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BEFORE

2007 APR -9 PM 5:09

THE PUBLIC UTILITIES COMMISSION OF OHIO

PUCO

In the Matter of the	:	
Consolidated Duke Energy Ohio, Inc.	:	Case Nos. 05-725-EL-UNC
Rate Stabilization Plan Remand and	:	06-1069-EL-UNC
Rider Adjustment Cases	:	05-724-EL-UNC
	:	06-1068-EL-UNC
	:	06-1085-EL-UNC

STIPULATION AND RECOMMENDATION

Rule 4901-1-30, Ohio Administrative Code (O. A. C.) provides that any two or more parties to a proceeding may enter into a written stipulation covering the issues presented in such a proceeding. The purpose of this document is to set forth the understanding and agreement of the Parties who have signed below (Parties) and to recommend that the Public Utilities Commission of Ohio (Commission) approve and adopt this Stipulation and Recommendation (Stipulation), which resolves all of the issues raised by Duke Energy Ohio (DE-Ohio) and the Commission's December 20, 2006, Entry in these cases relative to the suspension of the Fuel and Purchased Power (FPP) tracker, System Reliability Tracker (SRT), and the Annually Adjusted Component (AAC) of DE-Ohio's market-based standard service offer (MBSSO).

This Stipulation is supported by adequate data and information; represents a just and reasonable resolution of the issues raised in these proceedings; violates no regulatory principle or precedent; and is the

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product of lengthy, serious bargaining among knowledgeable and capable Parties in a cooperative process, encouraged by this Commission and undertaken by the Parties representing a wide range of interests, including the Commission's Staff,¹ to resolve the aforementioned issues. While this Stipulation is not binding on the Commission, it is entitled to careful consideration by the Commission. For purposes of resolving certain issues raised by these proceedings, the Parties stipulate, agree and recommend as set forth below.

Except for dispute resolution purposes, neither this Stipulation, nor the information and data contained therein or attached, shall be cited as precedent in any future proceeding for or against any Party, or the Commission itself. This Stipulation and Recommendation is a reasonable compromise involving a balancing of competing positions, and it does not necessarily reflect the position which one or more of the Parties would have taken if these issues had been fully litigated.

This Stipulation is expressly conditioned upon its adoption by the Commission, in its entirety and without modification. Should the Commission reject or modify all or any part of this Stipulation or impose additional conditions or requirements upon the Parties, the Parties shall have the right, within 30 days of issuance of the Commission's order, to file an application for rehearing. Upon the Commission's issuance of an Entry on Rehearing that does not without modification adopt the

¹ Staff will be considered a party for the purpose of entering into this Stipulation by virtue of O.A.C. Rule 4901-1-10(c).

Stipulation in its entirety; any Party may terminate and withdraw from the Stipulation by filing a notice with the Commission within 30 days of the Commission's order on rehearing. Upon such notice of termination or withdrawal by any Party, pursuant to the above provisions, the Stipulation shall immediately become null and void.

All the Signatory Parties fully support this Stipulation and urge the Commission to accept and approve the terms hereof.

WHEREAS, all of the related issues and concerns raised by the Parties have been addressed in the substantive provisions of this Stipulation, and reflect, as a result of such discussions and compromises by the Parties, an overall reasonable resolution of all such issues. This Stipulation is the product of the discussions and negotiations of the Parties, and is not intended to reflect the views or proposals which any individual party may have advanced acting unilaterally. Accordingly, this Stipulation represents an accommodation of the diverse interests represented by the Parties, and is entitled to careful consideration by the Commission;

WHEREAS, this Stipulation represents a serious compromise of complex issues and involves substantial benefits that would not otherwise have been achievable; and

WHEREAS, the Parties believe that the agreements herein represent a fair and reasonable solution to the issues raised in the cases set forth above concerning DE-Ohio's FPP, SRT, and AAC;

NOW, THEREFORE, the Parties stipulate, agree and recommend that the Commission make the following findings and issue its Opinion and Order in these proceedings approving this Stipulation in accordance with the following:

1.

[REDACTED]

2. The FPP auditor's recommendation 2 on page 1-9 of the Audit Report dated October 12, 2006, that the Company discontinue its active management practices shall be withdrawn.
3. The Parties agree that DE-Ohio, Staff, and interested Parties shall meet to discuss the terms and conditions under which DE-Ohio may purchase and manage coal assets, emission allowances, and purchased power for the period after December 31, 2008. The Parties agree that such discussions address the auditor's finding 6 at page 1-8 that DE-Ohio actively looks to limit purchased fuel and emission allowance commitments beyond December 31, 2008. Based upon the discussions committed to in this paragraph the Parties will use their best efforts to agree and make a recommendation regarding the purchase and cost recovery after December 31, 2008, of coal, emission allowances, and purchased power for consideration no later than the next FPP audit.

