stable RSP MBSSO price, DE-Ohio will not
4 be able to react to retain load. That there continues to be some switching in DE-Ohio's
5 certified territory is evidence that the Commission ordered RSP MBSSO is a competitive
6 price within the range of offered market prices. Currently, consumers benefit from the
7 ability to maintain the RSP MBSSO price at the low end of market prices. The fact that
8 load remains switched and CRES providers serve load in all consumer classes indicates
9 that the RSP MBSSO continues to offer consumers a reasonable market price.

10 **Q. WHAT HAPPENS TO THE COMPARISON BETWEEN THE CMO MBSSO AND**
11 **RSP MBSSO PRICE TO COMPARE IN THE EVENT THAT WHOLESALE**
12 **PRICES REVERT TO EARLIER LEVELS?**

13 A. Exhibits 7 and 8 show variation in the CMO MBSSO due to the vintage of price data,
14 2002 to 2006 trade dates. Exhibit 9 also shows that there are circumstances where the
15 CMO MBSSO price may fall on average 21 to 34 percent below the Commission ordered
16 RSP MBSSO price. Therefore, the utility continues to have significant risk associated
17 with the RSP MBSSO price.

18 **V. OVERVIEW OF CMO MBSSO PROPOSAL**

19 **Q. WHAT OPTIONS FOR AN MBSSO HAS DE-OHIO PROPOSED IN THESE**
20 **CASES?**

21 A. DE-Ohio has proposed four MBSSO options, each of which contains two components:
22 (1) a price to compare, and (2) a Provider of Last Resort (POLR). Those options include:
23 (1) the CMO MBSSO that approximates a market price set by market participants; (2) an
24 RSP MBSSO with a fixed price to compare and POLR; (3) the Stipulated RSP MBSSO

1 ultimately rejected by the Commission; (4) the Alternative Proposal presented on
2 Rehearing, an RSP MBSSO that was also rejected by the Commission. As the
3 Commission has not at this time limited the scope of these proceedings, all of the
4 MBSSO options are part of the record before the Commission in these cases.

5 Under the CMO MBSSO, the price to compare varies annually as market
6 conditions vary over time. Under this option, the POLR charge is for the provision of
7 reserve capacity. Under the Commission ordered RSP MBSSO, the MBSSO price to
8 compare is stable during the 2005 to 2008 period. Under this option, the POLR charge
9 provides for reserve capacity plus charges for the provision of a stable price to compare
10 in the face of uncertain cost escalation. Under this approach, regardless of wholesale
11 market conditions, all consumers have the option to purchase at a stable price to compare
12 while DE-Ohio cannot know its volume of consumer demand over the four year RSP
13 period. The RSP MBSSO became applicable to non-residential DE-Ohio consumers
14 January 1, 2005, and residential consumers starting January 1, 2006.

15 **Q. DOES THE RECORD EVIDENCE FULLY DESCRIBE THE CMO PROPOSAL.**

16 A. Yes. DE-Ohio has not revised the CMO MBSSO option to date but if the Commission
17 rejects or modifies the RSP MBSSO set forth in its November 23, 2004, Entry on
18 Rehearing, DE-Ohio would update the proposal for implementation.

19 **Q. UNDER THE CMO PROPOSAL, WHAT CONSUMERS WOULD BE**
20 **AFFECTED?**

21 A. As initially proposed, the CMO MBSSO proposal only applied to commercial, industrial
22 and other public authorities' consumers starting January 1, 2004. If the Commission
23 adopted the CMO MBSSO proposal today it would also apply to residential consumers.

1 Q. WHAT ARE THE COMPONENTS OF THE CMO MBSSO PRICE TO
2 COMPARE CALCULATIONS?

3 A. The components remain as previously described in my prior testimony. "The CMO
4 MBSSO price to compare reflects the cost components of retail supply (Original
5 Attachment JLR-7. They were all thoroughly described in my original testimony
6 (Original Attachments JLR-13 to JLR-32) and I will not repeat them here.

