

FILE

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

RECEIVED-DOCKETING DIV
2007 JUN -4 PM 3:38

In the Matter of the Application of DE-Ohio)	
For Approval of its RS3P, Residential)	Case No. 07-625-EL-ATA
Three-Phase Tariff.)	
In the Matter of the Application of Duke Energy)	
Ohio, Inc. for Approval of Changes to its Retail)	Case No. 07-626-EL-ATA
Electric Service Tariff (P.U.C.O. Bo. 19) to add)	
New Residential Three-Phase Service.)	

PUCO

**MOTION TO INTERVENE
AND
COMMENTS ON THE APPLICATION OF DUKE ENERGY OHIO, INC. FOR
APPROVAL OF ITS NEW RESIDENTIAL THREE-PHASE SERVICE
AND
PROPOSED TARIFF
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

Pursuant to R.C. Chapter 4911, R.C. 4903.221, Ohio Adm. Code 4901-1-11 and 4901-1-12, the Office of the Ohio Consumers' Counsel ("OCC"), on behalf of all the residential electric utility consumers of Cincinnati Gas and Electric Company d/b/a Duke Energy Ohio ("Duke" or "Company"), moves the Public Utilities Commission of Ohio ("PUCO" or "Commission") to grant OCC's intervention in the above-captioned cases regarding Duke's tariff filings. The applications accompanying the proposed tariff would implement a residential three-phase tariff in Duke's territory. The reasons for granting OCC's motion is further set forth in the attached Memorandum in Support. In addition, OCC comments on Duke's proposals and OCC proposes tariff changes.

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business
Technician APR Date Processed 6/4/07

Respectfully submitted,

Janine L. Migden-Ostrander
Consumers' Counsel

A handwritten signature in cursive script that reads "Richard C. Reese". The signature is written in black ink and is positioned above a horizontal line.

Richard C. Reese, Counsel of Record

Joseph P. Serio

Assistant Consumers' Counsel

The Office of the Ohio Consumer's Counsel

10 West Broad Street, Suite 1800

Columbus, Ohio 43215-3485

Telephone: 614-466-8574

E-mail reese@occ.state.oh.us

serio@occ.state.oh.us

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of DE-Ohio)	
For Approval of its RS3P, Residential)	Case No. 07-625-EL-ATA
Three-Phase Tariff.)	
In the Matter of the Application of Duke Energy)	
Ohio, Inc. for Approval of Changes to its Retail)	Case No. 07-626-EL-ATA
Electric Service Tariff (P.U.C.O. Bo. 19) to add)	
New Residential Three-Phase Service.)	

MEMORANDUM IN SUPPORT

I. INTRODUCTION

These dockets¹ were opened as a result of a settlement of nine complaint cases against Duke.² These complaints were filed by a number of Duke's residential customers between February 27, 2007, and March 20, 2007. The PUCO then consolidated the complaints.³ Later, five additional complaints were filed that were consolidated in the May Entry.⁴

The initial complainants were condominium owners in the American Building located in downtown Cincinnati, a building converted to residential condominium use in

¹ There seems to be no rationale, other than mistake, why Duke filed two applications that are essentially identical in two cases. The Commission should dismiss one of the cases.

² In the Matter of the Complaint of James Byerly, Jr., et al. v. Duke Energy Ohio, Inc., Case No. 07-196-EL-CSS, et al. (including Case Nos. 07-196-EL-CSS, 07-197-EL-CSS, 07-198-EL-CSS, 07-253-EL-CSS, 07-263-EL-CSS, 07-265-EL-CSS, 07-271-EL-CSS, 07-281-EL-CSS, 07-300-EL-CSS).

³ In the Matter of the Complaint of James Byerly Jr., et al. v. Duke Energy Ohio, Inc., Case No. 07-196-EL-CSS, et al., Entry (May 16, 2007).

⁴ Case Nos. 07-322-EL-CSS, 07-379-EL-CSS, 07-392-EL-CSS, 07-397-EL-CSS, 07-404-EL-CSS.

