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DUKE ENERGY OHIO EXHIBIT _____

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BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

PUCO

- In the Matter of the Application of Duke Energy Ohio for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan, Accounting Modifications and Tariffs for Generation Service.) Case No. 11-3549-EL-SSO
- In the Matter of the Application of Duke Energy Ohio for Authority to Amend its Certified Supplier Tariff, P.U.C.O. No. 20.) Case No. 11-3550-EL-ATA
- In the Matter of the Application of Duke Energy Ohio for Authority to Amend its Corporate Separation Plan.) Case No. 11-3551-EL-UNC

SUPPLEMENTAL TESTIMONY OF

JULIA S. JANSON

ON BEHALF OF

DUKE ENERGY OHIO, INC.

October 28, 2011

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I. INTRODUCTION

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

2 A. My name is Julia S. Janson, 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 President of
6 Duke Energy Ohio, Inc., (Duke Energy Ohio or the Company) and its subsidiary,
7 Duke Energy Kentucky, Inc. DEBS provides various administrative and other
8 services to Duke Energy Ohio and other affiliated companies of Duke Energy
9 Corporation (Duke Energy).

10 **Q. ARE YOU THE SAME JULIA S. JANSON WHO FILED DIRECT**
11 **TESTIMONY IN THIS PROCEEDING ON JUNE 20, 2011?**

12 A. Yes.

13 **Q. WHAT IS THE PURPOSE OF YOUR SUPPLEMENTAL DIRECT**
14 **TESTIMONY IN THIS PROCEEDING?**

15 A. Through my Supplemental Direct Testimony, I will provide an overview of the
16 Stipulation and Recommendation filed on October 24, 2011, (Stipulation) in
17 respect of Duke Energy Ohio's next electric security plan (ESP). I will also
18 discuss the criteria employed by the Public Utilities Commission of Ohio
19 (Commission) when reviewing stipulations. In doing so, my testimony confirms
20 that the Stipulation filed in these proceedings: (1) is the product of serious
21 bargaining among capable, knowledgeable parties; (2) does not violate any
22 important regulatory principle or practice; and, (3) as a package, benefits

1 ratepayers and the public interest. Finally, through my Supplemental Direct
2 Testimony, I explain that the Stipulation is a fair and reasonable resolution to the
3 issues relevant to this proceeding.

II. OVERVIEW OF THE STIPULATION

4 **Q. PLEASE IDENTIFY THE SIGNATORY PARTIES TO THE**
5 **STIPULATION.**

6 A. Thirty-two parties intervened in Duke Energy Ohio's Application for Approval of
7 an ESP, filed under Case No. 11-3549-EL-SSO, *et al.* (Application). These parties
8 reflect diverse interests and many represent customers in Duke Energy Ohio's
9 service territory. Without intending to be exhaustive, the intervenors in this
10 proceeding include customer organizations (*e.g.*, the Office of the Ohio
11 Consumers' Counsel and the Ohio Energy Group); Duke Energy Ohio customers
12 (*e.g.*, The Kroger Company and Cincinnati Bell Inc.); one of the political
13 subdivisions in which Duke Energy Ohio operates (*e.g.*, the City of Cincinnati);
14 competitive retail electric service providers (*e.g.*, FirstEnergy Solutions Corp. and
15 Constellation NewEnergy); and, wholesale suppliers (*e.g.*, Exelon).

16 Of these thirty-two intervenors, twenty-nine support the Stipulation and
17 Recommendation and two take no position. Additionally, and importantly,
18 Commission Staff is also a signatory party.

19 **Q. PLEASE PROVIDE AN OVERVIEW OF THE ESP AS DETAILED IN**
20 **THE STIPULATION.**

21 A. To appreciate the ESP as detailed in the Stipulation, I believe it is important to
22 first briefly discuss the plan as proposed by the Company in its Application. In

1 doing so, it becomes evident how the ESP memorialized in the Stipulation
2 satisfies the three criteria delineated above.

3 On June 20, 2011, Duke Energy Ohio proposed a long-term ESP pursuant
4 to which generation service would be supplied under a bifurcated pricing model.
5 Under this proposed, nine-year and five-month plan, Duke Energy Ohio would
6 have utilized competitive auctions to procure all of the energy supply needed to
7 serve its standard service offer (SSO) customers. Capacity – the other aspect of
8 generation service – would have been supplied by the Company for all customers
9 in our service territory based upon Duke Energy Ohio’s cost of service (*i.e.*, costs
10 associated with supplying our own capacity and applicable market purchases),
11 including a reasonable rate of return. A profit sharing mechanism was
12 incorporated into the proposed ESP, intended, in large part, to offset the costs of
13 capacity. This mechanism also would have served to fund an economic
14 development initiative. The proposed ESP also made provision for various riders,
15 related both to generation service and distribution service. In his Direct
16 Testimony, Company witness William Don Wathen Jr. identified the various
17 riders proposed in Duke Energy Ohio’s Application.