7 Q. HOW DOES THE CMO MBSSO MEET THE COMMISSION'S GOALS?

8 A. By permitting DE-Ohio to charge a traditional market price negotiated directly with
9 consumers, year to year price volatility is lessened. DE-Ohio went from 1992 until 2005
10 without a price increase. When prices were adjusted under the Commission ordered RSP
11 MBSSO, the increase was reasonable but significant. The process embedded in the RSP
12 MBSSO causes prices to be renegotiated with the Commission, and other stakeholders,
13 periodically after a defined period of stable prices. Under the current arrangement, for
14 example, DE-Ohio's MBSSO is scheduled to be renegotiated with a new price effective
15 January 1, 2009. Such a prospect raises the possibility of price shock due to large
16 increases. Pursuant to the CMO MBSSO each consumer signs up for a price over a
17 period of time chosen by the consumer and sees only the incremental increase or decrease
18 attributable to the time period chosen. Further, the consumer can choose to switch to a
19 CRES provider offering the lowest price option.

20 Similarly, the CMO MBSSO offers DE-Ohio revenue certainty as it may adjust
21 prices, within the constraints of the flex down feature, to maintain load at a given market
22 price sufficient to maintain revenues. The ability to make market judgments of this type
23 is exactly the same as other market participants except they are not constrained by an
24 approved pricing formula or flex down component.

1 Finally, the CMO MBSSO's more traditional market pricing encourages
2 consumer demand response and entry of competitors into the market. Consumer demand
3 response occurs because consumers see more price signals as offered prices are adjusted
4 daily. As DE-Ohio adjusts its price in accordance with the market it accords CRES
5 providers consistent opportunity to offer competitive prices attractive to consumers as
6 competitors no longer need to wait for prices to fall below the RSP MBSSO stable price
7 point to compete.

8 **Q. DOES THE CMO MBSSO PROVIDE COMPARABLE AND NON-**
9 **DISCRIMINATORY TREATMENT?**

10 A. Yes. As discussed in my original testimony the price is available to all consumers and
11 the price difference among consumers derives from factors that affect the costs of serving
12 that consumer such as load shapes. Price differences due to cost of service differences
13 are not discriminatory.

14 **Q. DOES THE CMO MBSSO PROPOSAL HAVE NON-PREDATORY PRICING?**

15 A. Yes. As I previously testified predatory pricing would lower the price below the cost of
16 the service. As a general matter, competitive market prices are marginal cost based.
17 Marginal cost-based competitive market prices cannot be predatory. Also, any flex down
18 reduction would be limited by market share measures to ensure continued competition.
19 The Into Cinergy wholesale power market is competitive and the CMO MBSSO has
20 numerous market and competition provisions including:

- 21 • Transparent Varying Market Prices – Prices based on published forward
22 wholesale power prices from the marketplace.”

- 1 • Direct CRES Supply – As another option, consumers will be able to receive retail
2 electric generation service from approved CRES providers.