2005. Formal complaints were also filed by the developer of the property and the condominium association.

The residents of the condominiums have been paying commercial, demand-driven, electric rates since they moved into their condominiums in July 2005, with the exception of several residents who were switched from residential to commercial rates at some point after they initiated service with Duke. In addition to being charged commercial rates, some residents have also been charged at the higher “DS” rate based on higher demand, as opposed to the lower “DM” rate.⁵

OCC moved to intervene in the complaint cases on April 10, 2007, on behalf of residential electric customers. OCC’s intervention was not opposed. On April 30, 2007, a Stipulation, signed by Duke and all of the complainants in the consolidated cases, was docketed in the case along with a proposed residential three-phase tariff. OCC did not sign the Stipulation. On May 16, 2007, the Commission issued an Entry in the case approving the partial stipulation and ordering Duke to file a proposed tariff amendment and provided for a 10-day comment period on the tariff.⁶ The proposed tariff was docketed on May 23, 2007.

II. INTERVENTION

Pursuant to R.C. Chapter 4911, OCC moves to intervene in the above-captioned case under its legislative authority to represent the interests of all 600 thousand residential electric distribution customers of Duke. The OCC meets the criteria set forth

⁵The complainants are being charged the lower “DM” rate based on demand pending approval of DE’s proposed three-phase residential tariff. The DM rate is termed “Secondary Distribution Service – Small.” P.U.C.O. Electric No. 19, Sheet No. 43.10

⁶ Entry at 2.

in R.C. 4903.221, precedent of the Ohio Supreme Court⁷, as well as Commission rules and recent Commission precedent.⁸ Additionally, the interests of residential electric customers in Ohio may be “adversely affected” by these cases, thus satisfying the intervention standard in R.C. 4903.221. OCC also meets the Commission’s required showing for a party that has a “real and substantial interest” according to Ohio Adm. Code 4901-1-11(A)(2), and should therefore be permitted to intervene in this case.

R.C. 4903.221(B) requires the PUCO to consider the following criteria in ruling on motions to intervene:

- (1) The nature and extent of the prospective intervenor’s interest;
- (2) The legal position advanced by the prospective intervenor and its probable relation to the merits of the case;
- (3) Whether the intervention by the prospective intervenor will unduly prolong or delay the proceeding; and,
- (4) Whether the prospective intervenor will significantly contribute to the full development and equitable resolution of the factual issues.

The nature and extent of OCC’s interest lies in ensuring that Duke’s residential customers are charged the appropriate rates for their electric service. Commercial rates can be significantly higher than residential rates and OCC’s wants to ensure that residential consumers of electric service are paying residential rates. In addition, OCC has an interest in ensuring that appropriate consumer protections related to residential service are being applied across Duke’s service territory, and such protections are in doubt with respect to Duke’s proposed tariff.

⁷ *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853 at ¶18-23.

⁸ *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company to Adjust Each Company’s Transmission Cost Recovery Rider*, Case No. 06-1294-EL-UNC, Entry (December 8, 2006) at 2-3.

OCC's legal position is that residential customers should have available to them a residential tariff, regardless of the number of phases. Three-phase service may be the most readily available and cost-effective method for providing service to certain residential ratepayers.

Similarly situated residential customers of Duke may also be affected by the lack of an appropriate and reasonable residential tariff. Residential customers should not be charged commercial rates for electric usage. Moreover, residential customers that are also renters should have access to residential tariffs for electric rates regardless of how many "rooms" they are renting. OCC's position, therefore, directly relates to the merits of the case.

OCC's intervention will not unduly prolong or delay the proceedings, but should provide insights that will expedite the Commission's effective treatment of this unusual proceeding. OCC will significantly contribute to the full development and equitable resolution of the issues herein, based on its expertise in regulatory and energy matters.

For the reasons expressed above regarding the criteria contained in R.C. 4903.221, the OCC also meets the similar criteria of Ohio Adm. Code 4901-1-11(B) which states that the Commission may consider (1) the "nature of the person's interest," (2) the "extent to which the person's interest is represented," (3) whether the intervention "would unduly delay the proceeding," (4) the person's "contribution to a just and expeditious resolution of the issues," and (5) "the extent to which the person's interest is represented by existing parties."