4. The Parties agree that DE-Ohio's congestion costs shall be recovered through Rider FPP instead of Rider TCR, as approved in paragraph 26 of the PUCO's December 20, 2006 Order in Case No. 03-93-EL-ATA *et al.* The congestion components to transfer from Rider TCR to Rider FPP include Congestion (day-ahead & real-time), Losses (day-ahead & real-time), and Firm Transmission Rights (FTR) that were previously included on Schedule B of DE-Ohio's Rider TCR application.
5. The Parties agree that DE-Ohio's proposed Rider AAC Calculation shall be adjusted in accordance with the Staff corrected supplemental testimony of L'Nard E. Tufts, as shown on Attachment LET-1 shown as Stipulation Attachment 2. Rider AAC revenue will be trued-up to January 1, 2007, such that the amount calculated to be recovered in 2007, will be recovered by December 31, 2007.
6. The Parties agree that DE-Ohio shall work with the Staff to amend its bill format. Such amendments will be intended to reflect generation-related charges such as the FPP, SRT, and AAC, in the generation portion of the customer bill. Additionally, the parties agree to simplify and standardize the monthly bill message regarding updated rider charges. Lastly, the Parties agree that such amendments will not result in additional programming or billing costs.

7. The Parties agree that Rider SRT will be updated with the first billing cycle of the month following Commission approval of this Stipulation to recover DE-Ohio's projected 2007 planning reserve capacity purchases by year-end. Rider SRT will be updated in future quarterly filings to reconcile any projected over/under collection.
8. The Parties agree that DE-Ohio may recover short term (7 days or less) capacity purchases from its generating assets formerly owned by Duke Energy North America through the SRT. DE-Ohio and Staff shall agree on a pricing methodology prior to DE-Ohio's purchase of such capacity. Such purchases shall be acquired at a market price to be determined as either:
 - a. Midpoint of broker quotes received; or
 - b. Average price of 3rd party purchases transacted; or
 - c. An alternative method which DE-Ohio and the Staff agree upon as a reasonable price.

In all instances DE-Ohio's ability to maintain an offer of firm generation service to all consumers pursuant to R.C. 4928.14 shall remain paramount. The Parties agree that recommendation 6 on page 1-10 of the October 12, 2006 Audit Report is inapplicable to the extent it is in conflict with this paragraph.

9. The Parties agree that DE-Ohio accepts all audit recommendations made in the Report of the Financial and Management/Performance

Audit of the Fuel and Purchased Power Rider of Duke Energy-Ohio dated October 12, 2006, except as set forth in paragraphs one through eight above.

The undersigned hereby stipulate and agree and each represents that it is authorized to enter into this Stipulation and Recommendation this 9th day of April, 2007.


Respectfully Submitted,



Paul A. Colbert, Trial Attorney
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Rocco D'Ascenzo, Counsel
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On behalf of Staff


Its Attorney Stephen Reilly

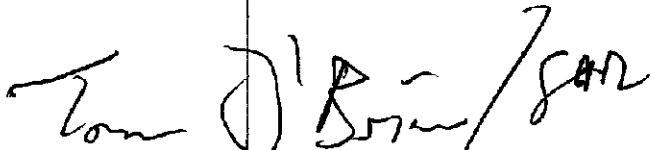
On Behalf of Ohio Energy Group


Its Attorney Dave Boehm

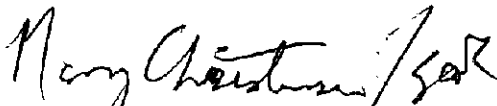
On behalf of the Ohio Hospital
Association


Its Attorney Rick Sites

On behalf of the City of Cincinnati


Its Attorney Tom O'Brien

On behalf of People Working

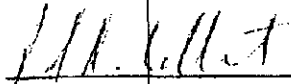

Its Attorney Mary Christensen

On behalf of Cognis


Its Attorney Theodore Schneider

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was served electronically on the following parties this 9th day of April 2007.