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

4 **A. Yes.**

**PETITIONER'S EXHIBIT 1
INTO CINERGY SPOT AND FORWARD PRICES (\$/MWH – ON-PEAK)**

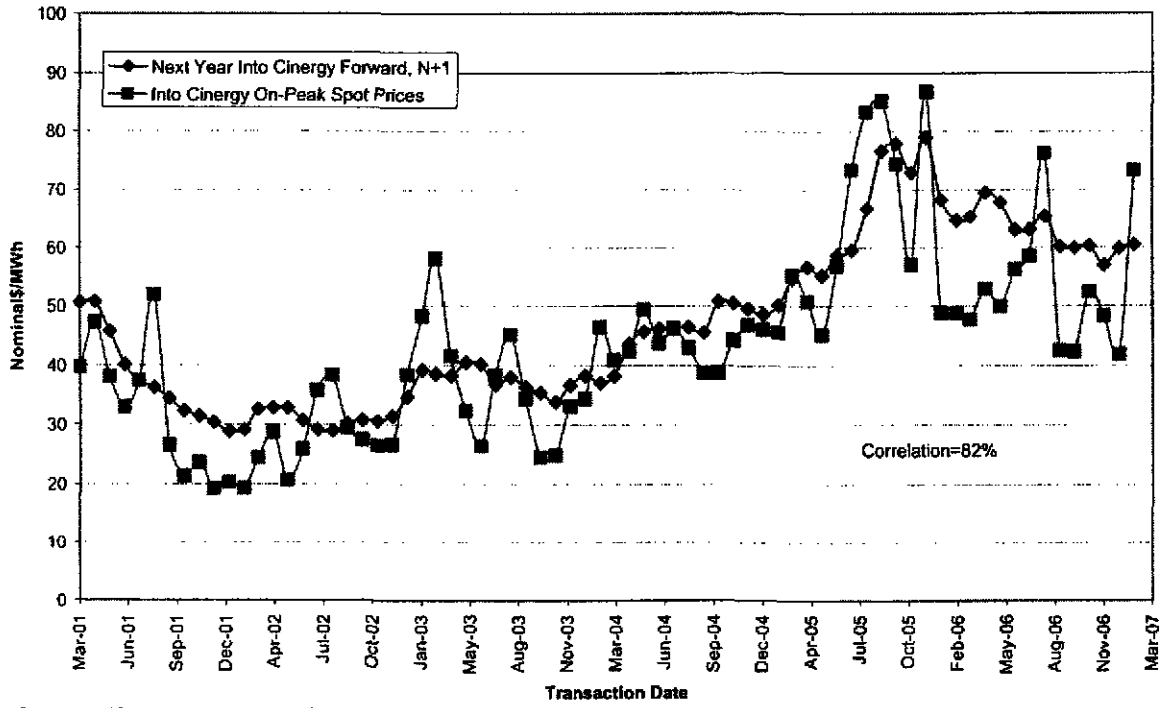
Year	Annual Average Spot¹	Annual Average Forward Price for Next Year²
1997	24.3	
1998	57.0	44.0
1999	51.4	43.9
2000	36.4	47.3
2001	35.2	36.5
2002	27.1	30.8
2003	37.3	37.4
2004	42.6	45.5
2005	63.8	63.2
2006	48.7	63.7

Note: The forward prices used for calculating MBSSO prices were based on ICE forward prices which are slightly lower than the data source used for this Exhibit. For example, the 2006 trades for 2007 on-peak forward delivery is \$62.4/MWh from ICE data compared to \$63.7/MWh shown in the Exhibit.

¹The Annual Average Spot Price is the simple average of all daily On-Peak spot prices Into Cinergy from Platt's Power Markets Week. After June 2002, Platts' MW Daily was the source of daily On-Peak spot prices. Spot refers to Next Day transactions.

²1998, 1999, and 2000 Forward Prices for the next year are actually 12-month strip NYMEX futures for Into Cinergy trades conducted in 1998, 1999, and 2000 for delivery in 1999, 2000, and 2001. 2001 and 2002 Forward Prices for next year are simple averages of the daily Bloomberg Index value in 2001 and 2002 for the Calendar Year 2002 and 2003. The 2003-2006 Forward Price for next year is an average of the daily Platt's Megawatt Daily Into Cinergy Long-Term forward prices.

**PETITIONER'S EXHIBIT 2
HISTORICAL INTO CINERGY LONG-TERM FORWARDS AND SPOT PRICES**



Note: Forwards are "Calendar Year" prices shown for the year following the transaction year.
February 2007 data belongs to 02.01.2007-02.12.2007 period.

Sources: Platt's Megawatt Daily (Long-Term Forwards) and Platt's Power Markets Week (Spot Prices).

**PETITIONER'S EXHIBIT 3
HISTORICAL INTO CINERGY LONG-TERM FORWARDS AND SPOT PRICES, 2006,
\$/MWH**

Month	2006 Trades for 2007 Into Cinergy On-Peak Delivery	2006 Into Cinergy On-Peak Spot Prices
Jan	68.21	48.82
Feb	64.64	48.80
Mar	65.23	47.70
Apr	69.44	52.90
May	67.82	49.91
Jun	63.03	56.21
Jul	63.14	58.57
Aug	65.40	76.29
Sep	60.19	42.51
Oct	59.98	42.33
Nov	60.35	52.40
Dec	56.99	48.31

Sources: Platt's Megawatt Daily (Long-Term Forwards) and Platt's Power Markets Week (Spot Prices).

**PETITIONER'S EXHIBIT 4
RSP PRICE TO COMPARE (CENTS/KWH)**

Customer Class	RSP From First Supplemental Testimony¹	RSP February 2007^{2,3}
DM	5.22	5.27 to 6.34
DS	3.94	4.53 to 5.39
DP	3.47	4.15 to 4.91
TS	3.18	3.86 to 4.55
RS	4.62	5.00 to 5.92
Simple Average	4.09	4.56 to 5.42

¹ Dated May 20, 2004. Attachment JLR-38 Supplemental.