Ohio Adm. Code 4901-1-11(B)(5) states that the Commission shall consider the "extent to which the person's interest is represented by existing parties." While OCC

does not concede the lawfulness of this criterion, OCC satisfies this criterion in that it uniquely has been designated as the state representative of the interests of Ohio's residential utility consumers. That interest is different from, and not represented by, any other entity in Ohio.

Moreover, the Supreme Court of Ohio recently confirmed OCC's right to intervene in PUCO proceedings, in ruling on an appeal in which OCC claimed the PUCO erred by denying its intervention. The Court found that the PUCO abused its discretion in denying OCC's intervention and that OCC should have been granted intervention.⁹

In particular, OCC brings its statewide, residential consumer perspective to this case that is different than and not represented by any other entity in Ohio. OCC is representing the interests of all Duke's residential customers in this proceeding and not just the interests of residential customers in the "American Building". OCC's interest in this case is consistent with its statutory role as the representative of residential consumers of public utility service. In addition, OCC has the power and authority pursuant to R.C. 4911.02(B)(2)(b) to take appropriate action with respect to residential consumer complaints concerning quality of service, service charges, and the operation of the public utilities commission.

OCC meets the criteria set forth in R.C. 4903.221 and the Commission's rules. On behalf of Duke's 602,000 residential electric customers, the Commission should grant OCC's Motion to Intervene.

⁹ *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶18-20 (2006).

III. COMMENTS ON THE TARIFFS

Duke's proposed tariffs raise a number of issues. The terms of Duke's proposed RS3P tariff apply to each of the residents in the American Building, as well as an unknown number of Duke's residential customers who reside in a limited area in downtown Cincinnati. Rates in the proposed tariff are equivalent to standard residential rates, or Rate RS, with the exception of a slightly higher (\$6.50) monthly customer charge. Duke contends that metering costs for 3-phase service are more expensive than standard single-phase service.

In reviewing Duke's proposed RS3P tariff, OCC notes that much of the vague or inappropriate language of the RS3P language is carried over from the basic RS tariff. Modifications to both tariffs are needed to ensure that the provisions of both tariffs are readily available and understood by Duke's customers and, therefore, appropriately applied. Accordingly, OCC's concerns with the RS and RS3P tariffs tariff are addressed with edits to the attached, red-lined version of Duke's current residential tariff (Attachment 1) and the proposed residential three-phase tariff (Attachment 2).

The proposed tariff falls short of legal standards for tariffs and the applicability of its provisions is difficult to determine. The tariff is vaguely worded. While the Company is obligated to notify its "eligible" customers when the new tariff is approved,¹⁰ the limited scope of the tariff raises concerns. For instance, it is unclear how Duke's customer service representative will be able to determine if a residential customer calling

¹⁰ Ohio Adm. Code 4901:1-1-03(B)(1). "Within ninety days after a new rate schedule becomes effective, or within ninety days after modifications or changes in the criteria or terms and conditions of service of an existing tariff schedule or offering become effective, the utility shall disclose to the eligible customers the availability of the new tariff schedule or the fact that the criteria or terms and conditions of service of such an existing tariff have changed. A copy of such notice shall be filed with the public utilities commission prior to its distribution to customers."

for new service should be billed under the "RS" or "RS3P" rate. Similarly-situated residential customers of Duke may be unable to avail themselves of the new RS3P rate due to the vague language of the proposed tariff and limited service area affected by the new tariff.

In Exhibit C-1 to its Application, Duke asserts that the tariff change reflects the addition of a new service, namely three-phase residential electric service, which would be available to a limited number of its customers.¹¹ As described above and in the Exhibit, the change to the tariff was prompted by the formal complaints filed in Case Nos. 07-196-EL-CSS, et al. Duke acknowledges that its current residential tariff provides for only single-phase service to its residential customers. The Application, however, fails to provide the information necessary to explain the limited geographic area covered by the new tariff.

