

**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke Energy Ohio, Inc., for an Increase in Gas Rates.	) ) )	Case No. 12-1685-GA-AIR
In the Matter of the Application of Duke Energy Ohio, Inc., for Tariff Approval.	) ) )	Case No. 12-1686-GA-ATA
In the Matter of the Application of Duke Energy Ohio, Inc., for Approval of an Alternative Rate Plan for Gas Distribution Service.	) ) ) )	Case No. 12-1687-GA-ALT
In the Matter of the Application of Duke Energy Ohio, Inc., for Approval to Change Accounting Methods.	) ) )	Case No. 12-1688-GA-AAM

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**SECOND SUPPLEMENTAL TESTIMONY OF**  
**WILLIAM DON WATHEN JR. IN SUPPORT OF SETTLEMENT**  
**ON BEHALF OF**  
**DUKE ENERGY OHIO, INC.**

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April 2, 2013

**TABLE OF CONTENTS**

**I. INTRODUCTION..... 1**  
**II. DISCUSSION OF THE STIPULATION AND RECOMMENDATION..... 2**  
**III. UNRESOLVED ISSUES ..... 7**  
**IV. CONCLUSION..... 7**

1 **I. INTRODUCTION**

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

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

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

6 A. I am employed by Duke Energy Business Services LLC (DEBS) as Director of  
7 Rates and Regulatory Strategy for Ohio and Kentucky.

8 **Q. ARE YOU THE SAME WILLIAM DON WATHEN JR. WHO FILED  
9 DIRECT AND SUPPLEMENTAL TESTIMONY IN THESE  
10 PROCEEDINGS?**

11 A. Yes.

12 **Q. WHAT IS THE PURPOSE OF YOUR SUPPLEMENTAL TESTIMONY IN  
13 SUPPORT OF SETTLEMENT?**

14 A. The purpose of my testimony is to discuss and support the reasonableness of a  
15 Stipulation and Recommendation (Stipulation) entered into among Duke Energy  
16 Ohio, Staff of the Public Utilities Commission of Ohio (Staff), and other parties  
17 representing all stakeholder interests who have intervened in Duke Energy Ohio's  
18 application for an increase in gas distribution rates, tariff approval, and change in  
19 accounting methods contained in the above captioned proceedings. I will discuss  
20 and support the reasonableness of the Stipulation and Recommendation  
21 (Stipulation) filed in these proceedings. This testimony will demonstrate that: (1)  
22 the Stipulation is the product of serious bargaining among capable,

1 knowledgeable parties; (2) the Stipulation does not violate any important  
2 regulatory principle or practice and; (3) the Stipulation is just a reasonable  
3 resolution of the issues that as a package will benefit ratepayers and the public  
4 interest.

5 **II. DISCUSSION OF THE STIPULATION AND RECOMMENDATION**

6 **Q. PLEASE GENERALLY DESCRIBE THE STIPULATION AND**  
7 **RECOMMENDATION.**

8 A. I have reviewed the Stipulation and was involved in the discussions reaching  
9 resolution. The Stipulation represents a resolution of all issues among the Parties  
10 relating to the Company's application for an increase in natural gas distribution  
11 rates. Except where specifically noted otherwise, the Stipulation adopts the  
12 recommendations contained in the Report by the Staff of the Public Utilities  
13 Commission of Ohio (Staff) issued in these proceedings on January 4, 2013 (Staff  
14 Report).

15 In Summary, the Parties agree that Duke Energy Ohio shall combine its  
16 existing base rates with existing riders for SmartGrid and for its Accelerated Main  
17 Replacement Program. The net result will be \$0 increase in its annual base gas  
18 retail rates. The Stipulation provides that the Company's return on equity (ROE)  
19 be set at 9.84% and with a capital structure for the Company that is 53.3% equity  
20 and 46.7% debt. The resulting new base rates are shown in Attachment I to the  
21 Stipulation as agreed to by all of the Parties.

22 As part of the settlement, Duke Energy Ohio has agreed to withdraw its  
23 proposal to implement its Facilities Relocation - Mass Transportation Rider (a/k/a

1 Rider FRT). Finally, Duke Energy Ohio has agreed to provide shareholder  
2 funding for low income weatherization programs and a fuel fund for the use of  
3 People Working Cooperatively (PWC) and Ohio Partners for Affordable Energy  
4 (OPAE), respectively. The funding will be set at \$350,000 for PWC and \$350,000  
5 for OPAE and the settlement allows PWC and OPAE, at its discretion, to use the  
6 funds for either natural gas or electric distribution programs in Duke Energy  
7 Ohio's service territory.

8 Except as it relates to the Company's remediation costs associated with  
9 former manufactured gas facilities (MGP), which I will discuss further below.  
10 The Stipulation resolves all issues in these proceedings and is supported by a  
11 cross section of all stakeholders, including residential, non-residential, and low  
12 income customers.

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

15 **A.** Yes. The knowledge and capability of the Parties to the Stipulation, and their  
16 attorneys are readily apparent. The Parties to the Stipulation include all  
17 stakeholder interests represented by parties to the case: the Staff, Duke Energy  
18 Ohio, The Office of the Ohio Consumers' Counsel, OPAE, PWC, the City of  
19 Cincinnati, The Ohio Energy Group, the Kroger Co., the Greater Cincinnati  
20 Health Council, Cincinnati Bell Telephone LLC., The Ohio Manufacturing  
21 Association, and others. The Parties regularly participate in rate proceedings  
22 before the Commission, are knowledgeable in regulatory matters, and are  
23 represented by experienced, competent counsel. These Parties represent a broad

1 range of interests and include both residential and non-residential customers as  
2 well as low-income customers.

3 The Staff thoroughly reviewed the Company's application and the  
4 Company responded to hundreds of discovery requests. Many of the Parties to  
5 these proceedings were also involved in the Company's last gas distribution rate  
6 case, Case No 07-589-GA-AIR, *et al.* Settlement negotiations occurred via in  
7 person meetings at the Commission's offices, through telephone conference calls  
8 and via e-mail exchanges. All Parties were invited to attend these meetings and  
9 all of the issues raised by the Parties in these proceedings were addressed during  
10 these negotiations. The final settlement conference occurred on March 25, 2013,  
11 the day of the publicly noticed evidentiary hearing in these proceedings. All  
12 Parties had an opportunity to express their opinions in the negotiating process.  
13 For all of these reasons, I believe that the Stipulation is a compromise resulting  
14 from serious bargaining among capable, knowledgeable parties.

15 As a result of the Stipulation, Duke Energy Ohio has agreed, among other  
16 things, to:

- 17 • Recover substantially less revenue than it requested and supported in  
18 these proceedings;
- 19 • Provide for shareholder-funded low-income weatherization programs and  
20 a low income fuel fund.

21 Many of the Parties, as demonstrated in their objections to the Staff Report,  
22 sought a result in which Duke Energy Ohio would have received substantially less  
23 revenue than what Duke Energy Ohio will receive under the Stipulation. In

1 addition, the Stipulation contains many provisions that provide benefits to  
2 customers. Many of these provisions such as the shareholder low-income  
3 weatherization dollars were not included in the Company's Application.  
4 Therefore, this Stipulation does indeed represent a reasonable compromise among  
5 the Parties.

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

8 A. No. Based on the advice of counsel, my understanding is that the Stipulation  
9 complies with all relevant and important principles and practices. Based upon my  
10 examination of the Stipulation as Director Rates and Regulatory Strategy, Ohio  
11 and Kentucky, I have also concluded that the Stipulation is consistent with prior  
12 Commission Orders. The Stipulation results in a reasonable rate for customers,  
13 and allows the Company an opportunity to earn a reasonable rate of return on its  
14 shareholders' investment in facilities to provide natural gas distribution service.  
15 The Stipulation is consistent with and strikes a reasonable balance between  
16 regulatory principles such as gradualism, allowing the Company an opportunity to  
17 earn a reasonable rate of return..

18 **Q. DOES THE STIPULATION BENEFIT RATEPAYERS AND THE PUBLIC**  
19 **INTEREST?**

20 A. Yes. As I already mentioned, the Stipulation addresses the recommendations  
21 contained in the Staff Report and provides numerous benefits across all customer  
22 classes. Customers will experience a substantially lower base rate increase than  
23 that which Duke Energy Ohio supported in its Application. The Stipulation

1 provides for many benefits through the agreed upon rate design that reasonably  
2 apportions the increase among and within the various customer classes. Finally,  
3 the Stipulation provides a direct benefit for low-income customers through  
4 shareholder funded contributions to support weatherization initiatives and other  
5 programs. For those recommendations made in the Staff Report that were not  
6 specifically addressed in the Stipulation, the Parties agree to accept the  
7 recommendations of the Staff.

8 **Q. IS THE STIPULATION A JUST AND REASONABLE RESOLUTION OF**  
9 **THE ISSUES?**

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

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

18 A. Yes, I do.

19 **Q. DOES THE STIPULATION RESOLVE ALL OF THE ISSUES IN THIS**  
20 **PROCEEDING?**

21 A. Yes, it does.

1 **III. UNRESOLVED ISSUES**

2 **Q. YOU MENTIONED ABOVE THAT THE SETTLEMENT DID NOT**  
3 **INCLUDE RESOLUTION OF THE RECOVERY OF REMEDIATION**  
4 **COSTS ASSOCIATED WITH FORMER MGP SITES. WHAT HAVE THE**  
5 **PARTIES AGREED TO ON THIS ISSUE?**

6 **A.** As part of the settlement, the Parties agreed to use the existing scheduled hearing  
7 date for this case to litigate the issues surrounding recovery of the costs for  
8 remediating costs associated with former MGP sites. The Parties will present  
9 their respective cases in that forum seeking a decision from the Commission when  
10 it issues an order in this case.

**IV. CONCLUSION**

11 **Q. DOES THIS CONCLUDE YOUR SECOND SUPPLEMENTAL**  
12 **TESTIMONY?**

13 **A.** Yes.

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Summary: Testimony SECOND SUPPLEMENTAL TESTIMONY OF WILLIAM DON WATHEN JR. IN SUPPORT OF SETTLEMENT ON BEHALF OF DUKE ENERGY OHIO, INC.  
electronically filed by Carys Cochern on behalf of Watts, Elizabeth H. Ms.