BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of:	:	
	:	Case No. 10-1268-El-RDR
The Application of Duke Energy Ohio, Inc. to Adjust and Set the Annually Adjusted Component of Its Market-based Standard Offer.	:	

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PROCEEDINGS

before Ms. Katie L. Stenman, Attorney Examiner, at the Public Utilities Commission of Ohio, 180 East Broad Street, Room 11-C, Columbus, Ohio, called at 10:00 a.m. on Monday, December 6, 2010.

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APPEARANCES:

Duke Energy
By Ms. Elizabeth H. Watts
and Ms. Amy B. Spiller
139 East Fourth Street
Cincinnati, Ohio 45202

On behalf of the Company.

Janine L. Migden-Ostrander
Ohio Consumers' Counsel
By Ms. Ann M. Hotz
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485

On behalf of the Residential
Consumers of Duke Energy Ohio.

Richard Cordray, Ohio Attorney General
Public Utilities Section
By Ms. Sarah Parrot
180 East Broad Street, 9th Floor
Columbus, Ohio 43215-3793

On behalf of the Staff of the Public
Utilities Commission.

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EXHIBITS

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Monday Morning Session,
December 6, 2010.

THE ATTORNEY EXAMINER: The Public Utilities Commission of Ohio has called for hearing at this time and place Case No. 10-1268-EL-RDR, Being in the Matter of the Application of Duke Energy Ohio, Inc. to Adjust and Set the Annually Adjusted Component of Its Market-based Standard Offer.

I am Katie Stenman, an attorney-examiner that's been assigned to hear this case. At this time let's take the appearances of the parties starting with Company.

MS. WATTS: Thank you, your Honor. On behalf of Duke Energy Ohio, Amy B. Spiller and Elizabeth H. Watts, 139 East Fourth Street, Cincinnati, Ohio.

THE ATTORNEY EXAMINER: And on behalf of the staff.

MS. PARROT: Thank you, your Honor. On behalf of the staff of the Public Utilities Commission of Ohio, Richard Cordray, Ohio Attorney General, William L. Wright, section chief, by Sarah J. Parrot, assistant attorney general, 180 East Broad Street, Columbus, Ohio 43215.

THE ATTORNEY EXAMINER: On behalf of OCC.

MS. HOTZ: On behalf of the residential customers of Duke Energy Ohio, the Ohio Consumers' Counsel, Janine Migden-Ostrander, by Ann M. Hotz, that's H-O-T-Z, 10 West Broad Street, Columbus, Ohio, 43215. Thank you.

THE ATTORNEY EXAMINER: Thank you.

Before we proceed, I would like to note that the Industrial Energy Users filed a motion for intervention on October 12, 2010. No memorandum contra was filed, and that will be granted

Moving on, I understand that at this time the parties have docketed a stipulation.

MS. PARROT: That's correct, your Honor, we have. We have a witness here present to testify in regard to that stipulation.

Before we get to that testimony, I would ask that we have a number of exhibits marked for identification purposes.

THE ATTORNEY EXAMINER: Okay.

MS. PARROT: Beginning with the comments that were filed by the Comments of Commission staff filed on November 2, 2010, I would ask that document be marked as Staff Exhibit 1.

THE ATTORNEY EXAMINER: It will be so marked.

(EXHIBIT MARKED FOR IDENTIFICATION.)

MS. PARROT: Thank you. Next I would ask that the prepared testimony of Trisha J. Smith that was docketed on November 22, 2010, I would ask that be marked as Staff Exhibit 2 for identification purposes.

THE ATTORNEY EXAMINER: It will be so marked.

(EXHIBIT MARKED FOR IDENTIFICATION.)

MS. PARROT: And finally, I would ask that the Stipulation and Recommendation that was filed on behalf of the staff and Duke Energy Ohio, that be marked as Joint Exhibit 1. That document was filed on December 3, 2010.

THE ATTORNEY EXAMINER: It will be so marked.

(EXHIBIT MARKED FOR IDENTIFICATION.)

THE ATTORNEY EXAMINER: Did you want to proceed with any other exhibits before we move on to the witness?

MS. WATTS: Your Honor, yes. Duke Energy Ohio has some exhibits if it is appropriate to give them to you right now.

THE ATTORNEY EXAMINER: Let's do that.