OCC's recommendations, which apply to portions of the RS and the RS3P tariff, include the following:

1. The terms "private residences" and "single occupancy" in the first paragraph of the RS and RS3P tariff are vague. Residential three-phase service should be available for electric usage of a domestic nature where the appropriate distribution facilities are adjacent to the residence. OCC's edits reflect this recommendation.
2. The term "residences where not more than two rooms are used for rental purposes . . ." in the RS and RS3P tariff is unclear. It appears to permit the Company to limit the applicability of the two tariffs to homeowners who do not rent or lease any of their property to third parties. The PUCO should make it clear that the tariffs are

¹¹ Exhibit C-1. The only eligible customers must live in a "core" area of downtown Cincinnati where: (1) distribution lines are adjacent to the premises to be served, (2) the building load requires three phase service, and (3) where the Company has an existing 208Y/120V network grid. It appears that there are other three-phase residential customers that will not qualify for this tariff because of the geographic limitations.

available to residential customers, regardless of the number of rooms in the premises or the number of rooms in the residence that are rented. OCC has eliminated the restrictive language in its red-lined versions of the tariffs. Additionally, the rate should be based on the kW/h usage as outlined in the tariff. The customer charge should then be assessed based on the number of installed meters.

3. Limiting language in the Applicability section of both tariffs such as “in private residences and single occupancy apartments” and “residences where not more than tow rooms are used for rental purposes” is vague as well as discriminatory. The tariffs should be amended to remove any limitation on residential rates for tenants of multi-occupancy dwellings. OCC’s red-line to the RS and RS3P tariffs eliminates such limitations.
4. The tariff provisions for three-phase service rates apply only to the portion of Duke’s service territory where: 1) distribution lines are adjacent to the premises to be served, (2) the building load requires three phase service, and (3) where the Company has an existing 208Y/120V network grid. Duke has provided no cost-of-service rationale for limiting the application of the RS3P tariff to areas served by the 208Y/120V grid.¹² Duke’s residential customers living adjacent to three-phase distribution facilities should be eligible for RS3P service, subject to the slightly higher customer charge for the three-phase meter expense, and payment of the incremental cost of extending three-phase service to their residence.
5. Under the section of the RS3P tariff entitle “Type of Service”, Duke appears to have mistakenly used the term “single-phase” instead of “three-phase.” OCC has revised the tariff language in its red-lined RS3P tariff.
6. The new language that Duke has proposed within the “Terms and Conditions” of its RS3P tariff is inconsistent with the Company’s duty to serve the needs of its customers. The objectionable language added to the RS3P leaves the decision solely with the Company to determine if residential customers have adequate distribution facilities to meet their needs. OCC has removed the language from Duke’s proposed RS3P tariff. OCC has also provided additional language to ensure that residential customers can avail themselves of three-phase service by paying the incremental costs of extending such service from adjacent three-phase distribution facilities.

¹² *Mahoning Cty. Townships v. Pub. Util. Comm.*, 58 Ohio St.2d 40, 44 (1979). “Although different criteria or classifications may be utilized in the establishment of reasonable utility rate structures, the basic underlying consideration is that of cost of service rendered.”

In addition to adopting OCC's edits to the RS and RS3P tariff, the PUCO should require the Company to identify the customers on the DS and DM (demand rates) who, based on usage or address or other factors, are likely residential customers. The customers should be sent notice of the new tariff provisions.

The PUCO should require Duke to provide data as to the number of its residential customers that are potentially eligible for the new RS3P rate. Additionally, the Company should be required to make available its RS3P tariff to all eligible residential customers within its service territory. In the alternative, the Company should be required to present evidence that the provision of such service would cause harm to its distribution network.

IV. DUKE'S RESIDENTIAL THREE-PHASE AND RESIDENTIAL TARIFFS MUST COMPLY WITH OHIO LAW.

Under Ohio law, Duke may not charge similarly-situated residential customers different rates.¹³ Duke customers living outside of the 208Y/120V "grid", who are paying the demand-driven DS or DM rates because they are receiving three-phase service, should be eligible for the RS3P rate. Duke has provided no justification for discriminating against these customers who are receiving substantially the same service, under similar

¹³R.C. 4905.32. Schedule rate collected. "No public utility shall refund or remit directly or indirectly, any rate, rental, toll, or charge so specified, or any part thereof, or extend to any person, firm, or corporation, any rule, regulation, privilege, or facility except such as are specified in such schedule and regularly and uniformly extended to all persons, firms, and corporations under like circumstances for like, or substantially similar, service."

circumstances, as its customers residing in downtown Cincinnati.¹⁴ Any differential in rates charged to Duke's customers must be based on some "actual and measurable" differences in the service provided.¹⁵ There appears to be no difference between the three-phase residential service being provided to the residents of downtown Cincinnati and the three-phase service being provided to the Company's other residential customers. Duke has provided no rationale for charging similarly-situated residential customers higher, demand-driven rates based solely on the fact that they do not reside within the "grid."

