

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the Application :
of Duke Energy Ohio, Inc. for :
Approval of its Energy Efficiency : Case No.
and Peak Demand Reduction : 13-431-EL-POR
Portfolio Programs. :
:

- - -

PROCEEDINGS

before Christine M.T. Pirik, Attorney Examiner, held at
the offices of the Public Utilities Commission of Ohio,
180 East Broad Street, Hearing Room 11-A, Columbus,
Ohio, on Wednesday, September 11, 2013, at 10:00 a.m.

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On behalf of the Staff of the Public
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On behalf of The Greater Cincinnati
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On behalf of EMC Development Company

Carpenter, Lipps & Leland
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On behalf of Kroger

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5 On behalf of Environmental Law & Policy
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12 On behalf of the Office of Ohio
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14 Ms. Cathryn N. Loucas
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17 On behalf of Ohio Environmental Council

18 Ms. Colleen L. Mooney
19 231 West Lima Street
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21 On behalf of Ohio Partners for
22 Affordable Energy

23 Boehm, Kurtz & Lowry
24 Ms. Jodie Kyler Cohn
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On behalf of Ohio Energy Group

ALSO PRESENT:

Gregory Scheck

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1 Wednesday Morning Session,
2 September 11, 2013.

3 - - -

4 ATTORNEY EXAMINER: In the Matter of the
5 Application of Duke Energy Ohio, Inc. for Approval of
6 it's Energy Efficiency and Peak Demand Reduction
7 Portfolio Programs, Case No. 13-431-EL-POR.

8 My name is Christine Pirik. I'm the Deputy
9 Legal Director and I've been assigned by the Commission
10 to hear this case.

11 Before we go any further, I'd like to take
12 appearances. On behalf of the company?

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

16 ATTORNEY EXAMINER: Thank you. On behalf
17 of Staff?

18 MR. PARRAM: Good morning, your Honor.

19 ATTORNEY EXAMINER: Good morning.

20 MR. PARRAM: On behalf of Staff of the
21 Public Utilities Commission of Ohio, Ohio Attorney
22 General Mike DeWine, Public Utilities Section, Section
23 Chief William Wright, Assistant Attorney General Devin
24 D. Parram, and Ryan O'Rourke, 180 East Broad Street,
25 6th Floor, Columbus, Ohio 43215.

1 ATTORNEY EXAMINER: Thank you. Ohio
2 Environmental Council?

3 MS. LOUCAS: Good morning, your Honor.
4 Cathryn Loucas on behalf of OEC, along with Trent
5 Dougherty, 1207 Grandview Avenue, Columbus, Ohio 43212.

6 ATTORNEY EXAMINER: Thank you.
7 Environmental Law & Policy Center?

8 MR. McDANIEL: Good morning, your Honor.
9 On behalf of the Environmental Law & Policy Center,
10 Nick McDaniel, 1207 Grandview Avenue, Columbus, Ohio
11 43212.

12 ATTORNEY EXAMINER: Thank you. The Greater
13 Cincinnati Energy Alliance?

14 MR. FAUST: Jeremy Faust here for
15 Cincinnati Energy Alliance, 200 West 4th Street,
16 Cincinnati, Ohio 45202.

17 ATTORNEY EXAMINER: Thank you. Office of
18 Consumers' Counsel?

19 MR. SCHULER: Good morning, your Honor. On
20 behalf of the Office of The Ohio Consumers' Counsel,
21 Michael J. Schuler and Kyle Kern, 10 West Broad Street,
22 Suite 1800, Columbus, Ohio 43215.

23 ATTORNEY EXAMINER: OPAE?

24 MS. MOONEY: On behalf of Ohio Partners for
25 Affordable Energy, Colleen Mooney, 231 West Lima

1 Street, Findlay, Ohio.

2 ATTORNEY EXAMINER: Ohio Advanced Energy
3 Economy? OEG?

4 MS. KYLER COHN: Good morning, your Honor.
5 On behalf of the Ohio Energy Group, David Boehm,
6 Michael Kurtz, I'm Jodie Kyler Cohn from the firm of
7 Boehm, Kurtz & Lowry, 36 East 7th Street, Cincinnati,
8 Ohio 45202.

