

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the :
Application of Duke Energy :
Ohio, Inc. to Establish :
its Fuel and Purchased :
Power Component of its :
Market-Based Standard :
Service Offer for the : Case Nos. 07-974-EL-UNC
Period of July 1, 2007, : 07-975-EL-UNC
through December 31, 2008, :
and to Establish its 2008 :
System Reliability Tracker :
of its Market-Based :
Standard Service Offer. :

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PROCEEDINGS

before Ms. Christine Pirik, Hearing Examiner, at the
Public Utilities Commission of Ohio, 180 East Broad
Street, Room 11-F, Columbus, Ohio, called at 10:00
a.m. on Thursday, September 3, 2009.

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1 APPEARANCES:

2 Ms. Elizabeth H. Watts
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6 Columbus, Ohio 43215

7 On behalf of Duke Energy Ohio, Inc.

8 Ms. Coleen L. Mooney
9 Mr. David C. Rinebolt
10 231 West Lima Street
11 Findlay, Ohio 45840-3033

12 On behalf of Ohio Partners for Affordable
13 Energy.

14 Janine L. Migden-Ostrander
15 Ohio Consumers' Counsel
16 By Mr. Jeffrey L. Small
17 Ms. Ann M. Hotz
18 Assistant Consumers' Counsel
19 Ten West Broad Street, Suite 1800
20 Columbus, Ohio 43215-3485

21 On behalf of the Residential Customers
22 of Duke Energy Ohio, Inc.

23 Richard Cordray, Ohio Attorney General
24 Duane W. Luckey, Section Chief
25 Public Utilities Section
By Mr. Stephen Reilly
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On behalf of the staff of the Public
Utilities Commission of Ohio.

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1 Thursday Morning Session,
2 September 3, 2009.

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4 EXAMINER PIRIK: The Commission has
5 called for hearing at this time and place case
6 numbers 07-974-EL-UNC and 07-975-EL-UNC, applications
7 filed by Duke Energy-Ohio regarding the establishment
8 of rates for the fuel and purchased power component
9 as well as the system reliability tracker for the
10 market-based standard service offer.

11 My name is Christine Pirik. I am the
12 attorney-examiner with the Commission who has been
13 assigned to hear this case. We will begin by taking
14 appearances on behalf of the parties.

15 On behalf of the company.

16 MS. WATTS: Good morning, your Honor.
17 Thank you. On behalf of Duke Energy-Ohio, Elizabeth
18 H. Watts.

19 EXAMINER PIRIK: On behalf of the staff.

20 MR. REILLY: Thank you, your Honor. On
21 behalf of the staff, Richard Cordray, Ohio Attorney
22 General, Duane Luckey, Section Chief, William Wright
23 and Steve Reilly, Assistant Attorneys General, 180
24 East Broad Street, Columbus, Ohio 43215. Telephone
25 number is 466-4396.

1 EXAMINER PIRIK: Thank you.

2 MS. MOONEY: Your Honor, on behalf of
3 Ohio Partners for Affordable Energy, Colleen L.
4 Mooney and David C. Rinebolt, 231 West Lima Street,
5 Findlay, Ohio 45839.

6 EXAMINER PIRIK: Thank you.

7 MR. SMALL: Your Honor, on behalf of the
8 residential customers of Duke Energy-Ohio, Janine
9 Migden-Ostrander, Consumers' Counsel, Jeffrey L.
10 Small, counsel of record, Ann M. Hotz, Assistant
11 Consumers' Counsel, Office of the Ohio Consumers'
12 Counsel, Ten West Broad Street, Suite 1800, Columbus,
13 Ohio 43215. Thank you.

14 EXAMINER PIRIK: Thank you.

15 I believe that that represents all the
16 parties that are present today. I believe we have
17 some procedural matters.

18 MS. WATTS: Your Honor, it's my
19 understanding that the parties have reached a
20 stipulation in this case, all the intervenors have
21 joined in the stipulation, and as a result of that
22 we'd like to mark some documents and offer them into
23 evidence this morning.

24 EXAMINER PIRIK: I believe everyone, with
25 the exception of IEU, who filed a letter, I believe.

1 MS. WATTS: That's right. IEU, I think
2 it's correct to characterize their position as they
3 did not oppose the stipulation, but they lacked
4 interest in the stipulation.