There is no compelling reason for the Company to discriminate on the availability of its RS3P rate. The service received by residential customers living outside of the "core" downtown area of Cincinnati is substantially similar, if not identical service to the service received by the residents of the American Building. The Company has provided no justification for the "inequality" of the rates.¹⁶ The Company has provided no rationale for its apparent discriminatory treatment of residential customers who live in rental units.

¹⁴ R.C. 4905.33. Rebates, special rates, and free service prohibited. "(A) No public utility shall directly or indirectly, or by any special rate, rebate, drawback, or other device or method, charge, demand, collect, or receive from any person, firm, or corporation a greater or lesser compensation for any services rendered, or to be rendered, except as provided in Chapters 4901., 4903., 4905., 4907., 4909., 4921., and 4923. of the Revised Code, than it charges, demands, collects, or receives from any other person, firm, or corporation for doing a like and contemporaneous service under substantially the same circumstances and conditions." R.C. 4905.35. Discrimination prohibited; offer of unbundled services or goods. "(A) No public utility shall make or give any undue or unreasonable preference or advantage to any person, firm, corporation, or locality, or subject any person, firm, corporation, or locality to any undue or unreasonable prejudice or disadvantage."

¹⁵ *Mahoning Cty. Townships v. Pub. Util. Comm.*, 58 Ohio St.2d 40, 44 (1979). "A reasonable differential or inequality of rates may occur where such differential is based upon some actual and measurable differences in the furnishing of services to the consumer."

¹⁶ *Id.*

Renters are entitled to the same rates as owners of homes and condominiums.¹⁷ The Company should be required to provide the same service, at the same rates, to all of its residential customers.

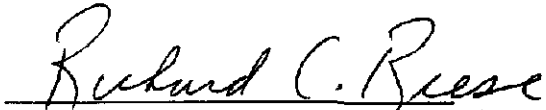
V. CONCLUSION

On behalf of Duke's 602,000 residential gas customers, the Commission should adopt OCC's recommendations to modify both the Company's RS and RS3P tariffs. The Company should replace the vague, unreasonable and unlawful provisions of both its RS and RS3P tariffs in order for the benefits of its new residential three-phase tariff to be enjoyed by all of eligible residential customers and for customers on the original tariff to be protected against discriminatory language with regard to renting and occupancy. At the same time, the geographic limitations of the tariff should be removed. Duke should broaden the scope of its proposed tariff to benefit the complainants and all affected customers.

¹⁷ R.C. 4905.35. Discrimination prohibited; offer of unbundled services or goods. "(A) No public utility shall make or give any undue or unreasonable preference or advantage to any person, firm, corporation, or locality, or subject any person, firm, corporation, or locality to any undue or unreasonable prejudice or disadvantage."

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER
CONSUMERS' COUNSEL

A handwritten signature in cursive script that reads "Richard C. Reese". The signature is written in black ink and is positioned above a horizontal line.

Richard C. Reese, Counsel of Record

Joseph P. Serio

Assistant Consumers' Counsel

The Office of the Ohio Consumer's Counsel

10 West Broad Street, Suite 1800

Columbus, Ohio 43215-3485

Telephone: 614-466-8574

E-mail reese@occ.state.oh.us

serio@occ.state.oh.us

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Office of the Ohio Consumers' Counsel's *Motion to Intervene and Comments on the Application of Duke Energy Ohio, Inc. for Approval of New Residential Three-Phase Service and Proposed Tariff* has been served upon the below-stated counsel, via regular U.S. Mail, postage prepaid, this 4th day of June, 2007.