9 ATTORNEY EXAMINER: Thank you. Kroger.

10 MS. MOHLER: On behalf of Kroger Company,
11 Kimberly Bojko, I'm Mallory Mohler, Carpenter, Lipps &
12 Leland, 280 North High Street, Suite 1300, Columbus,
13 Ohio 43215.

14 ATTORNEY EXAMINER: EMC?

15 MS. HUSSEY: Good morning, your Honor. On
16 behalf of EMC Development Company, Rebecca Hussey from
17 Carpenter, Lipps & Leland, 280 North High Street, Suite
18 1300, Columbus, Ohio 43215.

19 ATTORNEY EXAMINER: Thank you. NRDC?
20 Sierra Club? Actually, it's unfortunate that
21 Mr. Allwein isn't here because I know he's representing
22 them and I do have questions about the distinction
23 between Sierra national and Sierra local since they
24 were -- there's one intervening here and it's Sierra
25 and when you read the motion to intervene, it does not

1 distinguish between local and national. So it kind of
2 creates a record issue since there's now a footnote in
3 the stipulation that makes a distinguishing note
4 between the local and the national. So I don't know if
5 you can clarify that for me.

6 MS. WATTS: I appreciate the problem with
7 that, your Honor, and I -- the best I can offer at this
8 point would be to have Mr. Allwein perhaps submit a
9 letter to the record explaining that.

10 ATTORNEY EXAMINER: That would be
11 appropriate. I think what he needs to do is, it
12 appears as if they're two separate entities. And if
13 that's true, then only one of the entities was granted
14 intervention.

15 I don't have a problem entertaining a
16 motion. I mean, it's awkward after -- you know, I'm
17 going to close the record, to allow a subsequent motion
18 to intervene on another entity's behalf.

19 But, I mean, I even noted in Mr. Duff's
20 testimony he says there's 12 parties, interveners,
21 really there's only 11 because Sierra is just one
22 entity. So I'm just trying to, you know, make sure
23 that the record is clear and I think Sierra Club has
24 made it a little bit more confusing.

25 So are they separate signatory parties on

1 this stipulation?

2 MS. WATTS: I've not been advised of what
3 that distinction is other than that Mr. Allwein advised
4 me when he was authorizing my signature -- his
5 signature, signed by me on the stipulation, that I
6 should make that distinction, and I apologize, but it
7 didn't occur to me at that point that that would cause
8 there to be sort of two different entities in that
9 process.

10 ATTORNEY EXAMINER: I mean, I checked with
11 other examiners and it doesn't appear as if there's
12 been any other case where that distinction has been
13 made. So we're trying to figure out exactly what to do
14 with it.

15 We're going to have to wait a couple weeks
16 for the transcript in this case anyway, before an order
17 can even be drafted, so I would hope in that time, if
18 you could contact Mr. Allwein, have him file something,
19 have him clarify. If it's needed that there is an
20 appropriate motion for, you know, another entity then
21 he could file that and give other parties time to
22 object. I mean, I'm willing to entertain that, but it
23 would be on a very -- this is a very rare circumstance
24 that the Commission would be willing to consider like a
25 motion to intervene.

1 MS. WATTS: Right.

2 ATTORNEY EXAMINER: In fact, I think what
3 I'll do is I'll leave the record open. I won't close
4 the record today so that if that, in fact, is what
5 Mr. Allwein needs to file -- I think an explanation
6 isn't really sufficient. I mean, just to say that
7 there's two entities. I mean, if there's two entities
8 he needs to choose which one was granted and which one
9 he's asking for. Because otherwise in future
10 proceedings that's going to cause an issue.

11 MS. WATTS: Understood.

12 ATTORNEY EXAMINER: We don't -- you know,
13 this one is not contested. It looks like there's a
14 joint stipulation that you're going to be presenting
15 and -- so I don't see on today's record that it's going
16 to be a problem. But for future cases, I don't want
17 there to be a surprised party at the end that says, you
18 know, wait a minute, we have a problem with this. So
19 hopefully you can explain that to Mr. Allwein. If he
20 has any questions, he can give me a call and I can walk
21 him through procedurally what he needs to do.

22 MS. WATTS: Absolutely. Thank you, your
23 Honor.

24 ATTORNEY EXAMINER: Thank you. I think
25 we'll turn now back to Duke and -- I don't know how you

1 want to do this. Would you like to mark all the
2 exhibits? Probably would be more efficient if we mark
3 all exhibits and then we move forward with the
4 testimony.

