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DUKE ENERGY OHIO EXHIBIT ____

**BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)
Duke Energy Ohio, Inc., for)
Approval of the Establishment of) Case No. 11-2641-EL-RDR
Rider BTR and Associated Tariff)
Approval.)

In the Matter of the Application of)
Duke Energy Ohio, Inc., for)
Approval of the Establishment of) Case No. 11-2642-EL-RDR
Rider RTO and Associated Tariff)
Approval.)

**DIRECT TESTIMONY OF
WILLIAM DON WATHEN JR.
ON BEHALF OF
DUKE ENERGY OHIO, INC.**

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DIRECT TESTIMONY OF WILLIAM DON WATHEN JR.

I. INTRODUCTION AND PURPOSE

1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 A. My name is William Don Wathen Jr., and my business address is 139 East Fourth Street,
3 Cincinnati, Ohio 45202.

4 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

5 A. I am employed by Duke Energy Business Services LLC (DEBS) as General Manager and
6 Vice President of Rates, Ohio and Kentucky. DEBS provides various administrative and
7 other services to Duke Energy Ohio, Inc., (Duke Energy Ohio or the Company) and other
8 affiliated companies of Duke Energy Corporation (Duke Energy).

9 **Q. PLEASE SUMMARIZE YOUR EDUCATION AND PROFESSIONAL**
10 **EXPERIENCE.**

11 A. I received Bachelor Degrees in Business and Chemical Engineering, and a Master of
12 Business Administration Degree, all from the University of Kentucky. After completing
13 graduate studies, I was employed by Kentucky Utilities Company as a planning analyst.
14 In 1989, I began employment with the Indiana Utility Regulatory Commission as a senior
15 engineer. From 1992 until mid-1998, I was employed by SVBK Consulting Group,
16 where I held several positions as a consultant focusing principally on utility rate matters.
17 I was hired by Cinergy Services, Inc. in 1998 as an Economic and Financial Specialist in
18 the Budgets and Forecasts Department. In 1999, I was promoted to the position of
19 Manager, Financial Forecasts. In August 2003, I was named to the position of Director -
20 Rates. On December 1, 2009, I took the position of General Manager and Vice President
21 of Rates, Ohio and Kentucky.

1 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE PUBLIC UTILITIES**
2 **COMMISSION OF OHIO?**

3 A. Yes. I have presented testimony on numerous occasions before the Public Utilities
4 Commission of Ohio (Commission) and various other state, local, and federal regulatory
5 bodies.

6 **Q. PLEASE SUMMARIZE YOUR DUTIES AS GENERAL MANAGER AND VICE**
7 **PRESIDENT OF RATES, OHIO AND KENTUCKY.**

8 A. As General Manager and Vice President of Rates, Ohio and Kentucky, I am responsible
9 for all state and federal rate matters involving Duke Energy Ohio and Duke Energy
10 Kentucky, Inc.

11 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?**

12 A. The purpose of my testimony is to discuss and support the Stipulation and
13 Recommendation (Stipulation) filed in the above-captioned proceeding. The Stipulation
14 is filed with the support of Staff of the Commission (Staff), the Office of the Ohio
15 Consumers' Counsel , and the Ohio Energy Group. Along with Duke Energy Ohio, these
16 entities are collectively referred to as the Stipulating Parties for the remainder of my
17 testimony.

18 Through my testimony, I will demonstrate that the Stipulation: (1) is the product
19 of serious bargaining among capable, knowledgeable parties; (2) does not violate any
20 important regulatory principle or practice; (3) as a whole, will benefit consumers and is in
21 the public interest; and, (4) is a just and reasonable resolution of the issues.

II. DISCUSSION

22 **Q. PLEASE GENERALLY DESCRIBE THE STIPULATION.**

1 A. The Stipulation, filed with the Commission on April 22, 2011, represents a resolution of
2 all of the issues among the Stipulating Parties relating to Duke Energy Ohio's application
3 for approval to establish Rider BTR (base transmission rider) and Rider RTO (regional
4 transmission organization rider) and related tariffs (Application).