5 EXAMINER PIRIK: That's fine. So if you
6 would like to mark exhibits.

7 MS. WATTS: Yes. The first exhibit we
8 would ask to be marked is Joint Exhibit 1, the
9 stipulation and recommendation.

10 EXAMINER PIRIK: The document will be so
11 marked.

12 (EXHIBIT MARKED FOR IDENTIFICATION.)

13 MS. WATTS: That document is in case
14 number 07-974-EL-UNC and it was filed with the
15 Commission September 4th. I'm sorry, I take that
16 back.

17 EXAMINER PIRIK: August 28th?

18 MS. WATTS: August 28th.

19 EXAMINER PIRIK: And it's in both 974 and
20 975?

21 MS. WATTS: Yes, that's correct.

22 Next, your Honor, we'd like to have
23 marked the testimony which Duke Energy is providing
24 in this case -- I'm sorry. Take that back. The next
25 document would be the application which was filed

1 September 4th, 2007, in case number 07-974-EL-UNC.

2 We would propose that be marked Duke Energy-Ohio
3 Exhibit 1.

4 EXAMINER PIRIK: It will be so marked.

5 (EXHIBIT MARKED FOR IDENTIFICATION.)

6 MS. WATTS: Next we would ask that the
7 direct testimony of William Don Wathen, Jr., which
8 was filed with the Commission on March 2nd, 2009,
9 in case numbers 07-974 and 07-975 be marked as Duke
10 Energy Exhibit 2.

11 EXAMINER PIRIK: The document is so
12 marked.

13 (EXHIBIT MARKED FOR IDENTIFICATION.)

14 MS. WATTS: Next we have the direct
15 testimony of Charles R. Whitlock which was filed,
16 again, on March 2nd, 2009, in case numbers 07-974,
17 and 07-975-EL-UNC, and we would ask that that be
18 marked as Duke Energy Exhibit 3.

19 EXAMINER PIRIK: The document is so
20 marked.

21 (EXHIBIT MARKED FOR IDENTIFICATION.)

22 MS. WATTS: Next is the direct testimony
23 of Timothy Thiemann which was filed with the
24 Commission on March 2nd, 2009, in case numbers
25 07-974 and 07-975-EL-UNC, and we would ask that be

1 marked as Duke Energy Exhibit 4.

2 EXAMINER PIRIK: The document is so
3 marked.

4 (EXHIBIT MARKED FOR IDENTIFICATION.)

5 MS. WATTS: And lastly, your Honor, we
6 would ask that Duke Energy-Ohio Exhibit 5 be
7 comprised of the quarterly filings in our rider FPP
8 proceeding, they were docketed in case number
9 06-1068-EL-UNC and there are six filings. We have
10 six filings, you want to know when each one of those
11 was docketed with the Commission or do you -- because
12 we were going to offer them as one exhibit.

13 EXAMINER PIRIK: Oh, and you're actually
14 physically going to have to -- because they haven't
15 been filed in this docket.

16 MS. WATTS: In this case, right. They're
17 filed in other dockets. So if we mark them and offer
18 them into evidence in this docket . . .

19 EXAMINER PIRIK: That's fine.

20 MS. WATTS: Okay.

21 EXAMINER PIRIK: Because they'll need to
22 be in this docket anyway.

23 MS. WATTS: So we have six quarterly
24 filings, the first was June 29, 2007, through
25 September 27, 2007; the second is September 28, 2007,

1 to January 2nd, 2008; the third is January 2nd,
2 2008, to March, 31st, 2008; the fourth is April 1,
3 2008, to June 29, 2008; the fifth is June 30th,
4 2008, to September 28th, 2008; and the sixth is
5 September 29, 2008, to January 1, 2009. We would ask
6 that those collectively be marked as Duke Energy
7 Exhibit 5.

8 EXAMINER PIRIK: The document is so
9 marked.

10 (EXHIBIT MARKED FOR IDENTIFICATION.)