Richard C. Reese
Assistant Consumers' Counsel

SERVICE LIST

Paul Colbert
Duke Energy Ohio
139 East Fourth Street
P.O. Box 960
Cincinnati, OH 45202

Duane Luckey
Attorney General's Office
Public Utilities Commission of Ohio
180 East Broad Street
Columbus, OH 43216

John J. Finnigan, Jr.
Associate General Counsel
Duke Energy Shared Services, Inc.
Room 2500, Atrium II
P.O. Box 960
Cincinnati, OH 45201-0960

Duke Energy Ohio
139 East Fourth Street
Cincinnati, Ohio 45202

P.U.C.O. Electric No. 19
Original Sheet No. 35
Page 1 of 3

RATE RS

RESIDENTIAL SERVICE

APPLICABILITY

Applicable to ~~single-phase electric service other than three phase service, used primarily for all domestic purposes in private residences and single occupancy apartment including multi-occupancy buildings in which electrical usage in and separately metered common use areas is metered separately from the residential usage and three-phase service is available of multi-occupancy buildings in the entire territory of the Company where distribution lines are adjacent to the premises to be served.~~

(C) (D)

(C)

~~Residences where not more than two rooms are used for rental purposes will also be included. Where all dwelling units in a multi-occupancy building are served through one meter and the common use area is metered separately, the kilowatt-hour rate will be applied based on the total usage of the dwelling units at the RS rate on a "per residence" or "per apartment" basis, however, the customer charge will be based on the number of installed meters.~~

Where a portion of a residential service is used for purposes of a commercial or public character, the applicable general service rate is applicable to all service. However, if the wiring is so arranged that the service for residential purposes can be metered separately, this Rate will be applied to the residential service, if the service qualifies hereunder.

For customers taking service under any or all of the provisions of this tariff schedule, this same schedule shall constitute the Company's Standard Service Offer.

TYPE OF SERVICE

Alternating current 60 Hz, single phase at Company's standard secondary voltage.

NET MONTHLY BILL

Computed in accordance with the following charges:

	<u>Summer Period</u>	<u>Winter Period</u>
1. Distribution Charges		
(a) Customer Charge	\$4.50 per month	\$4.50 per month
(b) Energy Charge		
First 1,000 kilowatt-hours	\$0.019949 per kWh	\$0.019949 per kWh
Additional kilowatt-hours	\$0.019949 per kWh	\$0.019949 per kWh

(I)

Filed pursuant to an Order dated _____ in Case No. _____ before the Public Utilities Commission of Ohio.

Issued:

Effective:

Issued by Sandra P. Meyer, President

NET MONTHLY BILL (Contd.)

2. Applicable Riders

The following riders are applicable pursuant to the specific terms contained within each rider:

Sheet No. 57, Rider TCR, Transmission Cost Recovery Rider
Sheet No. 80, Rider RGR, Residential Generation Rider
Sheet No. 81, Rider EER, Energy Efficiency Revolving Loan Program Rider
Sheet No. 83, Rider OET, Ohio Excise Tax Rider
Sheet No. 84, Rider RTC, Regulatory Transition Charge Rider
Sheet No. 85, Rider SC, Shopping Credit Rider
Sheet No. 86, Rider USR, Universal Service Fund Rider
Sheet No. 89, Rider AG, Optional Alternative Generation Rider

Effective January 1, 2006 the following additional riders apply:

Sheet No. 51, Rider AAC, Annually Adjusted Component Rider
Sheet No. 52, Rider DSMR, Demand Side Management Cost Recovery Rider
Sheet No. 53, Rider FPP, Fuel and Economy Purchased Power Rider
Sheet No. 54, Rider IMF, Infrastructure Maintenance Fund Rider
Sheet No. 55, Rider RSC, Rate Stabilization Charge Rider
Sheet No. 56, Rider SRT, System Reliability Tracker
Sheet No. 59, Rider RSS, Rate Stabilization Surcredit Rider
Sheet No. 103, Rider MSR-E, Merger Savings Credit Rider-Electric

(D)

3. Generation Charges

	<u>Summer Period</u>	<u>Winter Period</u>
Energy Charge		
First 1,000 kilowatt-hours	\$0.050664 per kWh	\$0.050664 per kWh
Additional kilowatt-hours	\$0.063534 per kWh	\$0.020546 per kWh