5 To appreciate the significance of the commitments described in the Stipulation, it
6 is important to recognize that the Commission is authorized, under R.C. 4928.05, to
7 permit recovery of all transmission and transmission-related charges imposed or charged
8 by the Federal Energy Regulatory Commission (FERC) or regional transmission
9 organization (RTO). Indeed, in a prior case addressing the recovery of costs associated
10 with RTO realignment, Staff observed that the Commission may, pursuant to R.C.
11 4928.05(A)(2):

12 * * * provide for the recovery, through a reconcilable rider on an electric
13 distribution utility's distribution rates, of all transmission and
14 transmission-related costs, including ancillary and congestion costs,
15 imposed on or charged to the utility by the federal energy regulatory
16 commission or a regional transmission organization[.]¹

17 Relying on this statute, Staff remarked that transmission costs approved by
18 the FERC are passed onto the ultimate consumer. Importantly, therefore,
19 this statutory provision enables the Company to seek recovery of all exit
20 and entrance fees, integration costs, and all transmission expansion costs
21 imposed in connection with Duke Energy Ohio's intended realignment
22 from the Midwest Independent System Operator, Inc. (Midwest ISO) to
23 PJM Interconnection, LLC (PJM).

24 But the Stipulation in this proceeding removes from Duke Energy Ohio's
25 customers the potential for paying certain of the costs imposed upon or charged by the
26 FERC or an RTO. Specifically, as detailed in the Stipulation, Duke Energy Ohio's

¹ *In the Matter of the Application of Ohio Edison Company, Cleveland Electric Illuminating Company and Toledo Edison for Approval of an Electric Security Plan*, Case No. 10-388-EL-SSO, Staff's Post-Hearing Brief, at page 18 (April 30, 2010).

1 customers will not incur the exit fee assessed by the Midwest ISO, the entrance fee
2 assessed by PJM, or the integration costs imposed upon Duke Energy Ohio through the
3 Agreement to Implement Expansion of PJM Regional for Duke Energy Ohio and Duke
4 Energy Kentucky signed on June 11, 2010. Furthermore, Duke Energy Ohio will not
5 seek recovery from customers of the first \$121 million in regional transmission expansion
6 plan (RTEP) project costs billed by PJM (the RTEP Commitment). However, the
7 Company will seek recovery of all Midwest transmission expansion project (MTEP)
8 costs. Notably, in the event there are favorable rulings at the FERC or federal court level
9 that serve to reduce the exposure for MTEP or RTEP charges, Duke Energy Ohio's
10 customers will benefit from those rulings without limitation.

11 As also set forth in the Stipulation, Duke Energy Ohio's customers will not incur
12 an obligation as a result of any settlement or final disposition of a matter currently
13 pending before the FERC under Docket No. ER11-2059. This matter relates to Long-
14 Term Firm Transmission Rights and the Midwest ISO's request for certain tariff changes
15 related to same.

16 Another important concession made by Duke Energy Ohio in the Stipulation is
17 that the Company will not institute a filing at the FERC under Section D of Schedule 8.1
18 of the PJM Reliability Assurance Agreement that seeks FERC approval of a wholesale
19 capacity charge applicable to load serving entities based upon Duke Energy Ohio's costs
20 as a Fixed Resource Requirement entity in PJM for the period between January 1, 2012,
21 and May 31, 2016.

22 As a result of the Application and Stipulation, two transmission riders will be
23 created. Rider BTR will be non-bypassable and allow for the recovery of MTEP, RTEP,

1 network integration transmission services (NITS), and other non-market based costs, such
2 as costs related to Commission-ordered audits. Rider RTO, which will be bypassable,
3 will recover market-based FERC and RTO charges billed to the Company in proportion
4 to its standard service offer (SSO) load.

5 Upon their effective date, these tariffs will replace the Company's current
6 transmission cost recovery rider, Rider TCR. Duke Energy Ohio thus proposes to cancel
7 Rider TCR effective December 31, 2011, with a final true-up of said rider to occur during
8 the annual review and adjustment of Rider BTR and Rider RTO.

9 The Stipulating Parties acknowledge that Duke Energy Ohio's realignment to
10 PJM is intended to take effect on January 1, 2012; therefore, they appreciate the need for
11 and urge expedited review of the Company's Application and this Stipulation. Further,
12 the Stipulating Parties recognize the critical timing issues involved in the realignment and
13 thus made provision for the ability of Duke Energy Ohio to withdraw its Application if the
14 Commission does not approve same by June 1, 2011.