18 Pursuant to the Stipulation and Recommendation, Duke Energy Ohio and
19 the other signatory parties have agreed upon an ESP that incorporates some of the
20 proposals set forth in our Application, although with some modification. The
21 resulting ESP is one that relies upon competitive market structures for both
22 energy and capacity, provides stability and certainty in respect of generation
23 service, establishes opportunities in the renewable energy sector, guarantees

1 funding for various initiatives relevant to our customers, and fulfills the
2 legislature's decade-old objective of complete corporate separation.

3 As set forth in the Stipulation and Recommendation, Duke Energy Ohio
4 will operate under an ESP of shorter duration than that proposed in the
5 Application. Specifically, the ESP will commence on January 1, 2012, and will
6 expire on May 31, 2015. The ESP employs a competitive bidding process (CBP)
7 for purposes of the supply needed to provide Duke Energy Ohio's customers with
8 an SSO. And as both energy and capacity are products within the auctions to be
9 conducted over the term of the ESP, generation service will be priced pursuant to
10 functioning competitive markets.

11 Relevant to the supply of capacity, I note Duke Energy Ohio's election to
12 operate as a Fixed Resource Requirements (FRR) entity in PJM Interconnection,
13 LLC (PJM). Pursuant to this election, Duke Energy Ohio is committed, for a term,
14 to supply all of the capacity for customers in our footprint. This term begins on
15 January 1, 2012, and, in accordance with a PJM tariff, expires on May 31, 2016.
16 Upon the expiration of this FRR term and absent the Stipulation and
17 Recommendation herein, Duke Energy Ohio would have had the ability to
18 continue its participation as an FRR entity and, by extension, the opportunity to
19 seek recovery of capacity costs based upon its costs, pursuant to PJM's tariff.

20 In the Stipulation and Recommendation, the parties recognized Duke
21 Energy Ohio's obligations as an FRR entity and, for the term of the ESP, Duke
22 Energy Ohio will supply capacity resources to PJM, which, in turn, will charge
23 wholesale suppliers for capacity. But the charge applicable to these wholesale

1 suppliers will not reflect Duke Energy Ohio's costs of service as defined above.
2 Rather, the charge will be predicated upon PJM's capacity market pricing
3 structure. To clarify, Duke Energy Ohio bears the obligation to provide the
4 capacity resources necessary to serve all customers in our footprint for the term of
5 the ESP and the Company will be compensated for capacity resources based upon
6 competitive PJM prices.

7 Although, pursuant to the terms of the Stipulation, Duke Energy Ohio's
8 ESP expires on May 31, 2015, prior to the expiration of the FRR plan, the
9 signatory parties also made provision in the Stipulation and Recommendation for
10 Duke Energy Ohio to pursue an early departure from that FRR plan. Specifically,
11 Duke Energy Ohio will seek to exit the FRR plan one year early, such that it may
12 participate in PJM's Reliability Pricing Model (RPM) and Base Residual Auction
13 (BRA) for the 2015/2016 planning year. To the extent Duke Energy Ohio makes a
14 filing at the Federal Energy Regulatory Commission (FERC) in respect of this
15 early termination, the signatory parties have agreed not to challenge or contest
16 such filing or otherwise delay its resolution. In the event Duke Energy Ohio is
17 unable to exit its FRR plan early, it will provide PJM with the requisite notice
18 such that it will participate in the RPM and BRA for the 2016/2017 planning year.
19 These provisions reflect a significant departure from Duke Energy Ohio's
20 proposal, in its Application, to seek recovery of its costs to provide capacity and a
21 rate of return.

22 The ESP, as detailed in the Stipulation, also recognizes our customers'
23 right to choose their generation supplier. In this regard and consistent with the

1 interaction between Duke Energy Ohio and wholesale suppliers, competitive retail
2 electric service (CRES) providers will also be charged for capacity based upon
3 PJM's capacity market pricing structure. Significantly, therefore, all suppliers will
4 be charged the same rate for capacity during the term of this ESP, with the limited
5 exception of those CRES providers that opted out of the Company's FRR plan for
6 the first five months of 2012.

7 The CBP plan to be employed by Duke Energy Ohio under the ESP is
8 largely the same as the process detailed in the Application. However, there have
9 been refinements to the CBP that will yield consistency across the state in regard
10 to competitive procurements for retail supply, while inviting dialogue between the
11 Company and interested parties on how the process may be improved. Further,
12 unlike the CBP provided for under R.C. 4928.142, the signatory parties here made
13 provision for Commission Staff to participate in future selections of the
14 independent auction manager.

15 The ESP also reflects financial commitments from Duke Energy Ohio for
16 important initiatives related to economic development and serving low-income
17 customers. Indeed, our customers enrolled in the Percentage of Income Payment
18 Plan (PIPP), who are precluded from participating in Customer Choice on an
19 individual basis, are afforded the confirmed benefit of a discounted price for
20 generation service. Pursuant to an agreement between the Company and
21 intervenor FirstEnergy Solutions, our PIPP customers will receive a guaranteed 5
22 percent reduction in their price to compare, as determined without reference to
23 charges applicable to Rider AER-R (relating to alternative energy resource

1 requirements). Further, the ESP incorporates an Electric Services Stability Charge
2 (Rider ESSC) that is designed to ensure stability and certainty in respect of both
3 pricing and supply under the ESP.

4 Under the ESP, Duke Energy Ohio has also made various commitments to
5 CRES providers, thereby providing both immediate and long-term benefits for
6 these providers and, ultimately, customers. By way of example, under the
7 Stipulation, Duke Energy Ohio will reduce its switching fee, remove existing
8 limitations for participation in the Company's Purchase of Accounts Receivable
9 Program, and revise its proposed Rider UE-GEN (relating to generation
10 uncollectible expense) to enable qualifying switched customers to avoid the
11 charges under said rider.

12 The Stipulation, if approved in its entirety, will result in the full legal
13 separation of Duke Energy Ohio's generation business from its distribution and
14 transmission businesses. More specifically, under the ESP, Duke Energy Ohio
15 will transfer generating assets, both operational and retired, to an affiliate or
16 subsidiary, no later than December 31, 2014, thereby realizing the intent of the
17 legislature to implement a separate and fully functioning market for generation
18 service in Ohio. Duke Energy Ohio witness Charles R. Whitlock discusses the
19 transfer of the generating assets, as contemplated under the Stipulation, in his
20 Direct Testimony.

21 As described in the Stipulation, Duke Energy Ohio is withdrawing certain
22 of the riders proposed in its Application, including Rider DR (incremental
23 distribution reliability). But any withdrawal of riders will not compromise the

1 Company's level of service or ongoing initiatives. Rather, acknowledgement has
2 been made in the Stipulation as to the continued existence of Rider DR-IM
3 (SmartGrid deployment) and enhancements to our compliance of the state's
4 alternative energy resource requirements. In his Supplemental Direct Testimony,
5 Mr. Wathen details the various riders that will be implemented in respect of the
6 ESP.

**III. CRITERIA FOR APPROVAL
OF A STIPULATION**

7 **Q. PLEASE IDENTIFY THE CRITERIA USED BY THE COMMISSION IN**
8 **REVIEWING A STIPULATION.**

9 A. As I understand, the Commission will approve a stipulation when it (1) is the
10 product of serious bargaining among capable, knowledgeable parties; (2) does not
11 violate any important regulatory principle or practice; and, (3) as a package,
12 benefits ratepayers and the public interest.

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

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

20 Having personally participated in the process that culminated in the
21 Stipulation, I can confirm that all of the issues raised by the signatory parties in
22 this proceeding were thoroughly reviewed and addressed during negotiations and,

1 despite the divergent interests among them, all parties had an opportunity to
2 express their opinions in the negotiating process.

3 I would also remark on the amount of time and number of resources
4 devoted to debating and developing the ESP as reflected in the Stipulation.
5 Between August 2, 2011, and October 24, 2011, numerous settlement conferences
6 were held between the parties to this proceeding. In the weeks leading up to the
7 filing of the Stipulation, discussions were held almost daily. Parties having out-
8 of-state counsel were given an opportunity to participate via telephone to ensure
9 that the negotiations were inclusive. And, in those discussions, parties and Staff
10 had the benefit of able counsel as well as subject matter experts in areas
11 including, but not limited to, competitive procurements, wholesale capacity
12 markets, retail competition, and rate design.

13 Further, as I detailed above, the settlement discussions resulted in
14 numerous, beneficial modifications and compromises, thereby confirming that
15 serious bargaining was most certainly occurring at the numerous meetings.

16 For all of these reasons, I believe that the Stipulation is a compromise
17 resulting from those negotiations and, therefore, represents a product of the efforts
18 of capable, knowledgeable parties.

19 **Q. DOES THE STIPULATION VIOLATE ANY IMPORTANT**
20 **REGULATORY PRINCIPLE OR PRACTICE?**

21 A. No. Based upon my experience, involvement in this proceeding, and review of the
22 Stipulation, I believe that it complies with all relevant and important principles
23 and practices. Importantly, the Stipulation furthers important regulatory principles

1 and practices through the advancement of the competitive market in Ohio and
2 specifically in the Company's service territory by, among other things embracing
3 a full competitive auction SSO and the full legal separation of generating assets
4 from the distribution utility. Mr. Wathen further elaborates on this point in his
5 Supplemental Direct Testimony with respect to the benefits of the rate design
6 agreed upon by the signatory parties.

7 **Q. DOES THE STIPULATION BENEFIT CONSUMERS AND THE PUBLIC**
8 **INTEREST?**

9 A. Yes. As I set forth and as agreed by the signatory parties, the Stipulation provides
10 several significant benefits across all of our customer groups and for other
11 interested stakeholders, while advancing and remaining consistent with state
12 policy.

A. **The ESP is better, in the aggregate, than the expected results under the market rate offer.**

13 As discussed by Mr. Wathen and reflected in Stipulation Attachment D,
14 the ESP is, in the aggregate, more favorable than the expected results under the
15 market rate offer (MRO) provisions set forth in R.C. 4982.142. With regard to
16 this conclusion, I would also remark that the ESP will afford our average
17 residential SSO customers an approximate 11 percent reduction from their current
18 SSO rates, effective January 1, 2012.

19 Furthermore, the ESP makes provision for financial benefits for our
20 customers that are not contemplated under the MRO provisions. For example,
21 under the ESP, and as detailed in the Stipulation, Duke Energy Ohio will
22 contribute \$1,000,000 in 2012 to support economic development efforts in our

1 service territory. The Company has further committed to contributing a total of
2 \$1,350,000 in 2012 toward low-income weatherization programs, pursuant to
3 partnerships that we have with intervenors, People Working Cooperatively and
4 the Ohio Partners for Affordable Energy (OPAE). We are also making a
5 contribution of \$350,000 in the first year of the ESP for a fuel fund administered
6 by OPAE. These contributions, which will not be recovered in Duke Energy
7 Ohio's rates, will be renewed in 2013 and 2014 provided the Company exceeds a
8 certain earnings threshold.

9 To further promote economic development, the Stipulation incorporates a
10 load factor adjustment for our high load factor customers that tend to compete on
11 a national or global scale. Mr. Wathen details the mechanics of this adjustment in
12 his Supplemental Direct Testimony.

13 As I discussed above, the ESP also provides an undeniable benefit to our
14 customers enrolled in PIPP by affording them a confirmed discount from their
15 price to compare for the term of the ESP.

**B. The ESP perpetuates fully functioning competitive markets,
at both the wholesale and retail levels.**

16 Under the ESP described in the Stipulation, Duke Energy Ohio will
17 implement competitive wholesale auctions for purposes of procuring the supply
18 necessary to serve its SSO load. During the term of this ESP, the auction products
19 will include energy, capacity, market-based transmission service, and market-
20 based ancillary services.

21 As I discussed above, because of Duke Energy Ohio's status as an FRR
22 entity, it will supply capacity resources to PJM, which, in turn, will charge

1 wholesale suppliers for the capacity that is included in the auctions.
2 Notwithstanding the charging mechanism for capacity, it is a product of the
3 auction that will be provided at transparent and known pricing. As such, the
4 reasonably competitive nature of the auction results will be readily discernible,
5 thereby providing the Commission and our customers with the assurance of a
6 robust and fair CBP.

7 The procurement process incorporated into and a part of Duke Energy
8 Ohio's ESP ensures that the competitive markets envisioned by the legislature
9 more than a decade ago will be realized. Indeed, the signatory parties have made a
10 commitment, in this Stipulation, to employ competitive procurement
11 methodologies here, under this ESP, as well as under the Company's next SSO.
12 This agreement represents the recognition by all of the signatory parties of the
13 benefits afforded by a process that results in competitive rates for generation
14 service.

15 Confirmation as to how generation service will be procured and priced
16 over the next several years affords customers certainty. Indeed, non-residential
17 customers will be able to develop and execute on business plans, taking into
18 account the process for pricing generation service. And the staggered auction
19 format will necessarily inject stability in the prices for energy and capacity.

20 The confirmation of wholesale competition also ensures the perpetuation
21 of competition at the retail level. As Duke Energy Ohio will be providing an SSO
22 via a competitive bid process, CRES providers are assured a market in which to
23 invest and operate over years to come.

1 And through the Stipulation, the competitive market has been enhanced
2 pursuant to various commitments related to Duke Energy Ohio's tariffs and
3 systems relevant to Customer Choice. By way of example, we have committed to
4 working with Commission Staff and CRES providers to develop a web-based
5 system that will result in the ability of suppliers to automatically – and thus
6 quickly – retrieve information critical to their businesses. The system will be
7 secure and in conformance with all applicable rules and regulations in respect of
8 customer privacy. Further, in the interests of advancing competition, the
9 Company has agreed to reduce both switching fees and charges for bill-ready
10 billing.

11 Another benefit to Customer Choice, and the ability of customers to select
12 their generation supplier, is reflected in the Stipulation provision relating to Rider
13 UE-GEN. Mr. Wathen details the purpose for this rider in his Supplemental Direct
14 Testimony but I mention it briefly here, as the terms of the rider have resulted in
15 the removal of certain restrictions related to Customer Choice. Specifically, Duke
16 Energy Ohio will remove from its applicable tariffs the arrearage-related
17 restrictions that prohibited affected customers from enrolling with a CRES
18 provider that participated in Duke Energy Ohio's Purchase of Accounts
19 Receivable Program. In short, to the extent these limitations functioned as barriers
20 to participation in Customer Choice, they have been removed.

21 Both the wholesale and retail markets will benefit from the various
22 commitments reflected in the Stipulation, with our customers being the ultimate

1 beneficiaries of vigorous competitive offerings for electric supply from diverse
2 suppliers.

C. The ESP provides for a stable distribution utility.

3 As I understand, in its regulation of utilities, the Commission will consider
4 customers' expectation of reasonable rates, the utilities' financial viability, and
5 the competition. The first and third of these considerations are discussed above
6 and here, I address the second.

7 The Commission has recently acknowledged that stability and certainty
8 are important under the law, both from the perspective of customers and from the
9 perspective of the distribution utility and its investors. Rider ESSC, as agreed to
10 by the signatory parties, is intended to ensure the availability of adequate, reliable,
11 and reasonably priced electricity supply and rate stability and certainty in respect
12 of retail electric service. The amount is further intended to protect the Company's
13 financial integrity and ensure that the overall revenue under the ESP is adequate
14 to Duke Energy Ohio in its provision of an SSO. As I understand, Rider ESSC is
15 permitted and authorized under R.C. 4928.143(B)(2)(d) as stabilizing and
16 providing certainty in regard to retail electric service. I further understand that
17 Rider ESSC is consistent with the Commission's authority under R.C.
18 4928.143(B)(1), which authorizes an ESP to include provisions relating to the
19 supply and pricing of generation service. (*See, e.g., In the Matter of the*
20 *Application of Columbus Southern Power Company for Approval of an Electric*
21 *Security Plan; an Amendment to its Corporate Separation Plan; and the Sale or*

1 *Transfer of Certain Generating Assets*, Case No. 08-917-EL-SSO, *et al.*, Order on
2 Remand, October 3, 2011.)

**D. The ESP encourages the development of
renewable resources in Ohio.**

3 As detailed in the Stipulation, the signatory parties have recognized the
4 potential for new generating resources in Ohio. Specific to renewable resources,
5 the signatory parties agreed that the Company's proposed Rider AER-R will not
6 expire on May 31, 2015. Rather, this rider will persist, thereby allowing for the
7 recovery, in the future, of all reasonably and prudently incurred costs associated
8 with the state's alternative energy resource (AER) requirements. The significance
9 of not terminating this rider after a shorter period, such as the term of the ESP, is
10 that representatives of the renewable industries have an indication that longer-
11 term arrangements or contracts with Duke Energy Ohio could materialize.

12 The Stipulation, however, is not limited to opportunities for commercial
13 participants in the renewable energy sector. Rather, provision has been made to
14 further develop Duke Energy Ohio's existing residential solar renewable energy
15 credit (SREC) program through collaborative discussion. Specifically, Duke
16 Energy Ohio will partner with interested parties to discuss modifications to our
17 existing SREC program intended to increase participation in said program. And to
18 the extent the parties are unable to agree on the appropriate modifications, the
19 Commission will retain the final authority to so decide, based upon review of the
20 parties' respective proposed revisions.

E. The ESP mandates the divestiture of Duke Energy Ohio's generating assets.

1 The ESP provided for in the Stipulation ensures the full, legal separation
2 of Duke Energy Ohio's legacy generation business, on the one hand, from its
3 distribution and transmission businesses, on the other. As I stated earlier,
4 Company witness Whitlock discusses the transfer of the generating assets in his
5 Direct Testimony.

6 **Q. IS THE STIPULATION A JUST AND REASONABLE RESOLUTION OF**
7 **THE ISSUES?**

8 A. Yes. As described above and in the testimony of other Company witnesses, the
9 Stipulation affords benefits to our customers and the public and is consistent with
10 established regulatory principles and practices. The Stipulation represents a timely
11 and efficient resolution of all of the issues in this proceeding, after thoughtful
12 deliberation and discussion by the parties.

13 **Q. ARE YOU FAMILIAR WITH THE POLICIES OF THE STATE OF OHIO,**
14 **AS SET FORTH IN SENATE BILL 221, WHICH WAS PASSED IN 2008?**

15 A. I am familiar with the state policies articulated in R.C. 4928.02. I am also aware
16 that the Ohio Supreme Court recently described these policies as guidelines for
17 the Commission to weigh in evaluating an electric distribution utility's SSO
18 application.

19 **Q. DO YOU BELIEVE THAT THE ESP, AS DETAILED IN THE**
20 **STIPULATION, ADVANCES STATE POLICIES?**

21 A. Yes. And, as set forth in the Stipulation, the signatory parties also agree that state
22 policy is advanced under the Company's ESP.

1 **Q. PLEASE EXPLAIN HOW THE ESP ADVANCES THE STATE POLICY**
2 **TO ENSURE THE AVAILABILITY TO CONSUMERS OF ADEQUATE,**
3 **RELIABLE, SAFE, EFFICIENT, NONDISCRIMINATORY, AND**
4 **REASONABLY PRICED RETAIL ELECTRIC SERVICE.**

5 A. Duke Energy Ohio's ESP will ensure that our customers have a reliable and
6 sufficient supply of electric generation. By committing to an auction format for
7 the procurement of supply, the Company's plan will provide competitively priced
8 products. As I stated in my Direct Testimony, Duke Energy Ohio will remain the
9 distribution service company for customers and thus will have the same
10 obligations related to reliable service, safety, and nondiscrimination that it has
11 now. For all of these reasons, the ESP advances state policy regarding adequacy,
12 reliability, safety, efficiency, nondiscrimination, and reasonable pricing in the
13 supply of electric service.

14 **Q. PLEASE EXPLAIN HOW THE ESP ADVANCES THE STATE POLICY**
15 **TO ENSURE THE AVAILABILITY OF UNBUNDLED AND**
16 **COMPARABLE RETAIL ELECTRIC SERVICE THAT PROVIDES**
17 **CONSUMERS WITH THE SUPPLIER, PRICE, TERMS, CONDITIONS,**
18 **AND QUALITY OPTIONS THEY ELECT TO MEET THEIR**
19 **RESPECTIVE NEEDS.**

20 A. The state of Ohio has determined that competition in the supply of retail
21 generation service is important. And pursuant to the ESP detailed in the
22 Stipulation, customers will retain access to diverse suppliers, thereby ensuring
23 their statutory right to choose suppliers. For those customers who remain with

1 Duke Energy Ohio's SSO, the ESP provides a measure of price stability by
2 establishing prices for energy and capacity that are derived from staggered
3 procurements.

4 Under the ESP, as detailed in the Stipulation, generation service from
5 Duke Energy Ohio remains unbundled and separate from transmission and
6 distribution service.

7 **Q. PLEASE EXPLAIN HOW THE ESP ADVANCES THE STATE POLICY**
8 **TO ENSURE DIVERSITY OF ELECTRIC SUPPLIES AND SUPPLIERS**
9 **AND BY ENCOURAGING DEVELOPMENT OF DISTRIBUTED AND**
10 **SMALL GENERATION FACILITIES.**

11 A. Customers will continue to have the opportunity to switch to a CRES provider for
12 their generation supply needs. Duke Energy Ohio currently has many active
13 CRES providers in its service territory – whether owners of generation assets or
14 not – and does not anticipate a diminution in the CRES providers' ability to
15 operate in the Duke Energy Ohio territory. Abundant diversity in supplies and
16 suppliers, currently present in our territory, will continue to exist.

17 Further, under the ESP, Duke Energy Ohio will rely upon the competitive
18 market to obtain the resources needed for its SSO load via an independent CBP
19 plan. This provides competitive suppliers with a new opportunity to sell their
20 output.

21 **Q. PLEASE EXPLAIN HOW THE ESP ADVANCES THE STATE POLICY**
22 **TO ENCOURAGE INNOVATION AND MARKET ACCESS FOR COST-**
23 **EFFECTIVE SUPPLY AND DEMAND-SIDE RETAIL ELECTRIC**

1 **SERVICE, INCLUDING, BUT NOT LIMITED TO, DEMAND-SIDE**
2 **MANAGEMENT, TIME-DIFFERENTIATED PRICING, AND**
3 **IMPLEMENTATION OF ADVANCED METERING INFRASTRUCTURE.**

4 A. Duke Energy Ohio’s proposed ESP will not affect its obligations to meet energy
5 efficiency and demand-side management standards required under Ohio law.
6 Consistent with the Stipulation, Duke Energy Ohio will continue to explore all
7 cost-effective energy efficiency offerings to meet the statutory thresholds
8 established under Ohio law and will continue deployment of our SmartGrid
9 program. Further, the Company will continue our retail Real Time Pricing
10 Program. Company witness Wathen discusses available pricing options in his
11 Supplemental Direct Testimony.

12 **Q. PLEASE EXPLAIN HOW THE COMPANY’S PROPOSED ESP**
13 **ADVANCES THE STATE POLICY TO ENCOURAGE COST-**
14 **EFFECTIVE AND EFFICIENT ACCESS TO INFORMATION**
15 **REGARDING THE OPERATION OF THE TRANSMISSION AND**
16 **DISTRIBUTION SYSTEMS OF ELECTRIC UTILITIES IN ORDER TO**
17 **PROMOTE BOTH EFFECTIVE CUSTOMER CHOICE OF RETAIL**
18 **ELECTRIC SERVICE AND THE DEVELOPMENT OF PERFORMANCE**
19 **STANDARDS AND TARGETS FOR SERVICE QUALITY FOR ALL**
20 **CONSUMERS, INCLUDING ANNUAL ACHIEVEMENT REPORTS**
21 **WRITTEN IN PLAIN LANGUAGE.**

22 A. As I noted in my Direct Testimony, the state of Ohio has determined that cost-
23 effective and efficient access to information regarding transmission and

1 distribution system operation is vital to effective customer choice and the
2 development of appropriate performance standards and targets for service quality,
3 with annual reports to be in plain language. Duke Energy Ohio provides free
4 information concerning its delivery services, available both on paper and
5 electronically, thereby supplying consumers with information that they might
6 need in order to make effective and appropriate choices. Duke Energy Ohio has
7 also complied with all Commission requirements regarding performance
8 standards and service quality targets and commits to preparing annual
9 achievement reports in plain language and the ESP detailed in the Stipulation will
10 not impact these issues.

11 **Q. PLEASE EXPLAIN HOW THE ESP ADVANCES THE STATE POLICY**
12 **TO ENSURE THAT AN ELECTRIC UTILITY'S TRANSMISSION AND**
13 **DISTRIBUTION SYSTEMS ARE AVAILABLE TO A CUSTOMER-**
14 **GENERATOR OR OWNER OF DISTRIBUTED GENERATOR, SO THAT**
15 **THE CUSTOMER-GENERATOR OR OWNER CAN MARKET AND**
16 **DELIVER THE ELECTRICITY IT PRODUCES.**

17 A. The Stipulation does not disrupt Duke Energy Ohio's existing tariffs for
18 interconnections or net metering. Consequently, customer generators will still
19 have access to Duke Energy Ohio's system.

20 **Q. PLEASE EXPLAIN HOW THE ESP ADVANCES THE STATE POLICY**
21 **TO RECOGNIZE THE CONTINUING EMERGENCE OF COMPETITIVE**
22 **ELECTRICITY MARKETS THROUGH THE DEVELOPMENT AND**
23 **IMPLEMENTATION OF FLEXIBLE REGULATORY TREATMENT.**

1 A. The ESP not only recognizes but ensures competitive markets in southwest Ohio.
2 Both the agreed-upon CBP plan for procuring the supply needed to serve Duke
3 Energy Ohio's SSO customers and the enhancements to participation in retail
4 choice function to perpetuate competition in Duke Energy Ohio's service
5 territory.

6 **Q. PLEASE EXPLAIN HOW THE ESP ADVANCES THE STATE POLICY**
7 **TO ENSURE EFFECTIVE COMPETITION IN THE PROVISION OF**
8 **RETAIL ELECTRIC SERVICE BY AVOIDING ANTI-COMPETITIVE**
9 **SUBSIDIES FLOWING FROM A NON-COMPETITIVE RETAIL**
10 **ELECTRIC SERVICE TO A COMPETITIVE RETAIL ELECTRIC**
11 **SERVICE OR TO A PRODUCT OR SERVICE OTHER THAN RETAIL**
12 **ELECTRIC SERVICE, AND VICE VERSA, INCLUDING BY**
13 **PROHIBITING THE RECOVERY OF ANY GENERATION-RELATED**
14 **COSTS THROUGH DISTRIBUTION OR TRANSMISSION RATES.**

15 A. The riders established under the ESP do not result in the recovery of generation-
16 related costs through distribution or transmission rates. Further, explicit provision
17 has been made in the Stipulation to guard against the threat, albeit remote, of
18 improper cross-subsidies. Indeed, Duke Energy Ohio has committed that it will
19 not participate in the CBP plan for the first three years of the ESP. Rather, the
20 energy associated with Duke Energy Ohio's directly owned generating assets will
21 be sold into the day-ahead markets or pursuant to bilateral contracts. Further, the
22 transfer of the Company's generating assets and the commitment to implement

1 full corporate separation ensure a structure pursuant to which effective
2 competition will result.

3 **Q. PLEASE EXPLAIN HOW THE ESP ADVANCES THE STATE POLICY**
4 **TO ENSURE RETAIL ELECTRIC SERVICE CONSUMERS**
5 **PROTECTION AGAINST UNREASONABLE SALES PRACTICES,**
6 **MARKET DEFICIENCIES, AND MARKET POWER.**

7 A. At the retail or state level, the Commission will have oversight of the CBP plan
8 and thus will be positioned to detect and remedy any unreasonable sales practices.
9 Further, Duke Energy Ohio has secured an independent third party to serve as the
10 auction manager, thereby creating a level playing field for all auction participants.