(D)

The Generation Charges listed above are applicable to all residential customers including those customers who receive their energy from a Certified Supplier, through December 31, 2005. Effective with the first billing cycle in January 2006, the following generation charges are applicable to all customers except those customers who receive their energy from a Certified Supplier:

(D)

	<u>Summer Period</u>	<u>Winter Period</u>
Energy Charge		
First 1,000 kilowatt-hours	\$0.037553 per kWh	\$0.037553 per kWh
Additional kilowatt-hours	\$0.047581 per kWh	\$0.014169 per kWh

MINIMUM CHARGE

The minimum charge shall be the Customer Charge as stated above.

BILLING PERIODS

For purposes of administration of the above charges, the summer period is defined as that period represented by the Company's billing for the four (4) revenue months of June through September. The winter period is defined as that period represented by the Company's billing for the eight (8) revenue months of January through May and October through December.

Filed pursuant to an Order dated _____ in Case No. _____ before the Public Utilities Commission of Ohio.

Issued:

Effective:

Issued by Sandra P. Meyer, President

LATE PAYMENT CHARGE

Payment of the total amount due must be received in the Company's office by the due date shown on the bill. When not so paid, an additional amount equal to one and one-half percent (1.5%) of the unpaid balance is due and payable.

The late payment charge is not applicable to:

- Unpaid account balances of customers enrolled in income payment plans pursuant to Section 4901:1-18-04(B), Ohio Administrative Code; and
- Unpaid account balances for services received from a Certified Supplier.

TERMS AND CONDITIONS

This rate is available upon application in accordance with the Company's Service Regulations.

(C)

The supplying and billing for service and all conditions applying thereto, are subject to the jurisdiction of the Public Utilities Commission of Ohio, and to the Company's Service Regulations currently in effect, as filed with the Public Utilities Commission of Ohio.

Filed pursuant to an Order dated _____ in Case No. _____ before the Public Utilities Commission of Ohio.

Issued:

Effective:

Issued by Sandra P. Meyer, President

Duke Energy Ohio
139 East Fourth Street
Cincinnati, Ohio 45202

P.U.C.O. Electric No. 19
Original Sheet No. 35
Page 1 of 3

ATTACHMENT XA**RATE RS3P3P****RESIDENTIAL THREE PHASE SERVICE****APPLICABILITY**

Applicable to three-phase residential service used primarily for all domestic purposes in private residences, and single occupancy apartments, including multi-occupancy buildings in which and separately metered electrical usage in common use areas is metered separately from the residential usage and three-phase service is available adjacent to the premises to be served. of multi-occupancy buildings in the entire territory of the Company where (1) distribution lines are adjacent to the premises to be served, (2) the building load requires three-phase service, and (3) where the Company has an existing 208Y/120V network grid.

Residences where not more than two rooms are used for rental purposes will also be included. Where all Where dwelling units in a multi-occupancy building are served through one meter and the common use area is metered separately, the kilowatt-hour rate will be applied, based on the total usage of the dwelling unit, at the RS3P rate, on a "per residence" or "per apartment" basis, however, the customer charge will be based on the number of installed meters.

Where a portion of a residential service is used for purposes of a commercial or public character, the applicable general service rate is applicable to all service. However, if the wiring is so arranged that the service for residential purposes can be metered separately, this Rate will be applied to the residential service, if the service qualifies hereunder.

For customers taking service under any or all of the provisions of this tariff schedule, this same schedule shall constitute the Company's Standard Service Offer.

The Company will install three-phase service upon request by a residential customer if adequate facilities are available and the customer agrees to pay the incremental costs associated with installing three-phase service.

TYPE OF SERVICE

Alternating current 60 Hz, ~~single phase~~ three-phase at Company's standard secondary voltage.

NET MONTHLY BILL

Computed in accordance with the following charges:

	<u>Summer Period</u>	<u>Winter Period</u>
1. Distribution Charges		
(a) Customer Charge	\$64.50 per month	\$64.50 per month

Filed pursuant to an Order dated _____ in Case No. _____ before the Public Utilities Commission of Ohio.