MS. WATTS: Duke Energy Ohio would ask

that the Application in this matter be marked as Duke Energy Ohio Exhibit 1.

THE ATTORNEY EXAMINER: It will be so marked.

(EXHIBIT MARKED FOR IDENTIFICATION.)

MS. WATTS: The direct testimony of Peggy A. Laub be marked as Exhibit 2.

THE ATTORNEY EXAMINER: So marked.

MS. WATTS: The Reply Comments of Duke Energy Ohio submitted on November 12, it would be Duke Energy Ohio Exhibit 3.

THE ATTORNEY EXAMINER: So marked.

(EXHIBIT MARKED FOR IDENTIFICATION.)

MS. WATTS: The supplemental testimony of William Don Watham, Jr. docketed on November 29. It would be Duke Energy Ohio Exhibit 4.

THE ATTORNEY EXAMINER: So marked.

(EXHIBIT MARKED FOR IDENTIFICATION.)

MS. WATTS: And the supplemental testimony of Salil Pradhan also docketed November 29 would be Duke Energy Exhibit 5.

THE ATTORNEY EXAMINER: That will be marked as Duke 5.

(EXHIBIT MARKED FOR IDENTIFICATION.)

MS. HOTZ: OCC would like to enter some

exhibits.

THE ATTORNEY EXAMINER: Yes.

MS. HOTZ: The comments of the Ohio Consumers' Counsel filed on November 2, 2010 as OCC 1.

THE ATTORNEY EXAMINER: So marked.

(EXHIBIT MARKED FOR IDENTIFICATION.)

The prepared testimony David W. Marcella file on November 17, 2010, OCC Exhibit 2.

THE ATTORNEY EXAMINER: It will be so marked.

(EXHIBIT MARKED FOR IDENTIFICATION.)

MS. HOTZ: Thank You.

THE ATTORNEY EXAMINER: Any other exhibits before we proceed.

MS. WATTS: Just a point of clarification, your Honor, I have the docket card and Mr. Marczely's testimony was docketed on did 22nd.

MS. HOTZ: The 22nd, I'm sorry.

THE ATTORNEY EXAMINER: You're correct, it was docket on the 22nd.

MS. HOTZ: Yes.

THE ATTORNEY EXAMINER: Ms. Parrot, you may call your witness.

MS. PARROT: Thank you, your Honor. At

this time the staff calls Trisha J. Smith to the witness stand.

TRISHA J. SMITH

being first duly sworn, as prescribed by law, was examined and testified as follows:

DIRECT EXAMINATION

By Ms. Parrot:

Q. Good morning, Ms. Smith. Would you state your full name for the record.

A. Trisha J. Smith.

Q. And your business address, please.

A. 10 Broad Street, Columbus, Ohio, 43215.

Q. And by whom are you employed?

A. The State of Ohio, Public Utilities Commission.

Q. You are the same Trisha J. Smith that previously filed testimony in this proceeding on November 2, 2010?

A. Yes, I am.

Q. And do you have a copy of your testimony with you today?

A. Yes, I do.

Q. Do have any modifications or corrections that you wish to make to that testimony at this time?

A. No, I do not.

Q. And if I were to ask you the questions that were contained in that testimony today, would your answers be the same as represented therein?

A. Yes, they would.

Q. Ms. Smith, are you familiar with the Stipulation and Recommendation that was filed by Duke Energy Ohio and the staff of Commission on December 2, 2010?

A. Yes, I am.

Q. And how did you gain that familiarity with the Stipulation?

A. I completed the audit in the case and worked with the company in coming to the terms of the Stipulation.

Q. So you were involved in the process, the negotiations that led up to the Stipulation?

A. Yes, I was.

Q. Are you also familiar with the three-part test that the Commission uses to evaluate stipulations to determine whether or not they are reasonable?

A. Yes, I am.

Q. And with respect to the first part of that test, would you say the Stipulation and Recommendation that's been filed, would you say it's

the product of serious bargaining among capable and knowledgeable parties?

A. Yes, I would.

Q. And why is that?

A. The parties normally practice before the Commission, and everyone that was invited to the settlement discussion came to the discussion and were present or represented by counsel, so I believe everyone had a chance to join in with the settlement.