11 EXAMINER PIRIK: Now that will need to be
12 provided to the court reporter.

13 MS. WATTS: Right.

14 EXAMINER PIRIK: Okay. One clarification
15 that I have is that you mentioned -- you did mark as
16 Duke Energy-Ohio Exhibit 1 the application in 974.
17 Do you have an application for 975? And with that
18 you referenced it as being a September 4th, 2007,
19 filing in that docket.

20 MS. WATTS: That's correct, and it
21 appears to have only been filed in the 974 docket.

22 EXAMINER PIRIK: And I don't have the
23 actual document here; all I have is the docket card.

24 MS. WATTS: We have a copy for you if you
25 need one.

1 EXAMINER PIRIK: Does that application
2 also include the SRT rider?

3 MS. WATTS: I'm sorry, I couldn't hear
4 you.

5 EXAMINER PIRIK: Does it include the
6 other rider as well, the system reliability tracker
7 rider, or just the FPP rider?

8 MS. WATTS: Your Honor, the application
9 should only be filed in the case that deals with the
10 FPP.

11 EXAMINER PIRIK: Okay. Then is there
12 something that you want to reference with regard to
13 the SRT rider?

14 MS. WATTS: No; I believe that caption on
15 the stipulation is in error.

16 MR. SMALL: I'm sorry?

17 MS. WATTS: SRT shouldn't be on there.

18 EXAMINER PIRIK: Can we go off the record
19 for a minute, please.

20 (Discussion off the record.)

21 EXAMINER PIRIK: Ms. Watts.

22 MS. WATTS: Your Honor, we have some
23 additional exhibits we would ask to be marked as
24 company exhibits. The first would be the company's
25 application in the docket 07-975-EL-UNC case which

1 deals with the company's system reliability tracker,
2 and it was also filed on September 4th, 2007, with
3 the Commission. We would ask that that be marked as
4 Duke Energy Exhibit 6.

5 EXAMINER PIRIK: The document will be so
6 marked.

7 (EXHIBIT MARKED FOR IDENTIFICATION.)

8 MS. WATTS: And then, your Honor, there
9 were six quarterly filings also dealing with the
10 company's SRT, system reliability tracker, which were
11 filed in that docket, and we would ask that those
12 collectively be marked as Duke Energy Exhibit 7.

13 EXAMINER PIRIK: Since we don't
14 physically have that document I'll mark it as Exhibit
15 7, and since all the parties are aware of what that
16 document will comprise, items that have already been
17 filed, I will allow you to mark it and we'll move it,
18 and you will need to provide the court reporter and
19 myself a copy of that document.

20 MS. WATTS: That's right, your Honor,
21 we'll make sure that those are provided to you this
22 afternoon.

23 EXAMINER PIRIK: Okay.

24 (EXHIBIT MARKED FOR IDENTIFICATION.)

25 EXAMINER PIRIK: Can we go off the record

1 for one minute.

2 (Discussion off the record.)

3 EXAMINER PIRIK: We'll go back on the
4 record. Ms. Watts.

5 MS. WATTS: Your Honor, one more
6 housekeeping matter, if you will. Referring to Joint
7 Exhibit 1, on the first page of that exhibit, the
8 second paragraph, there's a sentence that states
9 "Application and testimony filed on March 1st," and
10 I'd like to clarify that Company Exhibit 1, which was
11 the application, was, in fact, filed on March 2nd.
12 The testimony that's referred to in that sentence was
13 actually filed on March 1st.

14 EXAMINER PIRIK: Okay. I just want to be
15 sure that we're clear. The application that this
16 phrase refers to is Company Exhibit 1 for the FPP
17 rider in 974 --

18 MS. WATTS: Right.

19 EXAMINER PIRIK: -- and Company Exhibit
20 6, which is the SRT rider in case number 975. And
21 then the testimony -- those two applications were
22 filed on September 4th, 2007. And the testimony
23 date is March 2nd, 2009, as opposed to March 1st;
24 is that correct?

25 MS. WATTS: Correct.

1 EXAMINER PIRIK: Okay.

2 MR. SMALL: If it helps, your Honor, the
3 OCC agrees that the reference should be to March
4 2nd and that should have been the case on page 2 of
5 the stipulation which also refers to entering the
6 testimony into the record.