Issued:

Effective:

Issued by Sandra P. Meyer, President

Duke Energy Ohio
139 East Fourth Street
Cincinnati, Ohio 45202

P.U.C.O. Electric No. 19
Original Sheet No. 35
Page 2 of 3

ATTACHMENT XA

(b) Energy Charge

First 1,000 kilowatt-hours	\$0.019949 per kWh	\$0.019949 per kWh
Additional kilowatt-hours	\$0.019949 per kWh	\$0.019949 per kWh

Filed pursuant to an Order dated _____ in Case No. _____ before the Public Utilities
Commission of Ohio.

Issued:

Issued by Sandra P. Meyer, President

Effective:

NET MONTHLY BILL (Contd.)

2. Applicable Riders

The following riders are applicable pursuant to the specific terms contained within each rider:

Sheet No. 57, Rider TCR, Transmission Cost Recovery Rider
Sheet No. 80, Rider RGR, Residential Generation Rider
Sheet No. 81, Rider EER, Energy Efficiency Revolving Loan Program Rider
Sheet No. 83, Rider OET, Ohio Excise Tax Rider
Sheet No. 84, Rider RTC, Regulatory Transition Charge Rider
Sheet No. 85, Rider SC, Shopping Credit Rider
Sheet No. 86, Rider USR, Universal Service Fund Rider
Sheet No. 89, Rider AG, Optional Alternative Generation Rider
Sheet No. 51, Rider AAC, Annually Adjusted Component Rider
Sheet No. 52, Rider DSMR, Demand Side Management Cost Recovery Rider
Sheet No. 53, Rider FPP, Fuel and Economy Purchased Power Rider
Sheet No. 54, Rider IMF, Infrastructure Maintenance Fund Rider
Sheet No. 55, Rider RSC, Rate Stabilization Charge Rider
Sheet No. 56, Rider SRT, System Reliability Tracker
Sheet No. 59, Rider RSS, Rate Stabilization Surcredit Rider
Sheet No. 103, Rider MSR-E, Merger Savings Credit Rider-Electric

3. Generation Charges

	<u>Summer Period</u>	<u>Winter Period</u>
Energy Charge		
First 1,000 kilowatt-hours	\$0.037553 per kWh	\$0.037553 per kWh
Additional kilowatt-hours	\$0.047581 per kWh	\$0.014169 per kWh

MINIMUM CHARGE

The minimum charge shall be the Customer Charge as stated above.

BILLING PERIODS

For purposes of administration of the above charges, the summer period is defined as that period represented by the Company's billing for the four (4) revenue months of June through September. The winter period is defined as that period represented by the Company's billing for the eight (8) revenue months of January through May and October through December.

LATE PAYMENT CHARGE

Payment of the total amount due must be received in the Company's office by the due date shown on the bill. When not so paid, an additional amount equal to one and one-half percent (1.5%) of the unpaid balance is due and payable.

The late payment charge is not applicable to:

- Unpaid account balances of customers enrolled in income payment plans pursuant to Section 4901:1-18-04(B), Ohio Administrative Code; and
- Unpaid account balances for services received from a Certified Supplier.

Filed pursuant to an Order dated _____ in Case No. _____ before the Public Utilities Commission of Ohio.

Issued:

Issued by Sandra P. Meyer, President

Effective:

Duke Energy Ohio
139 East Fourth Street
Cincinnati, Ohio 45202

P.U.C.O. Electric No. 19
Original Sheet No. 35
Page 4 of 3

ATTACHMENT XA

TERMS AND CONDITIONS

This rate is available upon application in accordance with the Company's Service Regulations.

~~The Company is not obligated to extend, expand or rearrange its distribution system if it determines that existing distribution facilities are adequate to serve the customer's load.~~

The supplying and billing for service and all conditions applying thereto, are subject to the jurisdiction of the Public Utilities Commission of Ohio, and to the Company's Service Regulations currently in effect, as filed with the Public Utilities Commission of Ohio.

Filed pursuant to an Order dated _____ in Case No. _____ before the Public Utilities Commission of Ohio.

Issued:

Issued by Sandra P. Meyer, President

Effective:

