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23 On behalf of Ohio Energy Group.

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On behalf of the Ohio Environmental
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19 On behalf of Direct Energy Services, LLC
20 and Direct Energy Business, LLC.

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22 By Mr. Christopher Allwein
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25 On behalf of the Natural Resources
Defense Council.

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Thursday Morning Session,
November 3, 2011.

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EXAMINER PIRIK: We'll go on the record.

The Public Utilities Commission of Ohio has set for hearing at this time and place Case Numbers 11-3549-EL-SSO, 11-3550-EL-ATA, 11-3551-EL-UNC, 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 modification and tariffs for generation service, and amend its certified supplier tariff PUCO No. 20, and amend its corporate separation plan.

My name is Christine Pirik, with me is Katie Stenman. We are the attorney examiners with the Commission and we are assigned to hear this case.

At this time we'll take the appearances of the parties, starting with the company.

MS. SPILLER: Good morning, thank you, your Honor. On behalf of the applicant, Duke Energy-Ohio, Amy Spiller and my colleagues, Elizabeth Watts, Rocco D'Ascenzo, and Jeanne Kingery, 139 East Fourth Street, Cincinnati, Ohio 43202.

1 MR. PETRICOFF: May it please the
2 Commission, Howard Petricoff and Lija Kaleps-Clark
3 from the law firm of Vorys, Sater, Seymour & Pease,
4 on behalf of Constellation NewEnergy, Constellation
5 Energy Commodities Group, Exelon Generation Company,
6 the Retail Electric Suppliers Association, the
7 University of Cincinnati, and Miami University.

8 EXAMINER PIRIK: Thank you.

9 Mr. Royer.

10 MR. ROYER: Thank you, your Honor. Barth
11 Royer, Bell & Royer Co., LPA, 33 South Grant Avenue,
12 Columbus, Ohio, on behalf of Dominion Retail, Inc.

13 EXAMINER PIRIK: Thank you.

14 MS. MOONEY: On behalf of Ohio Partners
15 for Affordable Energy, Colleen Mooney, 231 West Lima
16 Street, Findlay, Ohio 45839.

17 MR. HAYDEN: Good morning, your Honors.
18 On behalf of FirstEnergy Solutions, Mark Hayden.

19 MR. BOEHM: Good morning, your Honor.
20 I'm David Boehm and entering an appearance also for
21 Mike Kurtz on behalf of the Ohio Energy Group through
22 the law firm of Boehm, Kurtz & Lowry, 36 East
23 Seventh Street, Cincinnati, Ohio 45208.

24 MR. O'BRIEN: Good morning, Madam
25 Examiners. On behalf of the City of Cincinnati,

1 Bricker & Eckler, LLP, by Thomas J. O'Brien, 100
2 South Third Street, Columbus, Ohio 43215. Thank you.

3 EXAMINER PIRIK: Thank you.

4 MR. POULOS: Good morning, your Honors.
5 Gregory J. Poulos on behalf of EnerNOC, Inc.

6 MR. YURICK: Good morning, your Honors.
7 On behalf of the Kroger Company, Mark Yurick, John
8 Bentine, Zach Kravitz, the law firm is Chester,
9 Willcox & Saxbe, 65 East State Street, Columbus,
10 Ohio, 43215.

11 EXAMINER PIRIK: Thank you.

12 MR. JONES: Good morning, your Honors.
13 On behalf of the staff of the Public Utilities
14 Commission of Ohio, Assistant Attorneys General Steve
15 Beeler, John Jones, 180 East Broad Street, Columbus,
16 Ohio.

17 MR. ALLWEIN: Good morning, your Honors.
18 On behalf of the Natural Resources Defense Council,
19 Christopher Allwein of Williams, Allwein & Moser,
20 1373 Grandview Avenue, Columbus, Ohio 43212.

21 MR. DOUGHERTY: Good morning, your
22 Honors. On behalf of the Ohio Environmental Council,
23 Trent Dougherty and Cathryn N. Loucas, 1207 Grandview
24 Avenue, Suite 201, Columbus, Ohio 43212.

25 EXAMINER PIRIK: Thank you.

1 MR. OLIKER: Good morning, your Honors.
2 On behalf of Industrial Energy Users-Ohio, Joseph
3 Oliker, Sam Randazzo, and Frank Darr of the law firm
4 of McNees, Wallace & Nurick, 21 East State Street,
5 Columbus, Ohio 43215. Thank you.

6 MS. YOST: Good morning, your Honors. On
7 behalf of the Office of the Ohio Consumers' Counsel,
8 Bruce J. Weston, Interim Consumers' Counsel, Melissa
9 Yost, Jeff Small, Joe Serio, 10 West Broad Street,
10 Suite 1800, Columbus, Ohio 43215. Thank you.

11 EXAMINER PIRIK: Thank you.

12 Ms. Christensen.

13 MS. CHRISTENSEN: Good morning, your
14 Honors. On behalf of People Working Cooperatively,
15 Mary W. Christensen of the lawyer firm of Christensen
16 and Christensen, LLP, 8760 Orion Place, Suite 300,
17 Columbus, Ohio. Thank you.

18 EXAMINER PIRIK: Mr. Stinson.

19 MR. STINSON: On behalf of Direct Energy,
20 LLC and Direct Energy Business, LLC, Dane Stinson,
21 Bailey Cavalieri, 10 West Broad Street, Suite 2100,
22 Columbus, Ohio 43215.

23 EXAMINER PIRIK: Thank you.

24 Are there other appearances?

25 MR. S. MILLER: Good morning, your

1 Honors. Erin Miller on behalf of Ohio Power Company
2 and Columbus Southern Power Company. I'd also like
3 to enter an appearance on behalf of Matthew
4 Satterwhite at this time. One Riverside Plaza,
5 Columbus, Ohio 43215.

6 EXAMINER PIRIK: Is there anyone else?

7 I know that we have limited seating at
8 the table.

9 MS. KIMBROUGH: Margeaux Kimbrough from
10 the law firm of Kegler, Brown, Hill & Ritter, 65 East
11 State Street, Suite 1800, Columbus, Ohio, on behalf
12 of Duke Energy Retail Sales.

13 EXAMINER PIRIK: Thank you.

14 Does that cover everybody?

15 All right. We had discussion off the
16 record with regard to marking of exhibits and I
17 believe everyone has a sheet whereby the company's
18 exhibits are set forth. We will be getting an
19 expedited transcript in this case, and we appreciate
20 that from the company.

21 We have a couple motions, one of which
22 we'll deal with as we work through the exhibits and
23 the other one has to do with a motion for protective
24 orders with regard to some of the exhibits, and we
25 will deal with that at the conclusion of the

1 witnesses at today's hearing.

2 I also want to note that for those of you
3 who do leave once we start the motion for protective
4 order review, that we will be leaving the record open
5 today, we will not be closing the record at the end
6 of today's hearing, and that will be up to the
7 Commission to do so at the conclusion of their
8 consideration of this case. So I just wanted to note
9 that early on for anyone who leaves the room.

10 So we will turn to the company now.

11 MS. SPILLER: Thank you, your Honor. If
12 I may, with respect to the -- I would first like to
13 start with the procedural aspect to formally and for
14 the record identifying some of the exhibits that Duke
15 Energy-Ohio will be offering into evidence this
16 morning.

17 I will start with Exhibit No. 1, the
18 company's application, along with Application
19 Attachments A through I asking that that application
20 with attachments filed on June 20, 2011, be marked as
21 Duke Energy-Ohio Exhibit No. 1.

22 EXAMINER PIRIK: The document is so
23 marked.

24 (EXHIBIT MARKED FOR IDENTIFICATION.)

25 MS. SPILLER: I would ask that

1 Application Attachment J, the public version of
2 workpapers filed on June 20, 2011, be marked as Duke
3 Energy-Ohio Exhibit 2.

4 EXAMINER PIRIK: Why don't you go ahead
5 and go through all of them and then I'll acknowledge
6 them.

7 MS. SPILLER: Thank you, your Honor.

8 Duke Energy-Ohio would offer as Duke
9 Energy-Ohio Exhibit 2A Application Attachment J the
10 confidential version of workpapers filed of record on
11 June 20, 2011.

12 Duke Energy-Ohio Exhibit 3, proof of
13 publication filed in the Commission docket on
14 June 26, 2011.

15 Duke Energy-Ohio Exhibit 4, the direct
16 testimony of B. Keith Trent filed on June 20, 2011.

17 Duke Energy-Ohio Exhibit 5, direct
18 testimony of Julia S. Janson filed on June 20, 2011.

19 Duke Energy-Ohio Exhibit 6, the public
20 version of the direct testimony of Judah L. Rose
21 filed on June 20, 2011.

22 Duke Energy-Ohio Exhibit 6A, the
23 confidential version of the direct testimony of Judah
24 L. Rose filed on June 20, 2011.

25 Duke Energy-Ohio Exhibit 7, direct

1 testimony of Stephen G. DeMay filed on June 20, 2011.

2 Duke Energy-Ohio Exhibit 8, direct
3 testimony of James S. Northrop filed on June 20,
4 2011.

5 Duke Energy-Ohio Exhibit 9, direct
6 testimony of Robert J. Lee, filed on June 20, 2011.

7 Duke Energy-Ohio Exhibit 10, public
8 version of the direct testimony of William Don
9 Wathen, Jr. filed on June 20, 2011.

10 Duke Energy-Ohio Exhibit 10A,
11 confidential version of the direct testimony of
12 William Don Wathen, Jr. filed on June 20, 2011.

13 Duke Energy-Ohio Exhibit 11, direct
14 testimony of Andrew S. Ritch filed June 20, 2011.

15 Duke Energy-Ohio Exhibit 12, direct
16 testimony of Roger A. Morin, PhD, filed June 20,
17 2011.

18 Duke Energy-Ohio Exhibit 13, direct
19 testimony of Kenneth J. Jennings filed June 20, 2011.

20 Duke Energy-Ohio Exhibit 14, direct
21 testimony of Salil Pradhan filed June 20, 2011.

22 Duke Energy-Ohio Exhibit 15, direct
23 testimony of Jeffrey R. Bailey filed June 20, 2011.

24 Duke Energy-Ohio Exhibit 16, direct
25 testimony of James E. Zoilkowski filed June 20, 2011.

1 Duke Energy-Ohio Exhibit 17, direct
2 testimony of Mark D. Wyatt filed June 20, 2011.

3 Duke Energy-Ohio Exhibit 18, public
4 version of the direct testimony of Brian D. Savoy
5 filed June 20, 2011.

6 Duke Energy-Ohio Exhibit 18A,
7 confidential version of the direct testimony of Brian
8 D. Savoy filed June 20, 2011.

9 Duke Energy-Ohio Exhibit 19, direct
10 testimony of Christian E. Whicker filed June 20,
11 2011.

12 Duke Energy-Ohio Exhibit 20, direct
13 testimony of Daniel L. Jones filed June 20, 2011.

14 And, your Honor, the balance of the
15 exhibits we will mark as witnesses take the stand
16 this morning.

17 EXAMINER PIRIK: I do have two questions.
18 On September 28th there were documents filed, one
19 were replacement to Mr. Zoilkowski's 1 and 2
20 attachments, on I mean June 28th. I don't know if
21 I said June 28th, but I meant June 28th. We need
22 to somehow, since you marked his exhibit as 16, that
23 was filed on 6/20, we need to do something with the
24 revised attachments that were on the 28th.