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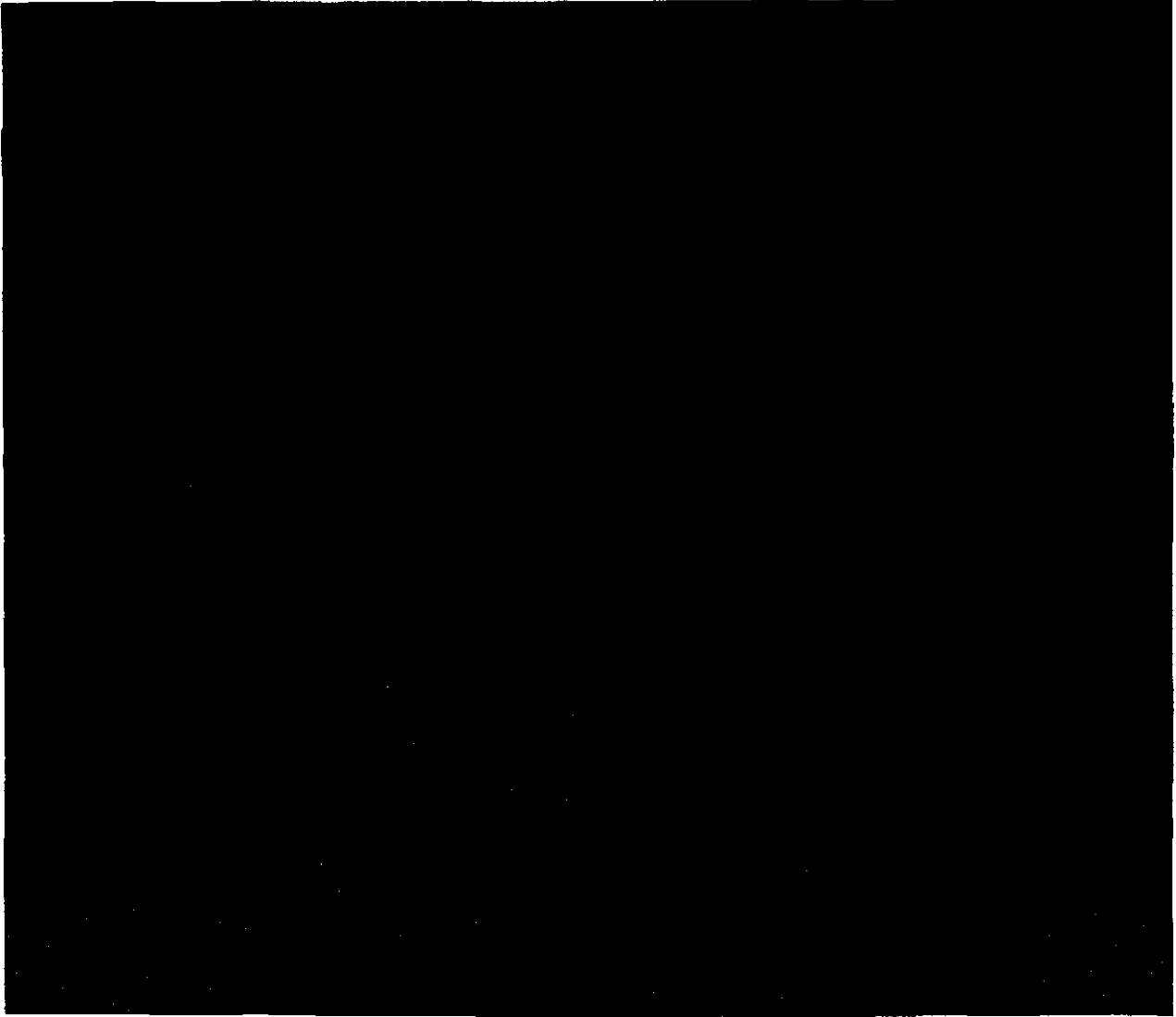
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DUKE ENERGY OHIO
Case No. 06-1085
Summary AAC Revenue Requirement

1) Environmental Compliance	\$ 79,652,559
2) Homeland Security	128,000
3) Tax Law Changes	<u>(5,477,473)</u>
Total Revenue Requirement	\$ <u>74,303,086</u>