7 EXAMINER PIRIK: Thank you.

8 Ms. Mooney, do you agree with that?

9 MS. MOONEY: Yes.

10 EXAMINER PIRIK: Mr. Reilly.

11 MR. REILLY: Staff agrees, your Honor.

12 EXAMINER PIRIK: With that clarification.

13 MS. WATTS: With that, your Honor, we
14 would ask that Joint Exhibit 1 and Company Exhibits 1
15 through 7 be admitted into evidence.

16 EXAMINER PIRIK: Mr. Reilly.

17 MR. REILLY: Your Honor, we would also
18 ask to have marked, we provided the Bench and the
19 court reporter copies of Commission-ordered Exhibit
20 1, which is the redacted version of the audit report
21 in this case, and 1A, which is the unredacted version
22 of the audit report.

23 EXAMINER PIRIK: The documents are so
24 marked.

25 (EXHIBITS MARKED FOR IDENTIFICATION.)

1 MR. REILLY: We would move their
2 introduction also.

3 EXAMINER PIRIK: I'll start first, then,
4 with Joint Exhibit 1 and Company Exhibits 1 through
5 7. Are there any objections to admitting those into
6 the record?

7 Hearing none, those documents will be
8 admitted as exhibits in the record.

9 (EXHIBITS ADMITTED INTO EVIDENCE.)

10 EXAMINER PIRIK: With regard to
11 Commission-ordered Exhibits 1 and 1A, are there any
12 objections?

13 MR. SMALL: Your Honor, I have a short
14 comment on it. No objections to its entry into the
15 record, in fact, the OCC supports its entry into the
16 record.

17 I just want to state for the record that
18 it was the OCC's position and it continues to be the
19 OCC's position that a party has a right to the
20 cross-examination of representatives of the auditor
21 for introduction of the audit report if a party so
22 feels that it would help their case. However, in
23 this circumstance all the parties have entered into
24 the stipulation, or at least all the active parties
25 have entered into the stipulation, and there is no

1 objection to -- there is no one to object to its
2 entry into the record; under these circumstances, the
3 OCC supports it without the presence of the auditor
4 on the stand.

5 EXAMINER PIRIK: Thank you, Mr. Small.

6 Any other comments or objections?

7 MS. MOONEY: No, your Honor.

8 EXAMINER PIRIK: Hearing none,
9 Commission-ordered Exhibits 1 and 1A shall be
10 admitted into the record.

11 (EXHIBITS ADMITTED INTO EVIDENCE.)

12 EXAMINER PIRIK: Are there any other
13 exhibits that we need to consider?

14 MS. WATTS: None on behalf of the
15 company, your Honor.

16 EXAMINER PIRIK: Are there any other
17 procedural matters that we need to consider?

18 MR. SMALL: Waiver of briefs maybe.

19 EXAMINER PIRIK: There will be no
20 briefing on the stipulation.

21 MR. REILLY: Excuse me, your Honor, just
22 one small thing. On Commission-ordered Exhibit 1A I
23 would note that the Bench has already ruled on its
24 confidentiality in an entry, I don't have the date of
25 the entry, in a prior entry.

1 EXAMINER PIRIK: July 7th, 2009.

2 MR. REILLY: Thank you, your Honor.

3 EXAMINER PIRIK: That's correct, thank
4 you, Mr. Reilly.

5 There being nothing further, we will
6 adjourn and the Commission will consider the
7 stipulation and the exhibits on the record. Thank
8 you.

9 (The hearing concluded at 10:28 a.m.)

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CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Thursday, September 3, 2009, and carefully compared with my original stenographic notes.

____s/Maria DiPaolo Jones____
Maria DiPaolo Jones, Registered
Diplomate Reporter and CRR and
Notary Public in and for the
State of Ohio.

My commission expires June 19, 2011.

(MDJ-3435)

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Commission of Ohio Docketing Information System on

9/18/2009 11:32:14 AM

in

Case No(s). 07-0974-EL-UNC

Summary: Transcript 9/3/09 hearing transcript electronically filed by Mrs. Jennifer Duffer on behalf of Jones, Maria DiPaolo Mrs. and Armstrong & Okey, Inc.