5 MS. WATTS: I think that makes sense. If
6 you're ready to do that, I am.

7 ATTORNEY EXAMINER: I'm ready.

8 MS. WATTS: Okay. So the first exhibit
9 would be Duke Energy Ohio Exhibit 1, and that would be
10 Duke Energy Ohio's market assessment and action plan.
11 And that was submitted to the Commission on February
12 19th, 2013.

13 ATTORNEY EXAMINER: Yes. I would go ahead
14 and list all of them and then I'll just note that they
15 are marked at the end.

16 MS. WATTS: Okay. The second exhibit would
17 be Duke Energy Ohio 2. It would be the application in
18 this proceeding. And then along with the application
19 would be Duke Energy exhibit -- well, let me back up a
20 minute. There was an amendment to that application
21 that was filed on May 9th, 2013, that consist of -- it
22 was a correction of two tables. And I think that needs
23 to be marked as Duke Energy Ohio Exhibit 3.

24 So then the testimony accompanying the
25 application, the direct testimony of Timothy Duff will

1 be Duke Energy Ohio Exhibit 4. The direct testimony of
2 Ashlie Ossege will be Duke Energy Ohio Exhibit 5. The
3 direct testimony of Kevin Bright will be Duke Energy
4 Ohio Exhibit 6. The direct testimony of Casey Mather,
5 Duke Energy Ohio Exhibit 7. And the direct testimony
6 of James Ziolkowski will be Duke Energy Ohio Exhibit
7 8. And that name is spelled Z-i-o-l-k-o-w-s-k-i.

8 ATTORNEY EXAMINER: I'm sorry, did you say
9 Z-i?

10 MS. WATTS: Z-i-o-l-k-o-w-s-k-i.

11 ATTORNEY EXAMINER: Okay.

12 MS. WATTS: The proof of publication which
13 was submitted to the Commission on August 19th, 2013,
14 will be Duke Energy Exhibit 9.

15 And, your Honor, do we need to mark both
16 the stipulation and the amended stipulation or do we
17 only need to mark the amended stipulation?

18 ATTORNEY EXAMINER: At first I was thinking
19 you can only do one but since the amended stipulation
20 is titled amended, I think for record purposes we'll
21 just mark both of them.

22 MS. WATTS: Okay. Thank you. So the
23 stipulation will be Duke Energy Ohio Exhibit 10 and
24 that was submitted to the Commission on September 6th.
25 And the amended stipulation would be Duke Energy Ohio

1 Exhibit 11, and that was submitted to the Commission on
2 September 9. And then last, if I may, I would offer
3 Joint Exhibit 1, which is the supplemental direct
4 testimony of Tim Duff and Mr. Duff is here today to
5 provide -- to sponsor his own testimony.

6 ATTORNEY EXAMINER: Okay. I just want to
7 be sure that I understand that we're marking the
8 stipulation and the amended stipulation Duke exhibits.
9 It's not going to be a joint exhibit?

10 MS. WATTS: We can make them a joint
11 exhibit. So we can change that and make that Joint
12 Exhibit 2 and Joint Exhibit 3.

13 ATTORNEY EXAMINER: It would almost -- I
14 think the way the record would typically go would be --
15 it would be Joint Exhibit 1 would be the stip, Joint
16 Exhibit 2 would be the amended stip, and then
17 Mr. Duff's testimony would be a Duke exhibit because
18 he's your witness.

19 MS. WATTS: Okay.

20 ATTORNEY EXAMINER: So then that would --
21 and I think that Mr. Duff's supplemental testimony
22 should be Exhibit 4A so that those two will go
23 together.

24 MS. WATTS: Okay.

25 MR. PARRAM: I have one clarifying -- so

1 supplemental testimony will be Duke exhibit, not a
2 joint exhibit?

3 ATTORNEY EXAMINER: It typically isn't a
4 joint exhibit, even though --

5 MR. PARRAM: It's testimony for Duke, even
6 though it's supporting the stipulation, correct?

7 ATTORNEY EXAMINER: Right. Everyone will
8 still have an opportunity to object to his testimony at
9 the time where it's actually entered, so no objection
10 would show that you're in support of the testimony, so
11 that's typically how we do it.

