

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the :
Regulation of the :
Purchased Gas Adjustment :
Clause Contained Within : Case No. 09-218-GA-GCR
the Rate Schedules of Duke:
Energy Ohio, Inc. :

- - -

PROCEEDINGS

before Mr. Henry H. Phillips-Gary and Mr. Gregory
Price, Attorney Examiners, at the Public Utilities
Commission of Ohio, 180 East Broad Street, Room 11-C,
Columbus, Ohio, called at 10 a.m. on Friday,
February 5, 2010.

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1 APPEARANCES:

2 Duke Energy Ohio, Inc.
3 By Ms. Elizabeth H. Watts
4 and Ms. Amy B. Spiller
5 155 East Broad Street, 21st Floor
6 Columbus, Ohio 43215

7 On behalf of the Applicant.

8 Richard Cordray,
9 Ohio Attorney General
10 By Mr. Duane W. Luckey,
11 Senior Deputy Attorney General
12 Mr. Werner L. Margard III
13 and Mr. Thomas G. Lindgren,
14 Assistant Attorneys General
15 Public Utilities Section
16 180 East Broad Street, 6th Floor
17 Columbus, Ohio 43215

18 On behalf of the Staff of the PUCO.

19 Janine L. Migden-Ostrander,
20 Ohio Consumers' Counsel
21 By Mr. Larry S. Sauer
22 and Mr. Joseph P. Serio,
23 Assistant Consumers' Counsel
24 10 West Broad Street, Suite 1800
25 Columbus, Ohio 43215-3485

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

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Witness

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Roger Sarver

Direct Examination by Mr. Margard

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Joint Exhibit

Identified Admitted

1 Stipulation and Recommendation

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Company Exhibit

Identified Admitted

1 Direct Testimony of James Henning

12

13

2 Original Affidavit and Tear Sheet
of the Hearing Notice Publication

12

13

- - -

Commission-Ordered Exhibit

Identified Admitted

1 Independent Accountants' Report
on the Uniform Purchased Gas
Adjustment for the 12-Month
Period Ended August 30, 2009,
in Response to Case No.
09-218-GA-GCR

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2 Management/Performance Audit
of the Gas Purchase Practices
and Policies of Duke Energy
Ohio Final Report

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1 Friday Morning Session,

2 February 5, 2010.

3 - - -

4 EXAMINER PHILLIPS-GARY: The Public
5 Utilities Commission of Ohio has called for hearing
6 at this time and place Case No. 09-218-GA-GCR, being
7 in the Matter of the Regulation of the Purchased Gas
8 Adjustment Clause Contained Within the Rate Schedules
9 of Duke Energy Ohio, Inc.

10 My name is Henry H. Phillips-Gary, and
11 with me is Gregory Price. We are the Attorney
12 Examiners assigned by the Commission to hear this
13 case.

14 Let's start with the appearance of the
15 parties.

16 MS. WATTS: Thank you, your Honor. On
17 behalf of Duke Energy Ohio, Elizabeth H. Watts and
18 Amy B. Spiller, 155 East Broad Street, Columbus, Ohio
19 43215. Thank you.

20 MR. MARGARD: Thank you, your Honor. On
21 behalf of the staff of the Public Utilities
22 Commission of Ohio, by Richard Cordray, Ohio Attorney
23 General, Duane W. Luckey, Section Chief, by Assistant
24 Attorney General Werner L. Margard and Thomas G.
25 Lindgren, 180 East Broad Street, 6th Floor, Columbus,

1 Ohio.

2 MR. SAUER: Thank you, your Honor. On
3 behalf of the Residential Consumers of Duke Energy,
4 the Office of the Ohio Consumers' Counsel, Janine
5 Migden-Ostrander, Ohio Consumers' Counsel, Larry S.
6 Sauer and Joseph P. Serio, Assistant Consumers'
7 Counsel, 10 West Broad Street, Columbus, Ohio 43215.

8 EXAMINER PHILLIPS-GARY: Thank you very
9 much. I understand that a stipulation has been
10 docketed in this case, and parties are ready to
11 proceed?

12 MR. MARGARD: That is correct, your
13 Honor. The -- all of the parties have signed a
14 stipulation which has been docketed and identified as
15 Joint Exhibit No. 1. And staff would like to call
16 Mr. Roger Sarver in support of that stipulation.

17 - - -

18 ROGER SARVER
19 being first duly sworn, as prescribed by law, was
20 examined and testified as follows:

21 DIRECT EXAMINATION

22 By Mr. Margard:

23 Q. Please state your name.

24 A. My name is Roger Sarver.

25 Q. By whom are you employed?

1 A. Public Utilities Commission of Ohio.

2 Q. And in what capacity, please?

3 A. I supervise the gas cost recovery audits.

4 Q. Mr. Sarver, do you have before you a
5 document that has been marked for purposes of
6 identification as Joint Exhibit 1, the stipulation in
7 this case?

8 A. Yes.

9 Q. And are you familiar with that document?

10 A. Yes.

11 Q. And, in fact, were you involved in the
12 negotiations that resulted in that document?

13 A. Yes.

14 Q. Mr. Sarver, do you also have before you a
15 document that's been marked for purposes of
16 identification as Commission-Ordered Exhibit No. 1?

17 A. Yes.

18 Q. Can I ask you to turn, please, to page 5
19 of Joint Exhibit 1, the stipulation.

20 A. Okay. Would that be the page that starts
21 with Duke Energy Ohio, Inc., Summary of Findings?

22 Q. Make sure we are on the same page.

23 A. It's the fifth page in the document, but
24 it's page No. 3.

25 Q. Of the stipulation.

1 A. You are in the stipulation?

2 Q. Page 5 of the stipulation, please.

3 A. Okay.

4 Q. Sorry.

5 A. Okay.

6 Q. Do you have that?

7 A. Yes, sir.

8 Q. And can I direct your attention to
9 paragraph No. 6, please.

10 A. Yes.

11 Q. And paragraph 6 refers to an independent
12 accountants' record. Do you see that reference?

13 A. Yes, sir.

14 Q. And is the document that has been marked
15 as Commission-Ordered Exhibit No. 1 the document that
16 is referred to there in paragraph 6 of the
17 stipulation?

18 A. Yes, it is.

19 Q. And that, in fact, is the financial audit
20 report that was filed in this case?

21 A. Yes.

22 Q. Let me ask you, if you would, please, to
23 turn to page 3 of Commission-Ordered Exhibit No. 1.

24 A. Okay.

25 Q. In the stipulation it indicates that the

1 specific findings presented in the Summary of
2 Findings of this audit are reasonable and should be
3 adopted by the Commission. That is your
4 recommendation as well, is it not?

5 A. Yes.

6 Q. And those Summary of Findings are
7 contained on page 3 of Commission-Ordered Exhibit No.
8 1; is that correct?

9 A. Yes.

10 Q. And if I direct your attention to the
11 second bullet part beginning, "Pursuant to," do you
12 see that paragraph?

13 A. Yes, sir.

14 Q. Are you familiar with that paragraph?

15 A. Yes, sir.

16 Q. Okay. The next to the last sentence of
17 that paragraph says that "Company officials have
18 informed us" meaning the auditors "that these
19 adjustments to the calculation have been approved by
20 the PUCO staff and that no formal order granting
21 these adjustments was issued." Do you see that?

22 A. That is correct.

23 Q. And that is a correct statement?

24 A. Yes, sir.

25 Q. And the following sentence states that

1 "The auditor was unable to determine if the
2 adjustments made to the calculations were consistent
3 with the PUCO Staff's expectations." In your opinion
4 are those adjustments consistent with your
5 expectations?

6 A. Yes.

7 Q. Mr. Sarver, do you also have before you a
8 document that's been marked for purposes of
9 identification as Commission-Ordered Exhibit 2?

10 A. Yes.

11 Q. On page 6 of Joint Exhibit 1, the
12 stipulation, there is a reference to the Final Report
13 on the Management and Performance Audit of the Gas
14 Purchase Practices and Policies of Duke Energy Ohio
15 prepared by NorthStar Consulting Group. Is this the
16 document that is made reference to on paragraph 8 of
17 the stipulation?

18 A. Yes, sir.

19 Q. And both Commission-Ordered Exhibit 1 and
20 Commission-Ordered Exhibit 2 have been filed with the
21 Commission and are part of the record of this case;
22 is that correct?

23 A. Yes.

24 Q. Now, Mr. Sarver, you have already
25 indicated you were present during the negotiations in

1 this case; you are familiar with those negotiations
2 and the substance that resulted in this stipulation?

3 A. Yes, sir.

4 Q. And you are acquainted with the parties
5 who participated in those discussions?

6 A. Yes, staff worked with the parties in a
7 number of instances.

8 Q. And in your opinion was the bargaining
9 conducted to arrive at this stipulation and
10 recommendation conducted between knowledgeable,
11 capable parties and at arm's length?