15 **Q. DOES THE STIPULATION REPRESENT THE PRODUCT OF SERIOUS**
16 **BARGAINING AMONG CAPABLE, KNOWLEDGEABLE PARTIES?**

17 **A.** Yes. The knowledge and capability of the parties and their attorneys is readily apparent.
18 The Stipulating Parties regularly participate in rate proceedings before the Commission,
19 are knowledgeable in regulatory matters, and were represented by experienced,
20 competent counsel. Furthermore, the Stipulating Parties represent a broad range of
21 interests.

22 All of the issues raised by the Stipulating Parties in this proceeding were
23 thoroughly addressed during negotiations and, despite the divergent interests among

1 them, all Parties had opportunity to express their opinions in the negotiating process. For
2 all of these reasons, I believe that the Stipulation is a compromise resulting from those
3 negotiations and, therefore, represents a product of the efforts of capable, knowledgeable
4 parties.

5 **Q. DOES THE STIPULATION VIOLATE ANY IMPORTANT REGULATORY**
6 **PRINCIPLE OR PRACTICE?**

7 A. No. Based on the advice of counsel, my understanding is that the Stipulation complies
8 with all relevant and important principles and practices. Based upon my experience as
9 General Manager and Vice President for Rates, Duke Energy Ohio, my involvement in
10 this proceeding, and my examination of the Stipulation, I have also concluded that the
11 Stipulation does not violate any regulatory ratemaking principle. Importantly, there are
12 no interclass subsidies created by the allocation of the Company's RTEP Commitment to
13 customers.

14 **Q. DOES THE STIPULATION BENEFIT CONSUMERS AND THE PUBLIC**
15 **INTEREST?**

16 A. Yes. The Stipulation provides several significant benefits across all customer groups and
17 other interested stakeholders, including:

- 18 a. The Stipulation provides for Duke Energy Ohio's timely realignment of RTOs.
- 19 b. The Stipulation provides Duke Energy Ohio's customers with the assurance that
20 they will not be exposed to certain costs imposed or charged by the FERC or an
21 RTO. As discussed above, Duke Energy Ohio is foregoing its statutory right to
22 seek recovery of certain transmission and transmission-related costs, thereby
23 providing customers with certainty in respect of costs that they will avoid. In this

1 regard, the Stipulation negates the potential for protracted litigation and the costs
2 and risks associated with such litigation.

3 c. The Stipulation also insulates the Company's customers from a pending matter
4 before the FERC, providing the assurance that they will not be affected by that
5 outcome.

6 d. The Stipulation also functions to remove the obligation of CRES providers,
7 effective January 1, 2012, to pay for NITS and other non-market-based
8 transmission costs. Practical results of this circumstance should be to reduce the
9 risk premium that CRES providers may incorporate into their offers and to allow
10 CRES providers to lower the price of their offers.

11 e. The Stipulation will also serve to remove the requirement of wholesale suppliers to
12 provide for transmission services included in Rider BTR. Thus, to the extent Duke
13 Energy Ohio's next SSO incorporates wholesale auctions, this provision should
14 enhance and further levelize the competitive environment for all potential auction
15 participants.

16 **Q. IS THE STIPULATION A JUST AND REASONABLE RESOLUTION OF THE**
17 **ISSUES?**

18 A. Yes. As described above, the Stipulation affords benefits to consumers and the public and
19 is consistent with established regulatory principles and practices. The Stipulation also
20 represents a timely and efficient resolution of the issues raised in this proceeding, after
21 thoughtful deliberation and discussion by the Stipulating Parties.

1 **Q. DO YOU BELIEVE THE STIPULATION MEETS THE THREE-PART TEST**
2 **REGARDING CONSIDERATION OF STIPULATIONS AND THEREFORE**
3 **SHOULD BE ADOPTED BY THE COMMISSION?**

4 **A. Yes, I do.**

5 **Q. DOES THE STIPULATION RESOLVE ALL OF THE ISSUES IN THIS**
6 **PROCEEDING?**

7 **A. Yes.**

III. CONCLUSION

8 **Q. DOES THIS CONCLUDE YOUR PRE-FILED DIRECT TESTIMONY?**

9 **A. Yes, it does.**