25 MS. SPILLER: They are not confidential.

1 EXAMINER PIRIK: They weren't marked
2 confidential, they're in the open.

3 MS. SPILLER: Correct, but the
4 designation of 16A, I don't want to confuse the A as
5 we've denoted that as confidential.

6 EXAMINER PIRIK: Why don't we do 16.1.

7 MS. SPILLER: Okay.

8 EXAMINER PIRIK: And then also, with
9 regard to Mr. Wathen's, there was also attachments
10 filed with regard to his testimony on 6/28/11. We
11 can -- there were two pages, we can mark those, they
12 were both filed under confidential and we need to
13 have a discussion about those in the confidential,
14 once we talk about those later on.

15 MS. SPILLER: Right, your Honor. Exhibit
16 10A.1?

17 EXAMINER PIRIK: That would be fine.

18 MS. SPILLER: Okay.

19 EXAMINER PIRIK: I believe everything's
20 marked.

21 (EXHIBITS MARKED FOR IDENTIFICATION.)

22 MS. SPILLER: Thank you. Your Honor, if
23 I may, we would also propose, Duke Energy-Ohio would
24 propose that the stipulation and recommendation with
25 Attachments A through I docketed with the Commission

1 on October 24, 2011, be marked as Joint Exhibit 1.

2 EXAMINER PIRIK: The document is so
3 marked.

4 (EXHIBIT MARKED FOR IDENTIFICATION.)

5 MS. SPILLER: And with that, your Honor,
6 we will call our first witness this morning, Julia S.
7 Janson, to the stand, please.

8 EXAMINER PIRIK: Please raise your right
9 hand.

10 (Witness sworn.)

11 EXAMINER PIRIK: Thank you.

12 MS. SPILLER: May I approach, your Honor?

13 EXAMINER PIRIK: Yes.

14 MS. SPILLER: Thank you. Your Honor, I
15 would ask that the supplemental testimony of Julia S.
16 Janson filed on October 28, 2011, be marked as Duke
17 Energy-Ohio Exhibit 21 in this proceeding.

18 EXAMINER PIRIK: The document is so
19 marked.

20 (EXHIBIT MARKED FOR IDENTIFICATION.)

21 MS. SPILLER: Thank you.

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JULIA S. JANSON

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

DIRECT EXAMINATION

By Ms. Spiller:

Q. Ms. Janson, can you identify yourself for the record, please?

A. Yes. I'm Julie Janson, President of Duke Energy-Ohio and Duke Energy-Kentucky.

Q. And do you have before you, ma'am, a copy of a document Duke Energy-Ohio Exhibit 21?

A. I do.

Q. And can you identify that document for the record, please?

A. Well, I have -- I presume that that would be my supplemental testimony filed on behalf of Duke Energy-Ohio on October 28th.

Q. Do you have any changes, corrections, or amendments to your supplemental direct testimony?

A. I do not.

Q. And if I were to ask you, ma'am, the questions set forth in your supplemental direct testimony today, would your answers be the same as those reflected in Duke Energy-Ohio Exhibit 21?

A. They would.

1 MS. SPILLER: Thank you, your Honor. The
2 witness is available for cross-examination.

3 EXAMINER PIRIK: Thank you.

4 I won't specifically go around the table,
5 I will in general ask if there are any questions for
6 cross-examination of Ms. Janson.

7 (No response.)

8 EXAMINER PIRIK: Hearing none, I believe
9 the Bench does have some questions.

10 - - -

11 EXAMINATION

12 By Examiner Stenman:

13 Q. Ms. Janson, are there any provisions for
14 fallback arrangements in the event that a competitive
15 auction cannot proceed in the timeline specified in
16 the stipulation?

17 A. You know, I would ask that you also pose
18 this question of Company Witness Lee who will be
19 taking the stand following, but yes, we have made
20 provisions within the stipulation, although it's
21 certainly the company's intention that the auction be
22 carried forth within the balance of the year.

23 Q. Can you go into a little bit more detail
24 about what those fallback provisions would include?

25 A. I think I probably need to correct my

1 testimony. I don't think we made provisions -- we
2 made provisions in the event that through the next
3 ESP process, I don't believe we made provisions in
4 the stipulation in the event that the auction doesn't
5 take place in 2011.

6 Q. So just on the off chance that there is
7 no auction, the company has no plan?

8 A. I don't think that is the case. I think
9 the case is that we would fully plan to either
10 continue within the current ESP from a pricing
11 perspective into -- I think we would have to make an
12 application or some provision before the Commission
13 to allow us to continue that ESP pricing.

14 Certainly, we wouldn't fail to provide
15 adequate, reliable, and reasonably priced generation
16 service to our customers, but we have made every
17 provision and, in fact, have already begun that
18 process and put some of the website information
19 together, and we believe there is adequate time and
20 certainly, certainly we've made all provisions for
21 that auction to take place yet this year.

22 Q. Do you know the number of Duke customers
23 that have advanced meters?

24 A. I know where we are in the advanced meter
25 deployment. Certainly we have before the Commission

1 a mid-year -- a mid-term review filing which puts us
2 about halfway through the deployment.

3 I guess updates on a monthly basis, a
4 very detailed -- obviously we have both gas and
5 electric customers to whom we're deploying advanced
6 meters, and we're also at the same time deploying
7 digital communications equipment. I would say
8 roughly a third to a half of the Duke Energy-Ohio
9 electric customers have received advanced meters.

10 Q. Is that with respect to residential
11 customers or large industrial customers?

12 A. That's just an aggregate number.

13 Q. Okay.

14 A. Many of our residential customers and, in
15 fact, we actually thought about our deployment in a
16 thoughtful way to be sure that we were deploying in
17 some of our more urban regions first so that we could
18 deal with -- we have an inside meter, a number of our
19 customers have meters inside their homes through
20 which we have to gain access to read meters, so we
21 were thoughtful about that meter deployment to get
22 some of those more urban areas in our service
23 territory.

24 Q. In the stipulation the interval meter
25 threshold size requirement is increased from

1 100 kilowatts to 200 kilowatts. Do you know the
2 rationale behind that?

3 A. Not specifically.

4 Q. Is there another witness that would be
5 better able to answer that?

6 A. Mr. Wathen.

7 Q. Do you know the amount of commercial and
8 industrial load served under existing realtime
9 pricing tariffs for a comparable arrangement with
10 time-differentiated pricing?

11 A. I do not.

12 Q. Is there a better witness? Mr. Wathen?

13 A. I presume Mr. Wathen can answer that and
14 would be available today. Generally that would not
15 be a large percentage.

16 Q. Assuming Commission approval of the
17 stipulation, what elements of the company's transfer
18 of generation assets would remain subject to
19 Commission approval?

20 A. Can you -- can I hear the question again?

21 Q. Sure. Would the Commission have any
22 continuing jurisdiction over the transfer of
23 generation assets if the stipulation was approved, or
24 would the stipulation sort of be the final say with
25 respect to the transfer of the generation assets?

1 A. Mr. Whitlock is the company witness that
2 we have proffered to discuss the transfer of
3 generation, but it's not my understanding the
4 Commission would have continuing authority over that
5 should this stipulation be approved.

6 Q. Okay. And could you please walk us
7 through how -- the capacity purchases and the
8 flow-through of the costs under the stipulation?

9 A. The capacity --

10 Q. How the capacity is purchased and then
11 how those costs are flowed through to customers.

12 A. I think I can be responsive. Just the
13 way you formulated your question. So during the term
14 of the company's ESP -- let me back up.

15 So Duke Energy-Ohio has made provision to
16 move from MISO to PJM effective January 1st of
17 2012, and for the term of the ESP and a bit beyond
18 for the '15-'16 planning period the company has made
19 an election to be a fixed resource requirements
20 participant within PJM, which means that the company
21 would supply the capacity for its retail load.

22 So pursuant to the stipulation the way
23 that would work is the company would supply the
24 capacity to PJM and in turn PJM would then bill the
25 wholesale customers for the capacity at PJM's

1 capacity market pricing mechanism.

2 The CRES suppliers would also pay that
3 same price, otherwise known as the final zonal
4 clearing price or the FZCP.

5 Q. With respect to the stabilization charge
6 for high-load factor customers, is this based on a
7 customer's peak demand or does it have a relationship
8 to the coincidence between the customer's demand and
9 the applicable circuit utilities or the area's
10 coincident peak load?

11 A. Can you ask me the question again?

12 EXAMINER STENMAN: Can you read it back?

13 (Record read.)

14 A. I would have you ask Mr. Wathen that
15 question.

16 Q. Okay. And then one last question. I
17 know that Duke is able to do consolidated billing for
18 CRES providers and has entered into a purchase of
19 accounts receivable --

20 A. Yes.

21 Q. -- agreement.

22 Will Duke be able to accommodate
23 consolidated billing where a CRES provider provides
24 services that are not currently offered in terms of
25 Duke's rates and services? And if so, will there be

1 an additional cost to the CRES provider for that
2 consolidated billing?

3 A. You know, I know we've made a lot of
4 provision -- a number of provisions to ensure that
5 not only is there a robust competitive market but the
6 ability for CRES suppliers to compete within the
7 service territory including doing away with some
8 limitations on their ability to enter into the
9 purchase of accounts receivable, agreeing to some
10 lower bill switching charge costs, and others. But
11 specifically to your question, I don't -- I don't
12 know specifically.

13 Q. Is there anyone else who would be able to
14 answer that?

15 A. Mr. Wathen.

16 Q. Okay.

17 EXAMINER STENMAN: That's all I have.

18 EXAMINER PIRIK: Thank you, Ms. Janson.

19 THE WITNESS: Thank you.

20 MS. SPILLER: Your Honor, if I may, just
21 a couple of clarifying questions to Ms. Janson.

22 EXAMINER PIRIK: We don't typically do
23 that but I have no problem with clarification.

24 MS. SPILLER: Thank you, your Honor.

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FURTHER DIRECT EXAMINATION

By Ms. Spiller:

Q. I just wanted to be clear, Ms. Janson, you were asked about capacity charges or purchases and you said that PJM would bill the wholesale customer? Is it the customer or the supplier who will be billed by PJM, if you recall?

A. The supplier.

Q. Thank you.

MS. SPILLER: Thank you, your Honor.

THE WITNESS: I apologize if I misspoke.

EXAMINER PIRIK: That's fine. Thank you for the clarification.

Thank you, Ms. Janson.

MR. D'ASCENZO: Your Honor, for its next witness, Duke Energy-Ohio would call William Don Wathen.

Your Honor, for purposes of identification, if I could, we'd like to mark the supplemental testimony of William Don Wathen, Jr. as Duke Energy-Ohio Exhibit 22.

EXAMINER PIRIK: The document is so marked.

(EXHIBIT MARKED FOR IDENTIFICATION.)

MR. D'ASCENZO: And with respect to the

1 outstanding motion for WDW Supplemental Attachment 4,
2 how would you prefer that we do that; as a separate
3 attachment or if we were to mark that under the same
4 format that we've discussed previously with
5 supplements and do a ".1"?