12 So let me be sure the record is clear.
13 Joint Exhibit 1 is the stipulation, Joint Exhibit 2 is
14 the amended stipulation filed on September 9th,
15 Mr. Duff's supplemental testimony is Duke Exhibit 4A.
16 Are we all clear on that?

17 MS. WATTS: I'm clear with that.

18 ATTORNEY EXAMINER: Okay.

19 MS. WATTS: Thank you, your Honor. I
20 believe that's all we have.

21 ATTORNEY EXAMINER: That's all you have.
22 Those documents shall be marked as stated on the
23 record. I will wait till the conclusion of Mr. Duff's
24 testimony, once he takes the stand, to consider
25 entering the exhibits as a whole. So we'll wait until

1 that time to do that.

2 (Mr. Allwein entered the room.)

3 ATTORNEY EXAMINER: We also have some
4 testimony and objections filed by various parties in
5 this case. I understand that there's a joint
6 stipulation, however, we do typically mark the
7 objections and the testimony.

8 Mr. Allwein, I see that you've joined us.
9 Which is a good thing, because we had a long discussion
10 thinking you weren't going to be here.

11 MR. ALLWEIN: Apologies for my late
12 arrival, your Honor. Good morning.

13 ATTORNEY EXAMINER: That's fine. Would you
14 like to make an appearance on the record?

15 MR. ALLWEIN: Yes, please. On behalf of
16 The Sierra Club and The Natural Resources Defense
17 Council, Christopher J. Allwein, Williams, Allwein &
18 Moser, 1500 West Third Avenue, Suite 330, Columbus,
19 Ohio 43212.

20 ATTORNEY EXAMINER: We've gone through the
21 marking of the Duke exhibits and we had the appearances
22 previously. And one question that I had for the record
23 was specifically with regard to The Sierra Club and
24 that appears, from the joint stipulation that has been
25 marked as -- the amended one that's been marked as

1 Joint Exhibit 2, that there are two entities, in fact,
2 for The Sierra Club, one's a local chapter and one's a
3 national chapter. When the motion to intervene was
4 filed and when we granted it, there was no distinction
5 made between two separate entities, so it appears to
6 the Commission in the record that we have that there's
7 one entity. So it's caused some confusion and we need
8 to clarify the record as to who those entities are.

9 Ms. Watts' was going to discuss that with
10 you and set up some type of a procedural process, but
11 since you're here, perhaps we can just clarify it on
12 the record and dispense with it today, which would be
13 optimal if we could do that.

14 If, in fact, the motion to intervene that
15 was granted applied to either the local or the
16 national, if they're two separate entities, it can't
17 apply to both. It has to be one of them to be
18 granted. And I'm willing to entertain a motion for the
19 other one to be an intervener and take objections, if
20 anyone has objections or comments contra, but we need
21 to clarify the record as to whether there is one entity
22 or two entities. And since it appears from the stip
23 that there are two necessary signatories, we just need
24 to figure out how to handle that.

25 MR. ALLWEIN: Well, your Honor, it's

probably -- my apologies, it's probably my conveyance to Ms. Watts in terms of how things are going.

What happens with The Sierra Club is it's one organization and there are chapters of the organization, but they're all part of The Sierra Club. And in Ohio we have a little bit more of a sophisticated understanding of what's going on in this case and what the case means. And so what's going on here basically is the local chapter has said, hey, this looks good to us. This is, forwards The Sierra Club's mission and goals here in Ohio and nationally. But my understanding is, is just that there's people at Sierra Club headquarters that like to take a look at these things and just make sure it doesn't violate or offend one of their governing principles or policies.

So, I mean, it's doubtful that the national folks would find something irregular or that they didn't like, but it's a final check that The Sierra Club does whenever they enter into a stipulation.

If it would be easier and it would facilitate getting this stipulation into the record or eliminating these questions, we could just for now say that The Sierra Club doesn't oppose and when the national chapter finishes their review, we could file a letter saying, hey, we'll sign off. That will be

1 easier. Because it really isn't two entities. It's
2 just part of the entity is here in Ohio and part of it
3 is in San Francisco.

4 ATTORNEY EXAMINER: I think that does
5 clarify the record so that we understand it's one
6 entity and that you're going through the process to get
7 final approval on the signatory party.

8 MR. ALLWEIN: Right.

9 ATTORNEY EXAMINER: Because if, in fact --

10 MR. ALLWEIN: We just didn't want to hold
11 up the stipulation is basically how it goes. Sorry, go
12 ahead.

13 ATTORNEY EXAMINER: No, that makes sense.
14 I think that makes sense. Okay. So when we get to
15 entering the stipulation into the record, then I would
16 like for you to explain exactly the signatory party
17 with The Sierra Club and then what the follow-up
18 documentation will be.

19 We need to wait a couple weeks for the
20 transcript to be filed anyway, so there's time for you
21 to get whatever authorization you have and to file the
22 document that you would need to file with regard to
23 opposed or non-opposing the stipulation at a later
24 time.

25 MR. ALLWEIN: Okay. Would you like --

1 would you prefer it now then that I just say The Sierra
2 Club doesn't oppose the stipulation?

3 ATTORNEY EXAMINER: Yes. I think that will
4 be appropriate. And then we'll note it when we go to
5 enter it into the record, the stipulation. And that
6 you will be filing what I'll term a late filed exhibit
7 in the docket that would probably be Sierra Club
8 Exhibit No. 1 since you don't have any objections or
9 testimony.

10 MR. ALLWEIN: Okay.

11 ATTORNEY EXAMINER: Okay?

12 MR. ALLWEIN: All right. Thank you, your
13 Honor.

14 ATTORNEY EXAMINER: Thank you. But when we
15 get to the point where we're entering exhibits, I want
16 to be sure that you move the admission of the late
17 filed document pending it's actual filing and we see
18 whether anyone is going to have an objection to you
19 filing such a statement at a later time on the record.
20 Okay?

21 MR. ALLWEIN: All right. Thank you, your
22 Honor.

23 ATTORNEY EXAMINER: So at this time we are
24 actually -- what I'd like to do is mark the objections
25 as exhibits and the testimony by intervening parties.

1 So with regard to Energy Alliance, you have
2 filed objections and we'll mark that as Exhibit 1.
3 Your Exhibit 1.

4 MR. FAUST: Oh, we have not filed
5 objections. Let me make one clarification if I could.
6 I'm staff with Energy Alliance, I'm not an accountant
7 representing Energy Alliance in this case. I want that
8 to be clear to the hearing room and certainly to you,
9 but we have not filed objections in the case. I
10 apologize, we filed objections, we have not filed
11 testimony in the case.

12 ATTORNEY EXAMINER: Oh, and that's fine.
13 But the process, what we typically do is we mark --
14 even though there's a stipulation, the Commission has
15 to consider that stipulation, and the only thing that
16 is part of the record is what we discussed here today,
17 so we need to mark the objections and the testimony in
18 the event for some reason that the Commission
19 determines that the stipulation isn't going to go
20 forward or needs to be modified. Then we mark the
21 objections and the testimony so that the Commission has
22 that as part of the record. Because it's only the four
23 corners of what we discuss today that are actually the
24 record in the case. We don't go back and look at the
25 docket part for information. We just look at what we

1 put on the record as exhibits in today's case.

2 MR. FAUST: Thank you for the
3 clarification. We have filed objections, I would like
4 to make those part of the record. I do not have, I
5 believe, that copy with me today. So if you like, I
6 can provide that as part of the record. I would be
7 happy to do so.

8 ATTORNEY EXAMINER: That's fine. And
9 typically, and I don't know, because we haven't worked
10 together, the court reporter and I, but typically as
11 long as you state the date that it was filed and it was
12 physically filed in the record, we don't require
13 parties to actually have copies for everyone or a copy
14 here today. And your document was filed on July 1st,
15 2013.

16 MR. FAUST: Correct.

17 ATTORNEY EXAMINER: And it was labeled
18 objection of Greater Cincinnati Energy Alliance.

19 MR. FAUST: Correct.

20 ATTORNEY EXAMINER: So we'll mark that as
21 Energy Alliance Exhibit 1.

22 MR. FAUST: Thank you.

23 ATTORNEY EXAMINER: OPAC?

24 MS. MOONEY: Yes, your Honor. OPAC filed
25 objections on July 1st and, also, I've already handed a

1 copy of our objections to the reporter and I would move
2 for the admission of OPAC's objections as OPAC Exhibit
3 1.

4 ATTORNEY EXAMINER: Thank you. EMC?

5 MS. HUSSEY: Your Honor, I'd like to mark
6 as EMC Development Company, Exhibit 1, the objections
7 of EMC Development Company filed on July 1st, 2013.
8 And as EMC Development Company Exhibit 2, the direct
9 testimony of Timothy J. Seelaus filed August 27th,
10 2013. And if there aren't any objections, I move for
11 admission of those exhibits.

12 ATTORNEY EXAMINER: Thank you. I think
13 what we'll do is we'll mark all the objections and all
14 of the pre-testimony and then I'll take objections in
15 mass at the end of these filings, the markings of these
16 documents. OEC?

17 MS. LOUCAS: Yes, your Honor. We'd like --
18 OEC did file objections on the record. I do not know
19 the specific date but we would like to mark those as
20 Ohio Environmental Council Exhibit No. 1.

21 ATTORNEY EXAMINER: Those were filed on
22 July 1st, 2013. Thank you. OEG?

23 MS. KYLER COHN: Yes, your Honor. OEG
24 would move for the admission of the objections filed by
25 OEG on July 1st, 2013 as OEG Exhibit 1. And would you

1 like us to move the letter advising that we weren't
2 filing testimony into the record as well?

3 ATTORNEY EXAMINER: That would be fine.

4 MS. KYLER COHN: Then we would move that
5 the letter filed by OEG on August 27th, 2013, advising
6 that OEG will not be filing testimony be marked as OEG
7 Exhibit 2.

8 ATTORNEY EXAMINER: Thank you. OCC.

9 MR. SCHULER: Yes. The office of the Ohio
10 Consumers' Counsel would like to mark as OCC Exhibit 1
11 the objections to Duke Energy Ohio's portfolio of
12 energy efficiency peak demand reduction programs filed
13 on July 1st, 2013. And we would also like to have
14 marked as OCC Exhibit 2 the direct testimony of Wilson
15 Gonzalez that was filed on August 27th, 2013.

16 ATTORNEY EXAMINER: Kroger?

17 MS. MOHLER: Yes. Kroger moves to have
18 marked the objections filed July 1st, 2013, as Kroger
19 Exhibit 1.

20 ATTORNEY EXAMINER: ELPC?

21 MR. McDANIEL: Thank you, your Honor. ELPC
22 would like to mark as ELPC Exhibit 1 the objections
23 filed July 1st, 2013, and ELPC Exhibit 2, the direct
24 testimony of Geoffrey Crandall filed August 27th.

25 ATTORNEY EXAMINER: NRDC?

1 MR. ALLWEIN: Thank you, your Honor. NRDC
2 would move for admission of NRDC Exhibit 1, which is
3 labeled objections and recommended modifications to the
4 Duke Energy Efficiency Peak Demand Reduction Plan that
5 was filed on July 1st, 2013.

6 ATTORNEY EXAMINER: Thank you. I would
7 also note that on August 28th, 2013, Energy Alliance
8 filed a notice not to file testimony. And I think
9 since we marked the other document, we might as well
10 mark that Energy Alliance Exhibit 2.

11 Staff?

12 MR. PARRAM: Yes, your Honor. Staff did
13 not file any objections in this case. But Staff did
14 prepare a file testimony -- prepared direct testimony
15 of Gregory Scheck on September 4, 2013. I would like
16 to have those -- the testimony marked as Staff Exhibit
17 1.

18 ATTORNEY EXAMINER: We've marked the
19 intervener exhibits and Staff exhibit, are there any
20 objections to those exhibits being admitted into the
21 record?

22 MS. WATTS: No objections, your Honor.

23 ATTORNEY EXAMINER: Mr. Allwein, did I miss
24 something?

25 MR. ALLWEIN: I missed something, your

1 Honor.

2 ATTORNEY EXAMINER: That's okay.

3 MR. ALLWEIN: I would also like to move
4 into the record as Sierra Club Exhibit 1, pending the
5 filing of that document which will be Sierra Club's
6 late additional signature to the stipulation.

7 ATTORNEY EXAMINER: Thank you,
8 Mr. Allwein. Are there any objections to the
9 intervener and Staff exhibits being admitted?

10 MS. WATTS: No objections.

11 ATTORNEY EXAMINER: No objections?

12 MS. WATTS: No objections.

13 ATTORNEY EXAMINER: Those exhibits shall be
14 admitted into the record. Ms. Watts, do you have a
15 witness?

16 MS. WATTS: We do, your Honor. Timothy
17 Duff.

18 - - -

19 TIMOTHY J. DUFF
20 being first duly sworn, as prescribed by law, was
21 examined and testified as follows:

22 - - -

23 DIRECT EXAMINATION

24 By Ms. Watts:

25 Q. Sir, would you state your name for the

1 record, please.

2 A. Timothy J. Duff.

3 Q. And by whom are you employed?

4 A. Duke Energy Business Services.

5 Q. And, Mr. Duff, do you have before you two
6 documents that have been marked as Duke Energy Ohio 4A
7 and Joint Exhibit 2?

8 A. Yes.

9 Q. Would you identify, please, for the record
10 what Duke Energy Ohio Exhibit 4A is?

11 A. That is my supplemental direct testimony
12 supporting the amended stipulation and recommendation.

13 Q. And the amended stipulation and
14 recommendation is, in fact, Joint Exhibit 2, correct?

15 A. That's correct.

16 Q. And do you have any additions or
17 corrections to your testimony today?

18 A. Not to my knowledge.

19 Q. And if you were asked the questions
20 contained therein again today, would your answers be
21 the same?

22 A. Yes.

23 Q. Are they true to the best of your
24 knowledge?

25 A. Yes.

1 MS. WATTS: Mr. Duff is available for
2 examination.

3 ATTORNEY EXAMINER: Is there any cross by
4 any of the interveners or Staff? I'm seeing none. I
5 do have one question.

6 - - -

7 EXAMINATION

8 By Attorney Examiner:

9 Q. Could you look on page 2 of your testimony,
10 please.

11 A. Yes.

12 Q. You state that there are 12 parties that
13 have intervened in the case. I believe there's only
14 11, so I want to be sure that the record is clear.

15 A. It was -- the confusion was regarding The
16 Sierra Club, whether it was a -- the local chapter was
17 a separate entity from the national Sierra Club, so
18 that was the difference between 11 and 12.

19 Q. And I also note that in -- on line 5 you
20 state that the Ohio Energy Group is not a signatory
21 party, but then subsequently on line 10 you list the
22 Ohio Energy Group as a signatory party. So I wanted to
23 be sure it was clear who the signatory party is.

24 A. Yes. The Ohio Energy Group was not a
25 signatory party. I wrote this off of the original

1 stipulation rather than the amended stipulation. My
2 apology.

3 ATTORNEY EXAMINER: That's fine. I just
4 wanted to be sure that it was clear. Those are the
5 only clarifications that I have. Thank you, very much,
6 Mr. Duff.

7 Ms. Watts, with regard to the Joint
8 exhibits and the Duke exhibits.

9 MS. WATTS: Yes, your Honor, we would move
10 those exhibits into evidence.

11 ATTORNEY EXAMINER: Thank you. Are there
12 any objections to the joint exhibits or any of the Duke
13 exhibits? Hearing none, those exhibits shall be
14 admitted into the record.

15 Is there anything else before we close the
16 record for the day other than the late filing that
17 we'll be expecting?

18 MS. KYLER COHN: Your Honor, can I just
19 clarify OEG's position on the stipulation?

20 ATTORNEY EXAMINER: Yes.

21 MS. KYLER COHN: Although it does not
22 effectively resolve all of our issues in the case, we
23 will not be actively opposing the stipulation. Thank
24 you.

25 ATTORNEY EXAMINER: Thank you. I

1 appreciate that statement. Is there anything else?
 2 Hearing none, we will adjourn for the day and I'll
 3 leave the record open for the late filed exhibit that
 4 will be filed and the Commission will take the record
 5 under advisement.

6 MS. WATTS: Thank you, your Honor.

7 ATTORNEY EXAMINER: Thank you.

8 (Proceedings concluded at 10:36 a.m.)

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CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on September 11, 2013, and carefully compared with my original stenographic notes.

CATHERINE PASSMORE
 Certified Shorthand Reporter and
 Notary Public in and for the
 State of Ohio

My commission expires July 23, 2018

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Summary: Transcript in the matter of Duke Energy Ohio, Inc. hearing held on 09/11/13 electronically filed by Mrs. Jennifer Duffer on behalf of Armstrong & Okey, Inc. and Passmore, Cathy