DUKE ENERGY OHIO
Case No. 06-1085-EL-UNC
Incremental Environmental Cost

<u>Return on Environmental Plant</u>	<u>12/31/2000</u>	<u>5/31/2006</u>	<u>Increment</u>
1) Original Cost	\$ 405,942,184	\$ 682,657,284	\$ 276,715,100
2) Reserve for Depreciation	<u>165,336,370</u>	<u>221,251,787</u>	<u>55,915,417</u>
3) Net Plant	240,605,814	461,405,497	220,799,683
4) Construction Work in Progress		<u>249,891,773</u>	<u>249,891,773</u>
5) Total Environmental Plant	\$ <u>240,605,814</u>	\$ <u>711,297,270</u>	\$ <u>470,691,456</u>
6) Pre-tax Return (11.69%)	\$ 28,126,820	\$ 83,150,651	\$ 55,023,831
<u>Environmental O&M Expenses</u>			
7) Operation and Maintenance	4,453,158	4,809,397	356,239
8) Environmental Reagents	4,598,944	18,854,155	14,255,211
9) Annualized Depreciation	<u>7,749,260</u>	<u>17,766,538</u>	<u>10,017,278</u>
10) Total Environmental Revenue Requirement	\$ <u>44,928,182</u>	\$ <u>124,580,741</u>	\$ <u>79,652,559</u>

DUKE ENERGY OHIO
Case No. 06-1085-EL-UNC
Homeland Security Cost

	<u>Information Technology</u>	<u>Cyber Security</u>	<u>Physical Security</u>	<u>Total</u>
<u>Return on Capital Expenditures</u>				
1) Original Cost	\$ 84,370	\$ 226,385	\$ 28,531	\$ 339,286
2) Reserve for Depreciation	<u>22,499</u>	<u>56,591</u>	<u>2</u>	<u>79,092</u>
3) Net Plant	\$ <u>61,871</u>	\$ <u>169,794</u>	\$ <u>28,529</u>	\$ <u>260,174</u>
4) Pre-tax Return (11.69%)	\$ 7,233	\$ 19,847	\$ 3,335	\$ 30,414
<u>Homeland Security O&M</u>				
5) Operation and Maintenance				34,387
6) Annualized Depreciation	16,874	45,273	548	62,695
7) Annualized Property Taxes	<u> </u>	<u> </u>	<u>504</u>	<u>504</u>
8) Total Homeland Security Revenue Requirement	\$ <u>24,107</u>	\$ <u>65,120</u>	\$ <u>4,387</u>	\$ <u>128,000</u>

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DUKE ENERGY OHIO
Case No. 06-1085
Tax Law Changes

1) Section 199 - Production Activity Deduction	\$ (2,116,364)
2) Commercial Activity Tax vs. Ohio Franchise Tax	<u>(3,361,109)</u>
3) Total Tax Law Changes	\$ <u>(5,477,473)</u>

DUKE ENERGY OH
Case No. 06-1085
Tax Law Changes - Old

	<u>Old Law</u>
1) Pre-tax Income	154,159,400
2) Effective State Franchise Tax Rate	<u>7.8341%</u>
3) State Franchise Tax	<u>12,077,002</u>
4) Gross Revenues	1,025,928,479
5) Commercial Activity Tax Rate	<u>0.0000%</u>
6) Commercial Activity Tax (CAT)	<u>0</u>
7) Federeal Taxable Income	142,082,398
8) Federal Income Tax @ 35%	<u>49,728,839</u>
9) Total Income, Franchise, and CAT	<u>61,805,841</u>

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<u>New Law</u>	<u>Change</u>
154,159,400	
<u>4.8525%</u>	
<u>7,480,585</u>	
1,025,928,479	
<u>0.1040%</u>	
<u>1,066,966</u>	
145,611,849	
<u>50,964,147</u>	
<u>58,444,732</u>	<u>(3,361,109)</u>

DUKE ENERGY OHIO
Case No. 06-1085
Tax Law Changes - Section 199

- 1) Section 199 Deduction - Year 2005 (a)
- 2) Ohio Franchise Rate - Year 2006
- 3) Effective State Average Rate (5.1% / 105.1)
- 4) Effective Statutory Tax Rate
- 5) Less: Average Ohio Franchise Tax Rate
- 6) Net Effective Statutory Tax Rate
- 7) Statutory Federal Tax Rate
- 8) Effective Statutory Federal Tax Rate
- 9) Plus: Average Ohio Franchise Tax Rate
- 10) Total Effective Statutory Tax Rate

- Overall Income Tax Reduction for
the
- 11) 12-Months ended May 31, 2006

- (a) Duke Energy Ohio's 2005 Section 199 Deduction
After transfer of generating assets -
Duke Energy Ohio's Share - 83.3%
Duke Energy Kentucky's Share - 16.7%

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\$ 5,547,119

5.10%

4.85%

100.00%

-4.85%

95.15%

35.00%

33.30%

4.85%

38.15%

\$ 2,116,364

\$ 6,659,206

\$ 5,547,119

\$ 1,112,087