6 EXAMINER PIRIK: The document that was
7 filed on 11/1 is what you're referring to?

8 MR. D'ASCENZO: Yes.

9 EXAMINER PIRIK: I think the .1 would be
10 appropriate.

11 MR. D'ASCENZO: Thank you.

12 EXAMINER PIRIK: And now would probably
13 be a good time just to clear up that motion with
14 regard to the timeliness of the filing of that.

15 The company had filed the attachment
16 along with a motion asking that it be accepted as
17 timely filed. Is there anyone who would like to
18 respond to the motion that we accept it as timely
19 filed before we rule on it?

20 (No response.)

21 EXAMINER PIRIK: Hearing none, the Bench
22 finds the motion that it be accepted as timely filed
23 be granted.

24 MR. D'ASCENZO: Thank you, your Honor.

25 May I approach?

1 EXAMINER PIRIK: Yes.

2 Mr. Wathen, will you please raise your
3 right hand.

4 (Witness sworn.)

5 EXAMINER PIRIK: Thank you.

6 - - -

7 WILLIAM DON WATHEN, JR.

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

10 DIRECT EXAMINATION

11 By Mr. D'Ascenzo:

12 Q. Mr. Wathen, would you please identify
13 yourself for the record?

14 A. My name is William Don Wathen, Jr.

15 Q. What is your business address and
16 position with the company?

17 A. It's 221 East Fourth Street, Cincinnati,
18 Ohio, and my title is Vice President and General
19 Manager of Rates for Ohio and Kentucky.

20 Q. Mr. Wathen, do you have in front of you
21 what has been marked as Duke Energy-Ohio Exhibit 22
22 and 22.1?

23 A. If that's my testimony, yes.

24 Q. Would you please identify what Attachment
25 22.1 is?

1 A. These aren't marked so is that the --

2 Q. That would be the filing that was made

3 on --

4 A. The supplemental filing?

5 Q. Yes.

6 A. Those were rates schedules, bill
7 comparison schedules for our major classes of
8 customers that were intended to be filed along with
9 supplemental testimony and it was just an oversight
10 that they were left out.

11 Q. And was that document that has been
12 marked as Exhibit 22.1 intended to be attachment WDW
13 Supplemental 4 to your testimony?

14 A. That's correct.

15 Q. And was that document prepared by you or
16 under your direction and control?

17 A. It was.

18 Q. And do you have any changes or
19 corrections to that document?

20 A. No. Nothing to that document, no.

21 Q. Thank you.

22 Going back to your supplemental
23 testimony, Duke Energy-Ohio Exhibit No. 22, do you
24 have any changes or corrections to your testimony?

25 A. I have a few changes to that testimony.

1 Beginning on page 5, lines 1 through 5, I'll just
2 read the sentence and correct it altogether but right
3 now it reads "The total cost of capacity is the
4 applicable Final Zonal Capacity Price (FZCP) for the
5 Duke Energy-Ohio and Duke Energy Kentucky load zone
6 region for the applicable delivery period," and it
7 continues.

8 It should read: "During the ESP period
9 the total cost of capacity is the applicable Final
10 Zonal Capacity Price (FZCP) for the unconstrained
11 regional transmission organization region for the
12 applicable delivery period."

13 And on page 10, line 8, there's a typo,
14 it should be -- there's a number date of "2001," it
15 should be "2011."

16 On page 11, line 18, change the
17 "2016/2017" to "2015/2016."

18 On page 25, line 1, the word
19 "stipulation" is misspelled, just correct that.

20 And on page 33, line 11, strike the first
21 occurrence of the word "the" from the sentence and
22 change the word "creating" to "creates."

23 And I do have a correction to two
24 attachments as well.

25 EXAMINER PIRIK: Hold on just a minute.

1 Okay. Go ahead.

2 A. I don't have copies for all this but I'll
3 file a supplemental. There was a tariff that's Sheet
4 No. 94 and 94.1, it's in Exhibits WDW Supplemental 2
5 and Supplemental 3, and I inadvertently did not make
6 a correction to those two tariffs, and we have those,
7 I won't go through them, but we'll give you corrected
8 copies. It's the backup delivery power rider.

9 EXAMINER PIRIK: In order to get -- we're
10 going to have to mark those as exhibits. Do you
11 physically have them here now?

12 THE WITNESS: I've got one copy.

13 EXAMINER PIRIK: One copy. We could mark
14 this as an exhibit and then you can provide the court
15 reporter and the Bench and parties, to the extent
16 they need them, copies of them.

17 MR. D'ASCENZO: That would be fine, your
18 Honor. For consistency purposes we would propose
19 marking those as WDW 22.2.

20 EXAMINER PIRIK: Yes, that would be
21 appropriate.

22 (EXHIBIT MARKED FOR IDENTIFICATION.)

23 EXAMINER PIRIK: And then if you could
24 just get the Bench copies of those because this copy
25 will go with the court reporter, if you could get the

1 Bench copies of those by the end of the day, that
2 would be appreciated.

3 MR. D'ASCENZO: Certainly, your Honor.
4 Thank you.

5 EXAMINER PIRIK: Go ahead.

6 Q. (By Mr. D'Ascenzo) Mr. Wathen, do you
7 have any additional corrections or changes?

8 A. Not at this time.

9 Q. With those corrections and changes do you
10 hereby adopt your supplemental testimony, your
11 Supplemental WDW Attachment 4 as your testimony for
12 purposes of this proceeding?

13 A. I do.

14 Q. Mr. Wathen, if I could ask you just one
15 more question. With respect to the auction that is
16 anticipated to occur this year as part of the
17 settlement of this case, if for some reason Duke
18 Energy-Ohio does not have an auction this year, is
19 there a contingency plan?

20 A. We had a contingency plan provided for in
21 our original testimony that would be applicable today
22 if needed, and that was, I mean, capacity price is
23 going to be the same price regardless of when the
24 auction happens. We can convert the one rider we
25 need, the rider RC, without an auction, and then to

1 the extent necessary we can buy power from the PJM
2 day-ahead realtime markets as necessary. It's not
3 the optimal solution but I think that's doable.

4 Q. Mr. Wathen, that would go into effect
5 should the Commission approve this stipulation but
6 for whatever reason the auction itself is not able to
7 happen.

8 A. That's correct. We have the tools
9 provided for in the stipulation to handle any
10 reconciliations that would be necessary.

11 MR. D'ASCENZO: Thank you, your Honor.
12 The witness is available for cross-examination.

13 EXAMINER PIRIK: Thank you.

14 Does anyone wish to cross-examine the
15 witness?

16 MR. PETRICOFF: Your Honor, I don't, but
17 we have an agreement between RESA and Constellation
18 and the company concerning testimony of Mr. Fein and
19 to a degree I guess this witness as well, I think it
20 probably makes more sense to introduce it with
21 Mr. Fein, but it does border on some of the testimony
22 for Mr. Watson [verbatim].

23 EXAMINER PIRIK: So do you want to ask
24 him questions or do you just --

25 MR. PETRICOFF: No, well, maybe now is

1 the time to put this on the record, your Honor, or if
2 you decide it's better for Mr. Fein, that's well and
3 good as well.

4 As with the case of most of the
5 out-of-town witnesses who are just filing support
6 testimony for the stipulation, all of the parties
7 today sort of round-robin e-mailed to see if there
8 was any cross-examination for, for example, in this
9 case Mr. Fein who's in Chicago, and none of the
10 intervenors had any questions for Mr. Fein.

11 But there was a clarification that was
12 requested by the company on Mr. Fein's testimony and
13 that had to do with his testimony on page 14, line 18
14 through page 15, line 2, this will be on his
15 Constellation testimony when they're talking about
16 what are the -- these are data and website updates
17 that are part of the stipulation and Mr. Fein says
18 that the company should -- or, rather, the Commission
19 should approve those.

20 And the reason for that statement is
21 because those are improvements that are going to come
22 later in time and, therefore, they're not in the
23 compliance tariffs. And so the company had asked for
24 a clarification because we just say "information"
25 there and we don't specify.

1 So we have agreed that we would specify
2 that had Mr. Fein been called to the stand today, he
3 would say that the reference there was to just the
4 website improvements and the information that you
5 will find in the stipulation in the section Roman IX.

6 Similarly, the company has agreed that
7 when the day comes, the appointed day that we have,
8 and there are different dates in there because, you
9 know, there are like goals that have to be met for
10 these upgrades, that the appropriate tariffs will be
11 filed and that's where Mr. Watson comes in because he
12 is the witness who is sponsoring the tariffs and that
13 was the understanding on which we have no
14 cross-examination for Mr. Watson and the company has
15 no cross-examination for Mr. Fein.

16 EXAMINER PIRIK: Just as a reminder, you
17 might next time want to also poll the examiners as to
18 whether we have questions. I mean, Mr. Fein was on
19 our list but I think the questions have been answered
20 at this point in time. But next time I would just
21 advise the parties if you have a witness that's going
22 to go on the stand, sometimes the Bench does have
23 questions.

24 MR. PETRICOFF: Thank you, your Honor. I
25 apologize for that, especially if it's an

1 inconvenience for the Bench.

2 With that in mind, we would certainly be
3 open to answering in interrogatory style in writing
4 any question that the Bench would have which, of
5 course, would be circulated to all parties.

6 EXAMINER PIRIK: And I think we're okay
7 because I believe the witness has -- Mr. Wathen
8 hopefully is available to answer some of our
9 questions with regard to some of the kilowatt
10 questions we have from Ms. Janson, and even though I
11 don't think even if Mr. Fein touches on that in his
12 testimony, I don't think it's necessary that he
13 answer that, I think the company will be able to
14 answer the questions, but thank you.

15 Ms. Watts?

16 MS. WATTS: Yes, thank you, your Honor.
17 If I may, I'd just like to confirm that
18 Mr. Petricoff's representation of the company's
19 position is accurate from our view and we will file
20 the necessary tariffs per our understanding with
21 Constellation.

22 EXAMINER PIRIK: Okay. It may be good
23 also, since we're at this point in time and you are
24 referencing Mr. Fein's testimony, so we don't get too
25 far in the transcript without having those documents,

1 why don't we mark the documents so that, and then you
2 can reiterate what the lines -- where the questions
3 were in that specific exhibit.

4 MR. PETRICOFF: Okay. Thank you, your
5 Honor. At this time we would like to have marked as
6 Constellation Exhibit No. 1 the direct prepared
7 testimony in support of the stipulation of David I.
8 Fein.

9 EXAMINER PIRIK: The document is so
10 marked.

11 (EXHIBIT MARKED FOR IDENTIFICATION.)

12 MR. PETRICOFF: And the reference that
13 was made earlier in the factual stipulation can be
14 found on page 14, line 18, running through page 15,
15 line 2.

16 And if your Honor will indulge me, in
17 addition, as long as we're marking testimony, I would
18 like to mark the direct prepared testimony in support
19 of the stipulation of David I. Fein on behalf of the
20 Retail Energy Supply Association as RESA, R-E-S-A,
21 Exhibit No. 1.

22 EXAMINER PIRIK: The documents are so
23 marked. Thank you. I think that clarifies the
24 record.

25 (EXHIBIT MARKED FOR IDENTIFICATION.)

1 EXAMINER PIRIK: Is there any other
2 cross-examination for this witness?

3 (No response.)

4 EXAMINER PIRIK: Hearing none.

5 - - -

6 EXAMINATION

7 By Examiner Stenman:

8 Q. Do you know the rationale for increasing
9 the interval meter threshold size from 100 to
10 200 kilowatts?

11 MR. HAYDEN: I'm sorry, your Honor.
12 Could you speak up a little bit?

13 EXAMINER STENMAN: Sure. I asked if he
14 knew the rationale for increasing the interval meter
15 threshold size from 100 to 200 kilowatts.

16 A. I don't know all the details of it. I
17 can tell you the limit of my knowledge on it and that
18 was intended to expand the switching opportunities
19 and eliminate another barrier to switching.

20 Q. Does it have any impact on current
21 customers?

22 A. No.

23 Q. Okay. Do you know the amount of Duke
24 commercial and industrial loads served under existing
25 realtime pricing tariffs or comparable arrangements

1 with differentiated pricing?

2 A. Current commercial and industrial load,
3 let me make sure I get the question right, served
4 under RTP? I don't -- I can tell you a few customers
5 but I don't know their load offhand, but it's -- it
6 can't be much more than 500,000 megawatt-hours I
7 wouldn't think.

8 Q. Okay. And will Duke continue to provide
9 new time differentiated and dynamic pricing options
10 to customers under the stipulation?

11 A. We have -- realtime pricing will continue
12 for certain customers that are commercial and
13 industrial customers. I think you're alluding to the
14 dynamic pricing options we have pilots for today, TD
15 rates, a few others, and we will absolutely continue
16 offering those, and as I provide in my testimony they
17 should become more, some of the barriers to people
18 enrolling in those should be eroding with this new
19 plan.

20 Q. And do you know with respect to the
21 stabilization charge for high-load factor customers,
22 is that based on a customer's peak demand or does it
23 have a relationship to the coincident between
24 customer demand and the applicable circuit utility or
25 the area's coincident peak load?

1 A. Make sure I understand the charge you're
2 asking about. The ESSC rider or the load factor
3 adjustment?

4 Q. The load factor adjustment.

5 A. The load factor adjustment will be the --
6 the billing determinant will be a customer's billing
7 demand which is the highest monthly peak independent
8 of when they peak with the company or with an RTO,
9 and it's a ratchet, so whatever their highest peak
10 for the year is in a given month, that will be their
11 bill for the next 12 months.

12 Q. Okay. And last one, will Duke be able to
13 accommodate consolidated billing of CRES services
14 where the pricing for the services to be billed are
15 not currently offered under Duke's current rates and
16 services?

17 A. Let me make sure I understand your
18 question. We offer consolidated billing for flat
19 rates, we offer consolidated billing for discounts,
20 so just a percent off the bill, and I think -- I
21 believe that we offer at least the opportunity to
22 work with the CRES providers to integrate new designs
23 but we do charge them for IT services that are being
24 done.

25 Q. Do you know what the IT charges are?

1 A. I believe it was in our tariff. Right
2 now it's \$75 an hour.

3 Q. Okay. Thank you.

4 EXAMINER PIRIK: Thank you, Mr. Wathen.

5 MR. PETRICOFF: Your Honor, since I do
6 not have Mr. Fein here today, although Mr. Fein
7 certainly thanks the Bench for keeping him from
8 Southwest Airlines for a trip back and forth, I do
9 want to note for the record two items: One, in his
10 direct prepared testimony for the Retail Electric
11 Supply Association on page 5, line 4, he does refer
12 to the movement from a 100-kW load to a 200-kW load
13 for having a meter as removing a barrier for
14 shopping.

15 And I ask that the Bench take judicial
16 notice of the current tariff which indicates that at
17 the moment its only shopping customers who have to
18 provide this meter from 100 kW to 200 kW at the
19 moment and that's done at the expense of the
20 customer.

21 EXAMINER PIRIK: Thank you.

22 Ms. Watts?

23 MS. WATTS: Thank you, your Honor. For
24 its next witness Duke Energy-Ohio would call Robert
25 J. Lee.

1 May I approach, your Honor?

2 EXAMINER PIRIK: Yes.

3 Mr. Lee, please raise your right hand.

4 (Witness sworn.)

5 EXAMINER PIRIK: Thank you.

6 - - -

7 ROBERT J. LEE

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

10 DIRECT EXAMINATION

11 By Ms. Watts:

12 Q. Sir, would you introduce yourself and
13 give us your title, please?

14 A. Sure. My name is Robert J. Lee. I'm a
15 principal with Charles River Associates in Boston.

16 Q. And, Mr. Lee, what is the business
17 address of Charles River?

18 A. 200 Clarendon Street, Boston, Mass.,
19 02116.

20 MS. WATTS: Your Honor, if I may, I'd
21 like to have Mr. Lee's supplemental direct testimony
22 marked as Duke Energy Exhibit 23.

23 EXAMINER PIRIK: The document will be so
24 marked.

25 (EXHIBIT MARKED FOR IDENTIFICATION.)

1 Q. Mr. Lee, do you have that document before
2 you?

3 A. I do.

4 Q. Can you tell me what that is, please?

5 A. This is my supplemental testimony filed
6 as part of this proceeding.

7 Q. And if I were to ask you the questions
8 contained in that testimony, would your answers today
9 be the same?

10 A. They would, yes.

11 Q. Do you have any additions or corrections
12 to that testimony?

13 A. I have no corrections.

14 Q. Mr. Lee, turning your attention to page
15 5 --

16 A. Yeah.

17 Q. -- beginning at line 11 --

18 A. Yes.

19 Q. -- is there an update to that
20 information?

21 A. Yes, there is. On November 1st, so
22 that was Tuesday, we went live with the information
23 website as part of going forward with the auction for
24 this year, and in the first couple hours or so we had
25 about 25 registered parties. A lot of the major

1 parties who participated in other Ohio auctions that
2 we've conducted have registered as interested in this
3 proceeding and we expect to continue to have their
4 participation going forward.

5 Q. Do you have anything else you'd like to
6 offer with respect to that?

7 A. You know, I think that under the current
8 schedule we can conduct an auction this year. We've
9 started down that path. We're confident that we have
10 enough time to conduct each of the steps in the
11 process. And I think the experience that we had with
12 prior auctions and the experience bidders had with
13 prior auctions make the timeline more and more
14 reasonable.

15 Q. And could you advise the Bench with
16 respect to an event that's to occur on
17 November 8th, please.

18 A. On November 8th, that's our first
19 information session, that will be conducted via
20 WebEx. Information session is designed to allow
21 bidders and interested parties to ask questions about
22 the process and for the company and for CRA to inform
23 all interested parties about the process, the
24 products, and the timeline.

25 MS. WATTS: I have no further questions.

1 Mr. Lee is available for cross-examination.

2 EXAMINER PIRIK: Thank you. Is there any
3 cross-examination for this witness?

4 (No response.)

5 EXAMINER STENMAN: You said you have 25
6 interested parties. When you typically preregister
7 people for the information session, about what
8 percentage of the interested parties actually
9 participate in the auction, if you know?

10 THE WITNESS: Well, it's going to vary
11 from auction to auction and industry to industry.
12 You know, for Ohio auctions in the past we've had
13 between 10 and 20 actual bidders. I expect we will
14 continue to receive registrations through the
15 process. The information site has very recently gone
16 live.

17 But I offer the number out there, you
18 know, just to note that there is a lot of interest,
19 there's a lot of knowledge in the Duke-Ohio auction,
20 and in particular the large active participants from
21 prior auctions we've done are aware of the process
22 and have registered.

23 EXAMINER STENMAN: Thank you.

24 EXAMINER PIRIK: Thank you very much,
25 Mr. Lee.

1 MS. KINGERY: Your Honors, Duke
2 Energy-Ohio will call for its next witness Charles
3 Whitlock.

4 May I approach?

5 EXAMINER PIRIK: Yes.

6 MS. KINGERY: We would ask that the
7 direct testimony of Charles Whitlock filed on
8 October 28th be marked as Duke Energy-Ohio
9 Exhibit 24.

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

12 (EXHIBIT MARKED FOR IDENTIFICATION.)

13 MS. KINGERY: Thank you, your Honors.

14 EXAMINER PIRIK: Mr. Whitlock, please
15 raise your right hand.

16 (Witness sworn.)

17 EXAMINER PIRIK: Thank you.

18 Ms. Kingery.

19 - - -

20 CHARLES R. WHITLOCK

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

23 DIRECT EXAMINATION

24 By Ms. Kingery:

25 Q. Mr. Whitlock, would you please state your

1 name and business address for the record?

2 A. Yeah, Charles R. Whitlock, 139 East
3 Fourth Street, Cincinnati, Ohio.

4 Q. Thank you. And by whom and in what
5 capacity are you employed?

6 A. I'm employed by Duke Energy Business
7 Services and I'm the President of Midwest Commercial
8 Generation.

9 Q. Thank you very much.

10 And do you have in front of you what has
11 been marked as Duke Energy-Ohio Exhibit 24?

12 A. I do.

13 Q. And would you identify that, please?

14 A. It's my supplement -- it's my direct
15 testimony filed on behalf of Duke Energy-Ohio in the,
16 a long-numbered case.

17 Q. Thank you very much.

18 And was that prepared and filed under
19 your direction and supervision?

20 A. It was.

21 Q. And do you have any revisions to make to
22 that testimony today?

23 A. I do not.

24 Q. If I were to ask you all those same
25 questions today, would your answers be the same?

1 A. They would.

2 Q. Thank you very much.

3 MS. KINGERY: The witness is available
4 for cross-examination.

5 EXAMINER PIRIK: Thank you.

6 Is there any cross-examination for this
7 witness?

8 (No response.)

9 EXAMINER STENMAN: Assuming that the
10 stipulation is approved and not modified, are there
11 any elements of Duke's transfer of its legacy
12 generation assets or its corporate separation that
13 would be subject to any further Commission review?

14 THE WITNESS: I think the stipulation
15 serves as final approval for the transfer of the
16 assets. There is provision in the stipulation for an
17 audit to make sure that we basically transferred the
18 assets in a manner that's consistent with the
19 stipulation, and then there is some provisions on --
20 let me just look at the word real quick -- there are
21 three other items I believe that are listed that Duke
22 Energy-Ohio cannot do to the affiliate or the
23 subsidiary without Commission approval but those are
24 not the transfer of the assets.

25 EXAMINER STENMAN: Thank you.

1 EXAMINER PIRIK: Thank you, Mr. Whitlock.

2 THE WITNESS: That was easy.

3 EXAMINER PIRIK: I think I would prefer,
4 until we actually conclude the confidential piece of
5 it, to wait and just move all of the company's
6 exhibits at the same time. So I think if we go
7 forward with the other witnesses and remember to
8 actually move and do what we're going to do with
9 those exhibits at that time, I think that would be
10 appropriate.

11 MS. SPILLER: That's fine, your Honor.
12 That said, the company rests, the caveat being the
13 final admission or introduction or proposed
14 introduction into evidence of our exhibits.

15 EXAMINER PIRIK: Mr. Petricoff, with
16 regard to your -- I assume you're willing to go next
17 since you've already marked your exhibits.

18 MR. PETRICOFF: Yes, your Honor. That,
19 we are.

20 May I approach the court reporter? I do
21 have copies for her.

22 At this time we would like to move to
23 introduce RESA Exhibit No. 1 and Constellation
24 Exhibit No. 1.

25 EXAMINER PIRIK: Are there any objections

1 to the admission of RESA Exhibit 1 and Constellation
2 Exhibit 1 into the record?

3 (No response.)

4 EXAMINER PIRIK: Hearing none --

5 MS. SPILLER: No, your Honor.

6 EXAMINER PIRIK: -- those exhibits shall
7 be admitted into the record.

8 (EXHIBITS ADMITTED INTO EVIDENCE.)

9 EXAMINER PIRIK: I'm not aware of the
10 witness order so I assume staff will go last?

11 MR. JONES: That's fine, your Honor.

12 MR. YURICK: Your Honors, at this time if
13 I could have the testimony of Kevin Higgins marked as
14 Kroger Exhibit 1.

15 EXAMINER PIRIK: The document will be so
16 marked.

17 (EXHIBIT MARKED FOR IDENTIFICATION.)

18 MR. YURICK: I also, along with
19 Mr. Petricoff, failed to advise the Bench. I did
20 check with the other parties and they had no
21 questions. Certainly the offer that Mr. Petricoff
22 made to answer any questions in an interrogative
23 fashion, or if you would like Mr. Higgins to fly in
24 from Salt Lake City, we'll make him available, but I
25 did not do that, so my apologies to the Bench.

1 EXAMINER PIRIK: No, that's fine. I
2 believe the company witnesses answered all of our
3 questions and anything that's left over we'll be sure
4 to give to Ms. Turkenton.

5 MR. YURICK: At this point, then, your
6 Honors, I appreciate that and I would move the
7 admission of Kroger's Exhibit 1, the direct testimony
8 of Mr. Kevin Higgins in support of the stipulation.

9 EXAMINER PIRIK: Are there any
10 objections?

11 MS. SPILLER: No, your Honor.

12 MS. MOONEY: No.

13 EXAMINER PIRIK: Hearing none, Kroger
14 Exhibit 1 will be admitted.

15 (EXHIBIT ADMITTED INTO EVIDENCE.)

16 EXAMINER PIRIK: Ms. Mooney?

17 MS. MOONEY: Yes, your Honor, I'd like to
18 also mark as OP&E Exhibit 1 the direct testimony of
19 David C. Rinebolt in support of the stipulation, and
20 I have copies to give to the reporters.

21 There was a typo on the very first page
22 with the date incorrect, but other than that there's
23 no changes. And since I did correct that I'll go
24 ahead and give a copy to the court reporter and the
25 Bench.

1 (EXHIBIT MARKED FOR IDENTIFICATION.)

2 EXAMINER PIRIK: Well, and since I don't
3 see Mr. Rinebolt here, I'm assuming he didn't fly in
4 from northern Ohio.

5 MS. MOONEY: I was getting ready to do my
6 apologies about, and he could walk from Findlay. No,
7 he couldn't. He'd drive.

8 EXAMINER PIRIK: I was looking forward to
9 having him on the stand.

10 MS. WATTS: So were we all, your Honor.

11 EXAMINER PIRIK: Are there any objections
12 to OP&E Exhibit 1?

13 MS. WATTS: No.

14 EXAMINER PIRIK: Hearing none, it will be
15 admitted into the record.

16 MS. MOONEY: Thank you.

17 (EXHIBIT ADMITTED INTO EVIDENCE.)

18 EXAMINER PIRIK: Now, Mr. Jones.

19 MR. JONES: Thank you, your Honor. At
20 this time the staff would like to call Tami Turkenton
21 to the stand, please. And also, your Honor, at this
22 time I'd like to mark the testimony in support of the
23 stipulation and recommendation of Tamara S. Turkenton
24 that was filed October 28th, 2011, as Staff Exhibit
25 No. 1.

1 EXAMINER PIRIK: The document will be so
2 marked.

3 (EXHIBIT MARKED FOR IDENTIFICATION.)

4 EXAMINER PIRIK: Ms. Turkenton, please
5 raise your right hand.

6 (Witness sworn.)

7 EXAMINER PIRIK: Thank you.

8 MR. JONES: I'm sorry, may I approach the
9 Bench? I don't know if you have a copy or not.

10 EXAMINER PIRIK: Yes.

11 - - -

12 TAMARA S. TURKENTON

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

15 DIRECT EXAMINATION

16 By Mr. Jones:

17 Q. Ms. Turkenton, I have before you what's
18 marked as Staff Exhibit 1. Was this exhibit either
19 prepared by you or at your direction?

20 A. It was.

21 Q. Okay. And do you have any changes or
22 additions to make to this exhibit?

23 A. I do not.

24 Q. And if I were to ask you the same
25 questions in this exhibit, your answers would be the

1 same?

2 A. They would.

3 Q. And do you adopt the testimony in Staff
4 Exhibit 1 as your testimony for this proceeding
5 today?

6 A. I do.

7 MR. JONES: No further questions, your
8 Honor. I offer the witness for cross-examination.

9 EXAMINER PIRIK: Thank you.

10 Are there any questions?

11 MS. SPILLER: No, your Honor.

12 EXAMINER PIRIK: No?

13 THE WITNESS: Oh, you're going to be easy
14 on me.

15 EXAMINER PIRIK: Yeah, we don't have any
16 questions for Ms. Turkenton.

17 THE WITNESS: I brought the whole thing
18 up. Come on, just one question. I'm kidding.

19 EXAMINER PIRIK: Thank you.

20 MR. JONES: At this time, your Honor, I'd
21 like to move for the admission of Staff Exhibit 1
22 into evidence.

23 EXAMINER PIRIK: Are there any
24 objections?

25 MS. SPILLER: No, your Honor.

1 EXAMINER PIRIK: Hearing none, Staff
2 Exhibit 1 will be admitted into the record.

3 (EXHIBIT ADMITTED INTO EVIDENCE.)

4 EXAMINER PIRIK: I believe that concludes
5 the witnesses that had prefiled testimony and I
6 believe the only matter that we have to discuss at
7 this point in time is the confidential information
8 and the motion for protective order that's been filed
9 by the company.

10 MS. SPILLER: Your Honor, I believe that
11 is correct. In respect of the exhibits, we did also
12 have the Joint Exhibit No. 1, the stipulation and
13 recommendation, and understanding that we may lose
14 some counsel when we move into the topic of
15 confidential material, and perhaps as an
16 off-the-record discussion for a moment, but I did
17 want to just broach the subject of briefing with you.

18 EXAMINER PIRIK: I think it would be
19 appropriate to move forward and see if there are any
20 objections to the joint exhibit and I assume there
21 are none.

22 (No response.)

23 EXAMINER PIRIK: Joint Exhibit 1 shall be
24 admitted into the record.

25 (EXHIBIT ADMITTED INTO EVIDENCE.)

1 MS. SPILLER: Thank you, your Honor.

2 EXAMINER PIRIK: Okay. We'll go off the
3 record for just a minute.

4 (Discussion off the record.)

5 EXAMINER PIRIK: We'll go back on the
6 record.

7 In light of the fact that we are not
8 closing the record today and the Commission will take
9 everything under consideration, we're not requesting
10 briefs at this time, but the record will remain open
11 in the event additional process is needed.

12 I think with that, I think that's the
13 only other thing other than the confidential
14 information that we need to move into.

15 MS. MOONEY: Your Honor, if an attorney
16 doesn't stay for the whole discussion on what's
17 confidential or not, we would still say we don't
18 object to the admission of the company's exhibits
19 which I think is still going to be an issue, so I --

20 EXAMINER PIRIK: That's fine.

21 MS. MOONEY: Thank you.

22 EXAMINER PIRIK: If you're not here,
23 since I'm not going specifically around the table for
24 objections, that will be fine. We purposely left
25 this to the end with the thought that, you know,

1 hopefully everything will be resolved very quickly
2 and we'll move on, but if not, we just need to be
3 sure the record's appropriate. So we didn't want to
4 keep anybody if they had other matters.

5 MR. BOEHM: We are grateful.

6 MR. O'BRIEN: Deeply.

7 EXAMINER PIRIK: Okay. I think perhaps
8 before we go into the confidential information that
9 was filed in relation to the initial testimony, I
10 think the easiest one to deal with, at least perhaps
11 that we can resolve, is Mr. Wathen's testimony, the
12 two pages that were filed on 6/28/11. And I would
13 ask that you look at Mr. Wathen's Attachment WDW 2,
14 page 4 of 9, which was filed in the open record and
15 compare that to the document that was filed under
16 seal.

17 MS. SPILLER: Your Honor, I would concur
18 that the document filed on June 28, 2011, WDW 2, page
19 4 of 9, is not a confidential document. That
20 document was filed to correct a title. There was a
21 mistake, the second line of the title, upper left
22 corner, originally filed as "Projected Other Taxes,"
23 when in fact the correct title for that document as
24 reflected in the June 28 filing is "Projected
25 Depreciation Expense."

1 EXAMINER PIRIK: Okay. So I guess my
2 request would be that once we determine, because we
3 have the other page that we need to address and we
4 can address this within the context of Mr. Wathen's
5 testimony, but once we're concluded with this,
6 assuming that some of the information that has been
7 provided where confidentiality's been requested and
8 the Bench rules that it's not going to be protected,
9 that we will come up with an attachment or an exhibit
10 designation that you will file as a late-filed
11 exhibit opening those items up to the public record.

12 MS. SPILLER: Okay.

13 EXAMINER PIRIK: And so that would be
14 just one of -- that obviously will be a page in the
15 exhibit for Mr. Wathen.

16 MS. SPILLER: Okay.

17 EXAMINER PIRIK: So we just need to
18 remember to add that to that exhibit number.

19 Why don't we go ahead and talk about
20 Mr. Wathen's testimony then. We'll just resolve the
21 whole issue with Mr. Wathen's testimony.

22 MS. SPILLER: Okay.

23 EXAMINER PIRIK: I believe the first
24 request is on Wathen Exhibit 10, or Company Exhibit
25 10, and again, we are in the open record so I'm just

1 going to talk line numbers and whatnot.

2 Hopefully there's not a need to do
3 anything other than that, but because the motion for
4 protective order was kind of brief in the explanation
5 as to why things were needed to be confidential, I'm
6 going to have to ask for an explanation and I'm
7 hoping we'll be able to have that explanation without
8 going into proprietary information.

9 MS. SPILLER: Understood, your Honor.

10 EXAMINER PIRIK: So the first request is
11 on page 8, beginning at line 1 through 8, and we'll
12 just, I mean perhaps we could go through all of his,
13 but --

14 MS. SPILLER: I believe save for the
15 attachments this is the only partial portion of
16 Mr. Wathen's testimony that was redacted, your Honor.

17 EXAMINER PIRIK: Yes. So why don't we
18 deal with this and then we can deal with the
19 attachments.

20 MS. SPILLER: Sure. We had redacted this
21 portion of Mr. Wathen's testimony. If you will
22 recall, your Honor, Ms. Janson's testimony this
23 morning identified Duke Energy-Ohio's status as a
24 fixed resource requirement entity in PJM. Consistent
25 with that status, Duke Energy-Ohio has an obligation

1 to supply capacity. This portion of the testimony
2 concerns Duke Energy-Ohio's satisfaction, if you
3 will, with that requirement.

4 Under an FRR entity designation a company
5 can self-supply their own capacity or engage in other
6 methods of procurement. To the extent that other
7 methods of procurement would entail interaction with
8 counterparties in the marketplace, public disclosure
9 of a company's intent to so do, that could work an
10 unfair advantage to that company.

11 That was the basis or rationale behind
12 redacting this part of his testimony, so as to not
13 unduly prejudice Duke Energy-Ohio should it find
14 itself out in the market interacting for a commodity
15 specific to its FRR obligations.

16 EXAMINER PIRIK: So the stipulation
17 itself and everything that's in the stipulation that
18 includes capacity is -- this language is in no way
19 changed by.

20 MS. SPILLER: That is correct. Under the
21 stipulation it is identified with respect to the SSO
22 supply that Duke Energy-Ohio will remain as an FRR
23 entity for the term of this ESP and supply capacity.
24 It doesn't go beyond that in the stipulation detail,
25 if you will, the sources of that supply.

1 And I will also add there is provision
2 within the stipulation for whether Duke Energy -- I'm
3 sorry, not "whether," but Duke Energy-Ohio's efforts
4 to exit the FRR plan early, but I don't believe that
5 that would change at all this portion of Mr. Wathen's
6 testimony.

7 EXAMINER PIRIK: Are there any objections
8 to this motion?

9 (No response.)

10 EXAMINER PIRIK: Hearing none, the motion
11 will be granted.

12 MS. SPILLER: Thank you, your Honor.

13 EXAMINER PIRIK: Moving to the
14 attachments. I believe the first one is WDW 1, page
15 10 of 17.

16 MS. SPILLER: That is what I have as
17 well, your Honor.

18 EXAMINER PIRIK: Perhaps it would be best
19 if, I mean, you're aware of what the attachments are,
20 if you can group them, if there is a way to group
21 them, or if we should do them individually, if you
22 have the same arguments for certain attachments, then
23 that might be easier. I do. I also will say, your
24 Honor, we have revision in that information contained
25 on these various pages we will withdraw the request

1 for confidential information for certain of the
2 columns of information. I could probably do that
3 globally if that would be helpful with respect to the
4 attachments in Mr. Wathen's testimony.

5 To the extent these tables and the left
6 portions of the tables contain a line number column
7 as well as designated line numbers, the numeric
8 information for line number, and then a description
9 so that the word "description," whether that includes
10 the identification of a generating station or a
11 particular FERC account, Duke Energy-Ohio will
12 withdraw its request for confidential treatment in
13 respect of that information.

14 The concern in that which is the focus of
15 our motion would be the actual detail, the numeric
16 information, the dollar amounts, the company-specific
17 information that would pertain to each line number
18 and or description.

19 EXAMINER PIRIK: And that would go for
20 all of the attachments both in the -- there's no
21 exception as far as the left-hand column description
22 through the description?

23 MS. SPILLER: The only caveat that I
24 would have, your Honor, is with respect to page 1017,
25 WDW 1, there is a line, line No. 25, we would ask

1 that that detail remain redacted all the way through
2 actually the number. So we would ask that -- I
3 withdraw that. We are fine in releasing the line
4 number, the FERC account number as well as the
5 description for No. 25.

6 EXAMINER PIRIK: Okay. So then for all
7 of the attachments the line number and description
8 and the FERC account numbers will be open. Is this
9 correct?

10 MS. SPILLER: That's correct, your Honor.

11 EXAMINER PIRIK: I just want to be sure
12 on WDW 2, page 1 of 1, which has been corrected I
13 understand, but there were a couple lines after line
14 15 that have been asked, are those okay to be open?

15 MS. SPILLER: Yes, your Honor, the
16 version of WDW 2, page 1 of 1, filed on June 28,
17 2011, consistent with my prior representations the
18 leftmost column line number in its entirety as well
19 as the second leftmost column description in its
20 entirety we would withdraw the request for
21 confidential treatment.

22 EXAMINER PIRIK: Okay.

23 MS. SPILLER: Again, reserving the
24 request to the actual detailed numeric information
25 within the table.

1 EXAMINER PIRIK: And, again, we're just
2 talking about the description piece but I just want
3 to be sure. WDW 2, page 2 of 9, that farthest
4 left-hand corner or left-hand column, it's not
5 titled, well, at least on this copy it's not titled;
6 it could be on an original.

7 MS. SPILLER: Yes, your Honor, the
8 leftmost column.

9 EXAMINER PIRIK: Okay. Is that true for
10 page 3 of 9 of that same --

11 MS. SPILLER: Yes, your Honor.

12 EXAMINER PIRIK: Page 5 of 9?

13 MS. SPILLER: Yes, your Honor.

14 EXAMINER PIRIK: Page 6 of 9?

15 MS. SPILLER: Yes, your Honor.

16 EXAMINER PIRIK: And then page 8 of 9.

17 MS. SPILLER: Yes, your Honor.

18 EXAMINER PIRIK: Well, and 9 of 9 I guess
19 also.

20 MS. SPILLER: Yes. And if I may, just to
21 address page 7 of 9, as well the designations on the
22 left we would remove the request for confidential
23 treatment.

24 EXAMINER PIRIK: They would be open.

25 MS. SPILLER: Yes.

1 EXAMINER PIRIK: Okay. Now, with regard
2 to the specifics of the argument.

3 MS. SPILLER: Your Honor, if I may,
4 before I go to that, on page 6 of 9 contained within
5 this table is information that is public. The public
6 information would be the PJM capacity prices that are
7 known through the 2014-2015 delivery year.

8 So when looking in the middle of the
9 column, you will see dollar amounts 110, \$16.50,
10 23 -- I'm sorry, \$27.73, \$125, that information is
11 known, they are published PJM prices for capacity
12 resulting from their base residual auction. So we
13 will remove the request for confidential treatment
14 with respect to the public published capacity prices.

15 EXAMINER PIRIK: Okay. Thank you.

16 Is there anything else?

17 MS. SPILLER: There is nothing -- oh, if
18 I may, your Honor, going back, to be clear, if we
19 went back to WDW 1, page 10 of 17, Schedule C-2,
20 consistent with my prior representation, again, the
21 line number, FERC account number, account
22 descriptions on page 10 of 17 as well as 11 of 17 we
23 are withdrawing the request for confidential
24 treatment.

25 The fourth column from the left is

1 identified as "Total Per Books," that is the same
2 column that carries over from page 10 into page 11,
3 that information, that numeric information, is public
4 pursuant to Duke Energy-Ohio's FERC Form 1, so we
5 will be removing the request for confidential
6 treatment with respect to the detail in that column.

7 The balance of the table, and again the
8 numeric information, we would reserve or renew the
9 request for confidential treatment.

10 Then with regard to the Notes section we
11 would remove the request for confidential treatment,
12 as I believe the removal would be consistent with
13 Mr. Wathen's testimony save the note that pertains to
14 line No. 25. And, again, carrying over into page 11
15 removing the request for confidential treatment with
16 respect to the Notes column, the right most column on
17 that page.

18 EXAMINER PIRIK: You say, is there a note
19 on page 11 that you do not -- that you still want a
20 motion for protective order on?

21 MS. SPILLER: No, not on page 11, your
22 Honor.

23 EXAMINER PIRIK: Not on page 11, okay.

24 Okay, is there anything else?

25 MS. SPILLER: No, your Honor, with the

1 exception of the basis for the company's request with
2 respect to Mr. Wathen's attachments and workpapers.

3 EXAMINER PIRIK: Okay.

4 MS. SPILLER: And I will attempt to
5 summarize as best I can all of these attachments and
6 the reason for the request.

7 As the Bench is aware, when Duke
8 Energy-Ohio made its initial filing on June 20th of
9 this year, what it proposed was a long-term electric
10 security plan, a plan having a term of nine years and
11 five months.

12 In respect of that, and as Ms. Kingery
13 will detail further with respect to Judah Rose's
14 testimony, in order to project out financial
15 information consistent with filing requirements there
16 was reliance on confidential proprietary modeling.
17 Modeling and the mechanics of that modeling, the
18 results of that modeling if revealed, we believe,
19 would work an unfair competitive advantage to Duke
20 Energy-Ohio.

21 The documents contained within
22 Mr. Wathen's testimony include, for example, detail
23 with respect to operating and maintenance, operating
24 and maintenance costs that the company forecasts it
25 may incur or would likely incur with respect to its

1 proposed ESP.

2 In that regard I believe that it is
3 important to maintain the confidential nature of
4 these financial projections in that Duke Energy-Ohio
5 engages in the market with respect to commodities,
6 commodities that are part and parcel to its operation
7 and maintenance of its generating fleet.

8 To the extent Duke Energy-Ohio's forecast
9 with respect to what it projects to incur with
10 respect to operating its fleet would work a
11 disadvantage to Duke Energy-Ohio vis-a-vis its
12 interaction with its counterparties, vis-a-vis its
13 interaction with competitors.

14 I would also offer, your Honor, that
15 consideration of this material in the context of this
16 case, and more specifically the stipulation that has
17 been presented to the Bench, certainly underscores
18 the need to maintain the confidential nature of this
19 material.

20 As provided for in the stipulation, these
21 generating assets, as detailed in Mr. Wathen's
22 testimony and attachments, will move to a merchant
23 status, will be separated from the distribution
24 utility, and at that point in time they would be
25 severely compromised and Duke Energy-Ohio's affiliate

1 would be severely compromised in its participation in
2 wholly competitive markets if its projected operating
3 and maintenance and capital investments were to be
4 disclosed in the public domain.

5 And, again, part of Mr. Wathen's
6 testimony and the attachments in support thereof, as
7 I have previously testified, concerns Duke
8 Energy-Ohio's obligation as an FRR, or fixed resource
9 requirements entity, and addressing its capacity
10 obligations in respect of that entity's status.

11 So to the extent there is some suggestion
12 within these documents, and in fact there is specific
13 suggestion, as to Duke Energy-Ohio's position and its
14 level of supply, to the extent it would need to
15 engage in procurement strategies with counterparties
16 in the marketplace we believe it important to
17 maintain the confidential and proprietary nature of
18 its position.

19 EXAMINER STENMAN: Are there any
20 objections? Any response?

21 (No response.)

22 EXAMINER STENMAN: With the exception of
23 the information that we have already talked about
24 releasing into the open record, Duke's motion for
25 protective order will be granted with respect to the

1 remainder of the attachments.

2 MS. SPILLER: Thank you, your Honor.

3 EXAMINER STENMAN: Turning to Mr. Rose's
4 testimony, let's start with the information that's
5 actually contained in the testimony itself starting
6 on I believe page 8.

7 MS. KINGERY: Yes. I would note for the
8 record that the same arguments that Ms. Spiller just
9 talked about with regard to Mr. Wathen's testimony
10 also hold here. This information has been held
11 confidentially and is not released except to parties
12 who have a need for that information, and we believe
13 the disclosure of this information would work a
14 competitive disadvantage to Duke Energy-Ohio.

15 This information, and throughout
16 Mr. Rose's testimony and workpapers is based on
17 projections that were developed by Mr. Rose through
18 proprietary modeling, particularly with the years
19 2016 and beyond, and so we've been very careful
20 throughout the testimony to attempt to allow into the
21 public record information that's based on historical
22 figures and information that's based on projections
23 for the years 2015 and before except in some limited
24 circumstances.

25 So our goal has been to try and

1 differentiate those two time periods in order to keep
2 their proprietary -- the results of their proprietary
3 modeling confidential.

4 So if we look at this page, for example,
5 the first item that is redacted on line 14 is talking
6 about a percent increase that goes out through 2021
7 and, therefore, of necessity includes that time
8 period from 2016 forward that is proprietary, and the
9 same thing would apply to the item redacted from line
10 23.

11 EXAMINER PIRIK: Ms. Kingery, does
12 this -- with respect to just the testimony piece of
13 it --

14 MS. KINGERY: Yes.

15 EXAMINER PIRIK: -- do your arguments
16 apply to everything that's within the testimony, or
17 is there anything in the testimony that can be put in
18 the open record I guess is the question?

19 MS. KINGERY: Not that I have been able
20 to locate. Now, there may be, as we go through each
21 individual item, if you wish to do that, there may be
22 some places where we find that we've made an error
23 and allowed something to be redacted, attempted to
24 redact it and it wasn't meant to be, but I have not
25 located that.

1 In the workpapers I have found some
2 things that were redacted fully that correspond to
3 exhibits that are included within the testimony where
4 pieces of it should have been in the public record.

5 EXAMINER PIRIK: Okay. Well then why
6 don't we, since we're here, we'll just go through --
7 while we're sitting here if you could just go through
8 the pages of his testimony and be sure that you're
9 confident and then as we go through the attachments
10 and the workpapers, then, you know, if you see
11 something else, we can come back. But go ahead and
12 take a moment to go through it just to see if you see
13 anything.

14 MS. KINGERY: That's fine.

15 Page 10, those two redactions both
16 include the out years.

17 Page 11, same thing.

18 The next redaction is on page 13 and
19 those also include time periods out through 2021.

20 Page 14 has a number of redactions and,
21 again, they're talking about averages that include
22 the late years.

23 15, same thing, it goes out through 2021.

24 I believe the next redaction is on page
25 26 and that also is talking about the entire term of

1 the proposed ESP.

2 Page 31, again, is talking about 2021.

3 EXAMINER PIRIK: Now here I just want to
4 be -- what was a little bit confusing about this is
5 that when you compared the open to the closed, they
6 have different page numbers.

7 MS. KINGERY: Yes, there was a pagination
8 problem. Let's talk about it by section number from
9 here forward. I'm looking right now at page 31 of
10 the confidential version and it's Roman IV.2 that
11 we're up to.

12 EXAMINER PIRIK: Okay.

13 MS. KINGERY: Then the next page is
14 Exhibit F-1 and there you can see what we've redacted
15 is 2016 and beyond, and any averages that include
16 those time periods.

17 Under the question that follows F-1, this
18 includes up through 2021.

19 The next question, which is on page 33 of
20 the confidential version, there's a percentage that's
21 talking about the entire term.

22 Then the question right above Exhibit F-2
23 is referring to F-1 that we just talked about and F-2
24 that's right below this which, again, has averages
25 out through 2021.

1 I believe the next redaction is on
2 confidential page 48 which is in section Roman
3 Numeral V.4, a second question, and this is again
4 talking about the late years out through 2021.

5 Exhibit P we have redacted, proposed
6 redaction from 2016 on and the averages that include
7 those time periods.

8 And there's a question following
9 Exhibit Q that's talking about 2021.

10 EXAMINER PIRIK: On page -- and you're
11 talking about Exhibit Q. Here's part of my question
12 on this one at least, and I don't expect you to have
13 this with you, but my dilemma is, and this was
14 probably from just my memory of what we did in the
15 MRO, but in the MRO a similar chart as depicted in
16 Exhibit Q is in the open record. So I'm trying to
17 figure out why it's now in the closed record.

18 And I would be, you know, I realize that
19 Exhibit Q goes out even further than the exhibit that
20 was in Mr. Rose's testimony, but -- and here, I'll
21 show it to you.

22 MS. KINGERY: This is wholesale all hours
23 energy prices out through '14.

24 EXAMINER PIRIK: It may not be exactly,
25 but --

1 MS. KINGERY: And I'm looking at the
2 confidential, I didn't bring with me the actual
3 public version of Exhibit Q.

4 Did we redact that, the chart?

5 MS. SPILLER: The whole chart came out
6 and I think that's a clarification that we need to
7 make.

8 MS. KINGERY: Yes.

9 MS. SPILLER: So the point of demarcation
10 was really 2015.

11 MS. KINGERY: Right. If the whole chart
12 came out, I would propose that Duke Energy-Ohio could
13 redact only the ICF forecast time period, which is
14 2015 and beyond.

15 May I approach?

16 EXAMINER PIRIK: Yes.

17 MS. KINGERY: I'll bring this back.

18 So if we redacted only the ICF
19 proprietary projection time period, then it would
20 correspond more to what appears to have been done in
21 the MRO proceeding.

22 EXAMINER PIRIK: Hold on just one second.

23 I mean, there's no way you can do this at
24 this point in time, but the MRO testimony, I mean
25 there is quite a bit of information in the MRO

1 testimony that I have not done a comparison other
2 than this chart came to mind, but it appears as if
3 even some of the projections in some of the other
4 charts may be in the open record in the testimony
5 that was in the MRO, and I'm not saying the case
6 number and that would be inappropriate, but it's Case
7 No. 10-2586-EL-SSO.

8 At this time we're not going to be able
9 to sit here and go through them, but what I will ask
10 is we will make the ruling today but we'll make it
11 contingent upon a good-faith effort by the company to
12 go back and look at the charts that were provided in
13 the MRO and a reliance that if it was in the open
14 record in the MRO testimony, in Mr. Rose's testimony
15 in the MRO, that you would, when you file your
16 unredacted version, that you would file it at that
17 time with that.

18 I mean, I think that would be appropriate
19 because there's no way we can -- and it will take you
20 all time to do that.

21 MS. KINGERY: Yes.

22 EXAMINER PIRIK: I know with at least
23 some of the charts, you know, Exhibit J which follows
24 looks a lot -- like some of the charts where the
25 whole thing has been redacted, pieces of certain

1 things, and if you could just do that, then our
2 ruling will be contingent upon that.

3 MS. KINGERY: Yes, your Honor, we would
4 be most happy to do that.

5 EXAMINER PIRIK: Okay. I'm sorry, you
6 can continue now.

7 MS. KINGERY: Thank you, your Honor.

8 The next redaction is in Exhibit R where,
9 again, we redacted 2016 and forward.

10 And then in the question following there
11 is one redaction that appears and is related to the
12 time in 2018, according to his testimony.

13 Then page 52 in the confidential, two
14 questions down from where we just were, again, this
15 is a projection of 2018 figures.

16 And that follows throughout that entire
17 question and answer.

18 Then Exhibit S, we have redacted the
19 forecasts from 2016 and on and the averages that
20 include those time periods.

21 Exhibit T, same thing, we have redacted
22 only where the numbers were based on ICF forecasts.

23 Then confidential page 58, which is a
24 question asking about key input parameters and
25 there's a series of bullet points, and this is

1 talking about projections for the 2015 to 2021 time
2 period.

3 And Exhibit U that follows, we have
4 redacted the information that includes ICF forecast
5 figures.

6 Confidential page 61 there's a bullet
7 point talking about capital costs for new builds and
8 this is talking about 2015 expectations, this is
9 their projection.

10 And delivered coal prices, they have a
11 projection that goes out through 2017.

12 Confidential page 62, again, this is an
13 average that includes the late years in the ESP
14 period out through '21.

15 Then Exhibit V we have redacted
16 information for 2016 and beyond.

17 The question that follows is referring
18 back to Exhibit V, I'm sorry, it's looking forward to
19 V-1 on the next page summarizing that and, again,
20 there we have redacted the late years.

21 Exhibit W we've redacted the retail
22 market price projections for years 2016 and on.

23 Then I think we jump ahead a few pages to
24 Exhibit, looks like a question following Exhibit Z.
25 Just a moment.

1 Okay, it looks like we redacted Exhibit Z
2 itself -- no, we didn't. Z is open. Okay, so the
3 next redaction is below Exhibit Z and this is talking
4 about the -- out to 2021.

5 Exhibit AA we've redacted the information
6 for 2016 and forward, and the question following that
7 exhibit is talking about projected changes by 2021.

8 Exhibit BB, again, we've redacted the
9 retail price component projections for 2016 and
10 forward. And there's then a question following that
11 that comes up with a summary of the premium that's
12 calculated by -- I'm sorry, this one is referring to
13 CC that we're about to come to where, again, we've
14 redacted the late years as well as the average.

15 The next redactions that I have are on
16 confidential page 80 where this is talking about 2016
17 through '21 and Exhibit FF, again, we redacted only
18 the late years and averages.

19 Exhibit GG-1, the same is the case. And
20 then in the question that follows there are
21 references to late years where the data is redacted.
22 And in the next question, same thing, we're redacting
23 only the data that includes the late years.

24 And in Exhibit GG-2, same thing.

25 And in the Conclusions section, this is

1 confidential page 85, Mr. Rose discusses his
2 expectations for the entire ESP period, those actual
3 numbers are redacted. And that includes the second
4 paragraph under that question as well as the third
5 paragraph under that question.

6 That's the end of his testimony. But we
7 will absolutely go back through and compare the
8 specific information that's in here against what was
9 released in the MRO and ensure that there's nothing
10 that was released in the MRO that we are attempting
11 to redact.

12 EXAMINER PIRIK: Okay. So with regard to
13 Mr. Rose's Exhibit 6A, Company Exhibit 6A, I think
14 you noted one item that you would be filing in the
15 open record.

16 MS. KINGERY: Yes, that's correct. I
17 believe that was Exhibit Q of his testimony, or a
18 piece of it would be still redacted and the rest
19 would be open.

20 EXAMINER PIRIK: We will deal with how
21 we're going to mark the new open documents in the
22 open record once we're through everybody's testimony,
23 we'll figure out what that is, but with regard to the
24 motion for protective order with regard to
25 Exhibit 6A, the motion will be granted with the

1 exception of the one item, and you will -- you've
2 promised to go through in a good-faith effort to see
3 if there's anything else like the testimony in the
4 MRO filing and then you will file that as a
5 late-filed exhibit.

6 MS. KINGERY: Yes, thank you very much.

7 EXAMINER PIRIK: We'll designate what
8 that number will be once we're done with the
9 workpapers of Mr. Savoy.

10 Okay. Let's move on to the workpapers of
11 Mr. Rose.

12 MS. KINGERY: Here, your Honors, I would
13 note that there are a number of examples where an
14 exhibit was included in the testimony and then it is
15 reproduced again in the workpaper and is not
16 necessarily redacted in the same selective way, and
17 we would also endeavor to go through those and make
18 sure that the same redactions apply in the workpapers
19 that we've just talked about in the testimony.

20 So, for example, if I can point you to
21 Exhibit R, this is tab 3 in Mr. Rose's work papers --

22 EXAMINER PIRIK: And I know I didn't say
23 this, but we're talking about Company Exhibit 2A.

24 MS. KINGERY: Yes. Thank you very much.
25 Yes.

1 This is several pages into tab 3, you'll
2 find Exhibit R which is real electrical energy prices
3 in 2010 dollars per megawatt-hour, and that's
4 comparable to Exhibit R in Mr. Rose's testimony which
5 is on confidential page 51, and in the testimony that
6 we just went through, Exhibit R was selectively
7 redacted so that only the forecasted figures would be
8 redacted. And we would attempt to carry that same
9 selective redaction into the workpaper version of the
10 same -- of the corresponding exhibit.