12 A. Yes, sir.

13 Q. In your opinion does the stipulation and
14 recommendation advance the public interest?

15 A. Yes, it does.

16 Q. And can you give us an example or in what
17 manner you believe it advances the public interest?

18 A. The stipulation accepts recommendations
19 that all parties believe will be in the best interest
20 of not only the company but also its customers.

21 Q. Thank you. And in your opinion to the
22 best of your knowledge, does the stipulation and
23 recommendation violate any public policy or statute?

24 A. No, sir.

25 Q. Is it, therefore, your recommendation

1 that the Commission adopt this stipulation without
2 change or modification?

3 A. Yes.

4 MR. MARGARD: Your Honor, I have nothing
5 further for Mr. Sarver.

6 EXAMINER PHILLIIPS-GARY: Do any of the
7 other parties have any questions for Mr. Sarver?

8 MR. SAUER: No questions, your Honor.

9 MS. WATTS: No questions, your Honor.

10 MR. MARGARD: Your Honor, we would, of
11 course, respectfully move for the admission of Joint
12 Exhibit 1 and Commission-Ordered Exhibits No. 1 and
13 2.

14 EXAMINER PHILLIIPS-GARY: I was going to
15 excuse Mr. Sarver. So, okay, you've moved for
16 admission of Joint Exhibit 1 Stipulation,
17 Commission-Ordered Exhibit 1 which is the Financial
18 Audit, and Commission-Ordered Exhibit 2 which is the
19 Management/Performance Audit.

20 MR. MARGARD: Yes, your Honor.

21 EXAMINER PHILLIIPS-GARY: Are there any
22 objections to the admission of these exhibits?

23 MR. SAUER: No objections.

24 MS. WATTS: None.

25 EXAMINER PHILLIIPS-GARY: Okay. Hearing

1 no objections these exhibits will be admitted.

2 (EXHIBITS ADMITTED INTO EVIDENCE.)

3 MR. MARGARD: Your Honor, we have nothing
4 further and would submit the case on the record and
5 request the stipulation be approved.

6 EXAMINER PHILLIIPS-GARY: Okay.

7 MS. WATTS: I do, your Honor, have a
8 couple of additional exhibits I would like to have
9 marked and admitted.

10 EXAMINER PHILLIIPS-GARY: All right. You
11 may do so.

12 MS. WATTS: I would like to ask that the
13 Direct Testimony of James Henning which was filed
14 with the Commission on January 5, 2010, be marked as
15 Duke Energy Exhibit 1. And I would also ask that the
16 Original Affidavit and Tear Sheet of the Hearing
17 Notice Publication be marked as Duke Energy Exhibit
18 2, and I would ask those be made part of the record
19 of this case.

20 EXAMINER PHILLIIPS-GARY: Okay. So
21 you've moved for the Henning testimony which was
22 previously filed in this case marked as Duke Exhibit
23 1 and the Original Affidavit and the Tear Sheet to be
24 marked as Duke Exhibit 2; is that correct?

25 MS. WATTS: That's correct.

1 EXAMINER PHILLIIPS-GARY: Okay. Are
2 there any objections to either of those exhibits
3 being admitted?

4 MR. SAUER: No objection.

5 MR. MARGARD: No objection.

6 EXAMINER PHILLIIPS-GARY: No objections,
7 all right. Hearing no objections they will be
8 admitted.

9 (EXHIBITS ADMITTED INTO EVIDENCE.)

10 MS. WATTS: And that's all I have on
11 behalf of Duke Energy Ohio.

12 EXAMINER PHILLIIPS-GARY: All right.
13 Okay. Is there any other matters any other party
14 wishes to present at this point in time?

15 Hearing none, all right, if there is
16 nothing else to come before us, this case is
17 submitted on the record, and we are adjourned.

18 (Thereupon, the hearing was concluded at
19 10:16 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 Friday, February 5,
2010, and carefully compared with my original
stenographic notes.

Karen Sue Gibson, Registered
Merit Reporter.

(KSG-5165)

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Case No(s). 09-0218-GA-GCR

Summary: Transcript Transcript of Duke Energy Ohio, Inc. hearing held on 02/05/10.
electronically filed by Mrs. Jennifer Duffer on behalf of Armstrong & Okey, Inc. and Gibson,
Karen Sue Mrs.