² RSP Price to Compare is equal to 85% of Little G, plus RSC, plus AAC, plus FPP, plus SRT.

³ The higher estimates are for the first 25 percent of residential switching and the first 50 percent of non-residential.

**EXHIBIT 5
MBSO PRICE TO COMPARE – RSP MBSO AND CMO**

Customer Class	RSP MBSO Price to Compare, February 2007^{2,3}	CMO Price to Compare Based on 2006 Trade Dates for 2007 Delivery¹	Difference (%) CMO to RSP
DM	5.27 to 6.34	7.35	+39 to +16
DS	4.53 to 5.39	7.18	+58 to +33
DP	4.15 to 4.91	6.79	+64 to +38
TS	3.86 to 4.55	6.41	+66 to +41
RS	5.00 to 5.92	7.00	+40 to +18
Simple Average	4.56 to 5.42	6.95	+52 to +28

¹ Non-block pricing, 2001 load shapes, varying covariance, 5 percent supply management fee, 13.2% operating risk adjustment, 1.1% credit fee. Market price tracker 0.06 cents/kWh based on \$140/MWh. Otherwise, same as CMO price in original testimony. Excludes POLR charge.

² RSP Price to Compare is equal to 85% of Little G, plus RSC, plus AAC, plus FPP, plus SRT.

³ The higher estimates are for the first 25 percent of residential switching and the first 50 percent of non-residential.

PETITIONER'S EXHIBIT 6
ILLUSTRATIVE CMO RATES FOR ALTERNATIVE CONSUMERS (CENTS/KWH)
BASED ON FORWARDS TRADED IN 2006 FOR DELIVERY IN 2007

Rate Component	DM Consumer	DS Consumer	DP Consumer	TS Consumer	RS Consumer
Market Index of Electricity Prices ²	4.96	4.94	4.81	4.68	4.63
Covariance Adjustment	0.50	0.39	0.24	0.09	0.56
Ask Adder	0.22	0.21	0.20	0.19	0.21
Energy Losses and Adjustments	0.40	0.39	0.37	0.35	0.38
Supply Management Fee	0.30	0.30	0.28	0.27	0.29
Operating Risk Adjustment	0.84	0.82	0.78	0.74	0.80
Credit Fees	0.08	0.08	0.07	0.07	0.08
Market Price Tracker ³	0.06	0.05	0.04	0.03	0.06
CMO MBSSO Before Rider POLR	7.35 ¢/kWh	7.18¢/kWh	6.79¢/kWh	6.41¢/kWh	7.00¢/kWh
Rider POLR Traditional Reserves	0.19	0.19	0.19	0.19	0.19
Rider POLR/Tracker Obligations ⁴	0.02	0.02	0.02	0.02	0.02
Total¹	7.56 ¢/kWh	7.39¢/kWh	7.00 ¢/kWh	6.62 ¢/kWh	7.21 ¢/kWh

¹ Calculated using non-block 2001 customer load shapes and forwards traded in 2006 for delivery into 2007 for illustrative purposes. Based on 2001 load shape. Varying covariance, 4% ask adder, 7% losses, 5% supply management fee, 13.2% operating risk adjustment, and 1.1% credit fee.

² After adjustment for prices above 98th percentile.

³ Calculated using \$140/MWh threshold.

⁴ Calculated using 5% switching rate, 4 CRES providers, 2007 total customer loads, and 2007 option prices.