11 EXAMINER PIRIK: And is that true with
12 the document, that's also true with Exhibit H which
13 is the first document in tab 3, right? That's found
14 on page 37 of the confidential?

15 MS. KINGERY: Yes. Exhibit H in his
16 testimony was not redacted at all, at least according
17 to my notes, it appears not to have been redacted.
18 So if it wasn't redacted in his testimony, we would
19 not redact it in the workpapers.

20 EXAMINER PIRIK: Okay.

21 MS. KINGERY: Let me just confirm that it
22 wasn't.

23 Correct, it appears that all of Exhibit H
24 appeared in the testimony and so it would all be
25 public in the workpaper.

1 EXAMINER PIRIK: Okay. With the
2 exception of that I'm trying to determine, do you
3 want to go tab by tab, because I'm not sure, I mean,
4 some of the information just doesn't appear to be
5 confidential information even though it's not in his
6 testimony. So I'm not -- is the concept that
7 everything in the workpapers --

8 MS. KINGERY: Can you give me an example?

9 EXAMINER PIRIK: Well, again, it's
10 more -- I understand some of the calculations and the
11 projections, the argument that you all have been
12 making, projections, but some of the calculations,
13 and it's hard because there's no page numbers, but
14 the second page in tab 3, I'm just not even --

15 MS. KINGERY: Can you give me a moment?

16 EXAMINER PIRIK: Yes.

17 MS. KINGERY: Your Honors, it appears to
18 us as we look at this that the figure on the third
19 and fourth lines, the titles are certainly public,
20 2009 to 2015 in nominal dollars. The figure that's
21 next to that on those third and fourth lines would be
22 confidential because that goes into the planning year
23 2015-'16, but nothing else would be. Everything else
24 is historical.

25 EXAMINER PIRIK: Well, I think if we can

1 come to a resolution that the projections, the 2015
2 and beyond, we will keep those confidential, but
3 anything that's historical we will not, anything
4 that's within Mr. Rose's testimony we will not. And
5 then there is also certain items that, I mean, you
6 can find on the internet; they're just open
7 documents.

8 MS. KINGERY: Yes, if information is
9 available on the internet, clearly it won't be
10 included in our redactions.

11 EXAMINER PIRIK: Okay.

12 MS. KINGERY: Right. If it was
13 previously made public in the MRO or is not a
14 projection, if it's historical.

15 EXAMINER PIRIK: Okay. Again, I think
16 it -- also I think the column headings that we had
17 agreed to on some of the previous documents, to the
18 extent that those can be open so that it gives some
19 flavor of exactly what the item is --

20 MS. KINGERY: Yes.

21 EXAMINER PIRIK: -- I think those need to
22 be put in the open record. I think it's going to be
23 difficult for us to go through the workpapers page by
24 page so I am, again, going to rely on the company in
25 good faith to go through them and follow what we have

1 decided here today, but I would turn to tab 26.

2 EXAMINER STENMAN: With respect to tab 26
3 and the, I believe it's the daily historical gas
4 prices, a lot of that is available on the internet.
5 I found at least five years of daily Henry Hub data
6 just through a Google search, and I know some of it
7 is not and it probably is proprietary data, but at
8 least five years of the Henry Hub nominal is public.

9 MS. KINGERY: We will pay particular
10 attention to that, thank you.

11 Mr. Whitlock indicates that the Henry Hub
12 prices are available through '19 publicly.

13 EXAMINER PIRIK: Okay.

14 MS. KINGERY: Thank you.

15 EXAMINER PIRIK: Is there any other
16 argument you'd like to make with regard to the
17 workpapers?

18 MS. KINGERY: Not at this time, thank
19 you.

20 EXAMINER PIRIK: Then I think we are
21 comfortable granting the motion, given the parameters
22 we mentioned with regard to the topic headings with
23 regard to anything that's already in Mr. Rose's
24 testimony, again, anything that was in Mr. Rose's MRO
25 testimony in that case, as well as anything that's

1 readily available on the internet, and we will rely
2 on the company in good faith to go back and provide a
3 public document within those parameters. And we will
4 decide what that document will be marked as soon as
5 we finish with Mr. Savoy's testimony.

6 MS. KINGERY: Thank you, your Honors.

7 EXAMINER PIRIK: Thank you.

8 Who is doing Mr. Savoy?

9 MS. SPILLER: Your Honor, I am happy to
10 do that and I am hoping that we will be brief with
11 this.

12 Mr. Savoy's testimony, the public version
13 of Duke Energy-Ohio Exhibit 18, page 6 of his
14 testimony, lines 18 through 21 was redacted from the
15 public filing.

16 Duke Energy-Ohio is removing the request
17 for redaction of lines 20 through 21. I think that
18 statement taken in and of itself is not at all
19 threatening to the company in respect of its
20 competitive position; however, lines 18 through 19 we
21 think are indicative of the company's intent with
22 respect to meeting its FRR obligations and would
23 renew the request for -- continue the request for
24 confidential treatment based on the same arguments
25 raised with respect to Mr. Wathen's testimony.

1 EXAMINER PIRIK: I think there's only one
2 item in the attachment.

3 MS. SPILLER: That is correct, and it was
4 the first page of Mr. Savoy's exhibits, Exhibit
5 MDS-1, page 1 of 1. In the public version the table
6 was redacted and save the line number and correlating
7 line -- corresponding line numbers, consistent with
8 the attachments to Mr. Wathen's direct testimony, we
9 are removing the request for confidential treatment
10 with respect to the description.

11 So in particular, the second left column
12 we will remove the redactions. The balance of the
13 table, the numeric information we would continue to
14 request confidential treatment.

15 Again, this is forward-looking
16 information with respect to the company's operation
17 and maintenance of its generating fleet. Consistent
18 with the arguments made earlier with regard to
19 Mr. Wathen's testimony, we would ask that that be
20 kept confidential.

21 EXAMINER PIRIK: With regard to those two
22 areas of Mr. Savoy's testimony, the Bench finds --
23 and those clarifications, the Bench finds that with
24 those corrections the motion for protective order
25 should be granted.

1 I would note, however, that the
2 protective order will be for a period of 18 months.

3 MS. SPILLER: Yes, your Honor.

4 EXAMINER PIRIK: And so specifically with
5 regard to some of the projections that are in the
6 attachment, you know, as those years become current
7 or no longer confidential per se because they're not
8 projected, then I would assume if, in fact, there is
9 a request to renew the motion for protective order,
10 that those items would then become public. So I'm
11 asking the company to consider that if you decide to
12 file for renewal of the protective order at the end
13 of the 18 months.

14 MS. SPILLER: Certainly, your Honor.

15 Thank you.

16 EXAMINER PIRIK: I think that concludes
17 all the confidential items that we had to go through.
18 With regard to I think all three, well, for everyone,
19 everything we went through, there will be items that
20 will be refiled in the open record so we will need to
21 mark late-filed exhibit numbers for those items and
22 we'll need to designate them.

23 With regard to Exhibit 6A for Mr. Rose,
24 the document that would be in the open record, I
25 think it should be marked as 6.1.

1 So that will be 6.1, late-filed Company
2 Exhibit 6.1.

3 And then with regard to Mr. Wathen's, I
4 would say with regard to his 6/20/2011 revisions to
5 that testimony, the document shall be marked Company
6 Exhibit 10.1.

7 And just so that we're clear on which is
8 which, I think you also need to then file the one
9 page that's open that was filed on 6/28/11
10 separately, and I would say that would be late-filed
11 Company Exhibit 10.2.

12 (EXHIBITS MARKED FOR IDENTIFICATION.)

13 MS. SPILLER: Thank you.

14 EXAMINER PIRIK: That way it will just be
15 clearer that way.

16 With regard to Mr. Savoy's, I would say
17 that the portion you file in the open record would be
18 late-filed Company Exhibit 18.1, and with regard to
19 the workpapers that will be in the open record, that
20 would be Company Exhibit 2.1, late-filed exhibit.

21 I think that resolves all of those
22 issues. I really appreciate the company working with
23 us on this. I know it's kind of a tedious process,
24 but it is important and, you know, we like to put as
25 much on the public record as we can, so we do

1 appreciate your help with that.

2 MS. SPILLER: Thank you, your Honor.

3 And if I may to conclude the record, Duke
4 Energy-Ohio would move for the admission into
5 evidence of its exhibits. For purposes of the record
6 shall I delineate all of them?

7 EXAMINER PIRIK: Yes, I think that would
8 probably be a good idea, just so we're sure what
9 we're doing.

10 MS. SPILLER: Sure. Exhibit No. 1, the
11 application and Attachments A through I.

12 Exhibit 2. Exhibit 2.1 late-filed
13 exhibits to the workpapers. Exhibit 2A.

14 Exhibits 3 through 6. Exhibit 6.1
15 late-filed testimony from Mr. Rose, Exhibit 6A.
16 Exhibits 7 through 10. Exhibit 10.1, late-filed
17 exhibit concerning Mr. Wathen's workpaper filed on
18 6/28/2011. Exhibit 10.2, again, an open nonredacted
19 version of a document filed on June 28, 2011.

20 Exhibit 10A. Exhibit 10A.1 which were the
21 confidential -- the documents filed under
22 confidential designation on June 28, 2011.

23 Exhibits 11 through 16. Exhibit 16.1,
24 amendments to Mr. Ziolkowski's testimony and
25 attachments, tariff revisions filed of record on

1 June 28, 2011.

2 Exhibit 17. Exhibit 18. Exhibit 18.1, a
3 late-filed exhibit pertaining to Mr. Savoy's
4 testimony. Exhibit 18A. Exhibit 19. Exhibit 20.
5 Exhibit 21.

6 Exhibit 22. Exhibit 22.1, the William
7 Don Wathen Supplemental Attachment 4 filed of record
8 on November 1, 2011. Exhibit 22.2, the revisions to
9 the backup delivery tariff revisions that Mr. Wathen
10 identified from the stand today.

11 Exhibit 23 and Exhibit 24.

12 EXAMINER PIRIK: I believe that covers
13 everything.

14 MS. SPILLER: Yes, your Honor.

15 EXAMINER PIRIK: Are there any objections
16 to these exhibits?

17 (No response.)

18 EXAMINER PIRIK: Hearing none, the
19 exhibits will be admitted into the record.

20 (EXHIBITS ADMITTED INTO EVIDENCE.)

21 EXAMINER PIRIK: Is there anything
22 further that any of the parties have for the record?

23 (No response.)

24 MS. SPILLER: Your Honor, we certainly
25 appreciate your time and patience, particularly going

1 through the confidential material.

2 EXAMINER PIRIK: There being nothing
3 further, the Examiners will recess the hearing for
4 today, however, the record will remain open until the
5 Commission determines otherwise. Thank you all.

6 MS. SPILLER: Thank you, your Honor.

7 (Thereupon, the hearing adjourned at 12:17
8 p.m.)

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Summary: Transcript Transcript of Duke Energy Ohio hearing held on 11/03/11 electronically filed by Mrs. Jennifer Duffer on behalf of Armstrong & Okey, Inc. and Jones, Maria DiPaolo Mrs.