Q. And the parties that are in this proceeding, they regularly participate in proceedings before the Commission?

A. Yes, ma'am.

Q. Would you say that the Stipulation violates any important regulatory principle or practice?

A. No, it does not.

Q. And why is that?

A. It's fully supported by the evidence that was presented to the Commission and all the parties in this case.

Q. And would you say that the Stipulation is consistent with the terms of the Commission-approved ESP for Duke Energy Ohio?

A. Yes, ma'am.

Q. And finally, would you say that the settlement as a package benefits ratepayers and is in the public interest?

A. Yes, I would.

Q. And would you please explain why.

A. It avoided a fully litigated case so it saves the time and expense of that. We included the fuel flexibility project, which will help consumers in the future by fuel savings.

Q. Were there any adjustments that were identified by the staff that are adopted by way of the Stipulation?

A. Yes. We did come up with a math correction for O&M expenses for about $477 million, which reduced the revenue requirement.

THE ATTORNEY EXAMINER: Did you say million dollars?

MS. WATTS: $477,000, roughly.

Q. And that's the revenue requirement for environmental compliance specifically; is that correct?

A. Yes.

MS. WATTS: My heart stopped there for a minute.

Q. Ms. Smith, would you say the Stipulation

and Recommendation that we've marked as Joint Exhibit 1 is a reasonable resolution of this proceeding?

A. Yes.

Q. And do you recommend that the Commission adopt this Stipulation and Recommendation?

A. Yes, I do.

MS. PARROT: I have no further questions for the witness, your Honor.

THE ATTORNEY EXAMINER: Ms. Watts, any cross-examination?

MS. WATTS: No cross, thank you.

THE ATTORNEY EXAMINER: Ms. Hotz.

MS. HOTZ: No, thank you.

THE ATTORNEY EXAMINER: Thank you, Ms. Smith, you're excused.

At this point I note that OCC is not a signatory party to the Stipulation. Is that correct?

MS. HOTZ: That's right, your Honor. OCC is not a signatory party, but OCC will not oppose the Stipulation.

THE ATTORNEY EXAMINER: And with respect to the Industrial Energy Users of Ohio, do we have an idea of their position in this Stipulation.

MS. WATTS: Your Honor, I am authorized

by the Industrial Commission Energy Users of Ohio that they take no position with respect to this case, and I suggested to them they might want to put something in the docket to that regard.

THE ATTORNEY EXAMINER: It is preferable if they file a brief or letter indicating such.

All right. With the respect to the admission of exhibits.

MS. PARROT: Yes, your Honor, thank you. At this time the Staff would move for the admission of Staff Exhibits 1 and 2 and as well as Joint Exhibit 1.

THE ATTORNEY EXAMINER: Any objections?

MS. WATTS: No objection.

MS. HOTZ: No objection.

THE ATTORNEY EXAMINER: Staff 1 and 2 we be admitted.

(EXHIBITS ADMITTED INTO EVIDENCE.)

MS. WATTS: Duke Energy will move that Duke Energy Exhibits 1 through 5 be admitted.

THE ATTORNEY EXAMINER: Any objections?

MS. PARROT: No, your Honor.

THE ATTORNEY EXAMINER: Duke Energy exhibits will be admitted.

(EXHIBITS ADMITTED INTO EVIDENCE.)

MS. HOTZ: The OCC moves for admission of OCC Exhibit 1 and 2.

THE ATTORNEY EXAMINER: Any objection?

MS. PARROT: No objection.

MS. WATTS: No objection.

(EXHIBITS ADMITTED INTO EVIDENCE.)

THE ATTORNEY EXAMINER: Anything else to come before the Commission this morning?

MS. PARROT: No, your Honor.

MS. WATTS: No, your Honor.

THE ATTORNEY EXAMINER: Hearing nothing else, we are adjourned.

(The hearing adjourned at 10:13 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 Monday, December 6, 2010, and carefully compared with my original stenographic notes.

_____

Rosemary Foster Anderson,
Professional Reporter and
Notary Public in and for
the State of Ohio.

My commission expires April 5, 2014.

(RFA-8559)

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Summary: Transcript Transcript of Duke Energy hearing held on 12/06/10. electronically filed by Mrs. Jennifer Duffer on behalf of Armstrong & Okey, Inc. and Anderson, Rosemary Foster Mrs.