11 At the wholesale level, Duke Energy Ohio is currently a member of the
12 Midwest Independent System Operator, Inc., and is realigning its regional
13 transmission organization (RTO) membership with PJM, effective January 1,
14 2012. PJM is a FERC-approved RTO and has independent market monitors
15 whose primary responsibility is to ensure there is no market power and to take
16 actions to mitigate the development of any such market power. Duke Energy
17 Ohio will continue to be subject to the Commission's jurisdiction and will
18 continue to be a member of a FERC-approved RTO after the ESP is approved.

19 **Q. PLEASE EXPLAIN HOW THE ESP ADVANCES THE STATE POLICY**
20 **TO PROVIDE COHERENT, TRANSPARENT MEANS OF GIVING**
21 **APPROPRIATE INCENTIVES TO TECHNOLOGIES THAT CAN**
22 **ADAPT SUCCESSFULLY TO POTENTIAL ENVIRONMENTAL**
23 **MANDATES.**

1 A. As I discussed above, the ESP includes provisions related to the renewable
2 energy industry and compliance with the state's AER requirements. Further, with
3 the implementation of a CBP plan, it is the market that will determine – and thus
4 provide incentive for – appropriate generation investment. Our customers will
5 benefit from these market forces via presumptively reasonable wholesale auction
6 prices.

7 **Q. PLEASE EXPLAIN HOW THE ESP ADVANCES THE STATE POLICY**
8 **TO ENCOURAGE IMPLEMENTATION OF DISTRIBUTED**
9 **GENERATION ACROSS CUSTOMER CLASSES THROUGH THE**
10 **REGULAR REVIEW AND UPDATING OF ADMINISTRATIVE RULES**
11 **GOVERNING CRITICAL ISSUES SUCH AS, BUT NOT LIMITED TO,**
12 **INTERCONNECTION STANDARDS, STANDBY CHARGES, AND NET**
13 **METERING.**

14 A. This particular state policy relates to the review and, as applicable, revision of
15 various administrative rules, which cannot be initiated by the Company. Rather,
16 the Commission would initiate such a process. That said, I would note that Duke
17 Energy Ohio will continue to participate in the Commission's rule review
18 proceedings.

19 **Q. PLEASE EXPLAIN HOW THE ESP ADVANCES THE STATE POLICY**
20 **TO PROTECT AT-RISK POPULATIONS, INCLUDING, BUT NOT**
21 **LIMITED TO, WHEN CONSIDERING THE IMPLEMENTATION OF**
22 **ANY NEW ADVANCED ENERGY OR RENEWABLE ENERGY**
23 **RESOURCE.**

1 A. As I detailed above, the ESP provides significant benefit to our customers,
2 including at-risk populations. Not intending to duplicate my prior testimony, I
3 reference here the following: (1) staggered procurements for generation service
4 that will result in stable rates predicated upon competitive market pricing; (2)
5 removal of existing barriers to participation in Customer Choice; (3) confirmed
6 discount for PIPP customers; (4) concerted effort to expand participation in our
7 SREC program; and, (5) funding commitments.

8 **Q. PLEASE EXPLAIN HOW THE ESP ADVANCES THE STATE POLICY**
9 **TO ENCOURAGE THE EDUCATION OF SMALL BUSINESS OWNERS**
10 **IN THIS STATE REGARDING THE USE OF, AND ENCOURAGE THE**
11 **USE OF, ENERGY EFFICIENCY PROGRAMS AND ALTERNATIVE**
12 **ENERGY RESOURCES IN THEIR BUSINESSES.**

13 A. Consistent with the Stipulation, Duke Energy Ohio and the Council of Smaller
14 Enterprises (COSE) will partner to educate small and mid-sized businesses in the
15 Duke Energy Ohio service territory on energy efficiency. To further this process,
16 COSE will join Duke Energy Ohio's Energy Efficiency Collaborative and
17 subsequently provide input in respect of the design of energy efficiency products.

18 **Q. PLEASE EXPLAIN HOW THE ESP ADVANCES THE STATE POLICY**
19 **TO FACILITATE THE STATE'S EFFECTIVENESS IN THE GLOBAL**
20 **ECONOMY.**

21 A. Under the ESP, competitive markets are preserved in southwest Ohio, thereby
22 inviting new market participants into the state. Further, various rate mechanisms
23 will yield benefits for our large industrial customers that serve as integral

1 members of our communities, in terms of employment, corporate presence, and
2 philanthropic involvement. Moreover, Duke Energy Ohio has committed to
3 working with our local hospitals in the areas of reliability, energy efficiency, and
4 service quality, all of which will contribute to the continued availability of quality
5 medical resources in southwest Ohio.

IV. CONCLUSION

6 **Q. DOES THIS CONCLUDE YOUR SUPPLEMENTAL DIRECT**
7 **TESTIMONY?**

8 **A. Yes.**