PETITIONER'S EXHIBIT 7
THEORETICAL RATES UNDER CMO MBSSO APPROACH¹ ILLUSTRATIVE DM
CONSUMER

Component	2002 Trades for 2003 Delivery (£/kWh)	2003 Trades for 2004 Delivery (£/kWh)	2004 Trades for 2005 Delivery (£/kWh)	2005 Trades for 2006 Delivery (£/kWh)	2006 Trades for 2007 Delivery (£/kWh)	2002-2006 Trade Dates for Next Year Delivery (£/kWh)
Market Index (Energy Cost)	2.54	2.95	3.64	4.83	4.96	3.78
10% Covariance	0.25	0.29	0.36	0.48	0.50	0.38
4% Ask Adder	0.11	0.13	0.16	0.21	0.22	0.17
7% Energy Losses	0.20	0.24	0.29	0.39	0.40	0.30
5% Supply Management	0.16	0.18	0.22	0.30	0.30	0.23
13.1% Operating Risk	0.43	0.50	0.62	0.82	0.84	0.64
1.1% Credit	0.04	0.05	0.06	0.08	0.08	0.06
Market Price Tracker ²	0.06	0.06	0.06	0.06	0.06	0.06
Rider POLR Fixed Reserve Charge (Peak)	0.19	0.19	0.19	0.19	0.19	0.19
Rider POLR Variable (Peak) ³	0.02	0.02	0.02	0.02	0.02	0.02
Total	4.00	4.60	5.62	7.37	7.56	5.83

¹Rates for a hypothetical DM consumer with 2001 non-block load shape, no true-ups or flex down. Market index energy cost based on forwards traded in 2002-2006 for delivery in the next calendar year. See footnotes in previous Exhibit.

²Using \$140/MWh threshold.

³Calculated using 5% switching rate, 4 CRES providers, 2007 total customer loads, and 2007 option prices.

**PETITIONER'S EXHIBIT 8
THEORETICAL RATES UNDER CMO MBSSO APPROACH¹ ILLUSTRATIVE RS
CONSUMER**

Component	2002 Trades for 2003 Delivery (¢/kWh)	2003 Trades for 2004 Delivery (¢/kWh)	2004 Trades for 2005 Delivery (¢/kWh)	2005 Trades for 2006 Delivery (¢/kWh)	2006 Trades for 2007 Delivery (¢/kWh)	2002-2006 Trade Dates for Next Year Delivery (¢/kWh)
Market Index (Energy Cost)	2.47	2.85	3.48	4.54	4.63	3.60
12% Covariance	0.30	0.34	0.42	0.54	0.56	0.43
4% Ask Adder	0.11	0.13	0.16	0.20	0.21	0.16
7% Energy Losses	0.20	0.23	0.28	0.37	0.38	0.29
5% Supply Management	0.15	0.18	0.22	0.28	0.29	0.22
13.1% Operating Risk	0.43	0.49	0.60	0.78	0.80	0.62
1.1% Credit	0.04	0.05	0.06	0.07	0.08	0.06
Market Price Tracker ²	0.06	0.06	0.06	0.06	0.06	0.06
Rider POLR Fixed Reserve Charge (Peak)	0.19	0.19	0.19	0.19	0.19	0.19
Rider POLR Variable (Peak) ³	0.02	0.02	0.02	0.02	0.02	0.02
Total	3.98	4.55	5.49	7.07	7.21	5.66

¹Rates for a hypothetical RS consumer with 2001 non-block load shape, no true-ups or flex down. Market index energy cost based on forwards traded in 2002-2006 for delivery in the next calendar year. See footnotes in previous Exhibit.

²Using \$140/MWh threshold.

³Calculated using 5% switching rate, 4 CRES providers, 2007 total customer loads, and 2007 option prices.

**EXHIBIT 9
PRICE TO COMPARE – CMO VERSUS RSP**

Class	February 2007 RSP Price to Compare ^{1,2}	CMO Price to Compare 2002 Trades for 2003 Delivery ³	% Difference CMO versus RSP
DM	5.27 to 6.34	3.79	-28 to -40
DS	4.53 to 5.39	3.63	-20 to -33
DP	4.15 to 4.91	3.45	-17 to -30
TS	3.86 to 4.55	3.32	-14 to -27
RS	5.00 to 5.92	3.77	-25 to -36
Simple Average	4.56 to 5.42	3.59	-21 to -34

¹ The higher estimates are for the first 25 percent of residential switching and the first 50 percent of non-residential.

² Non-block pricing, 2001 load shapes, varying covariance, 4% ask adder, 7% losses, 5% supply management fee, 13.2% operating risk adjustment, and 1.1% credit fee. Market price tracker 0.06 cents/kWh based on \$140/MWh. Otherwise, same as CMO price in original testimony. Excludes POLR charge.

³ RSP Price to Compare is equal to 85% of Little G, plus RSC, plus AAC, plus FPP, plus SRT.