

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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) Case No. 14-841-EL-SSO
Form of an Electric Security Plan,)
Accounting Modifications and Tariffs for)
Generation Service.)

In the Matter of the Application of Duke)
Energy Ohio for Authority to Amend its) Case No. 14-842-EL-ATA
Certified Supplier Tariff, P.U.C.O.)
No. 20.)

PUBLIC VERSION

**DIRECT TESTIMONY
OF
BETH E. HIXON**

**On Behalf of the
Office of the Ohio Consumers' Counsel**
*10 West Broad Street, Suite 1800
Columbus, Ohio 43215*

September 26, 2014

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ATTACHMENTS

BEH-1	Beth E. Hixon – Utility Testimony Submitted
BEH-2	OCC Interrogatory No. 17
BEH-3	OCC Interrogatory No. 10
BEH-4	OCC Interrogatory No. 11
BEH-5	IEU Interrogatory No. 1
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BEH-7	OCC Interrogatory No. 107
BEH-8	OCC Interrogatory No. 60
BEH-9	OCC Interrogatory No. 14
BEH-10	OCC Interrogatory No 15

1 **I. INTRODUCTION**

2

3 ***Q1. PLEASE STATE YOUR NAME, ADDRESS AND POSITION.***

4 ***A1.*** My name is Beth Hixon. My business address is 10 West Broad Street, Suite
5 1800, Columbus, Ohio 43215-3485. I am employed by the Office of the Ohio
6 Consumers' Counsel ("OCC") as a Senior Energy Team Leader.

7

8 ***Q2. WOULD YOU PLEASE SUMMARIZE YOUR EDUCATIONAL AND***
9 ***PROFESSIONAL BACKGROUND?***

10 ***A2.*** I received a Bachelor of Business Administration degree in accounting from Ohio
11 University in June 1980. For the period June 1980 through April 1982, I was
12 employed as an Examiner in the Field Audits Unit of the Ohio Rehabilitation
13 Services Commission ("ORSC"). In this position, I performed compliance audits
14 of ORSC grants to, and contracts with, various service agencies in Ohio.

15

16 In May 1982, I was employed in the position of Researcher by the OCC. In 1984,
17 I was promoted to Utility Rate Analyst Supervisor and held that position until
18 November 1987 when I joined the regulatory consulting firm of Berkshire
19 Consulting Services. In April 1998, I returned to the OCC and have subsequently
20 held positions as Senior Regulatory Analyst, Principal Regulatory Analyst,
21 Assistant Director of Analytical Services and Senior Energy Team Leader.

1 **Q3. WHAT EXPERIENCE DO YOU HAVE IN THE AREA OF UTILITY**
2 **REGULATION?**

3 **A3.** In my positions with the OCC, and as a consultant with Berkshire Consulting
4 Services, I have performed analysis and research in numerous cases involving
5 utilities' base rates, fuel, and gas rates and other regulatory issues. I have worked
6 with attorneys, analytical staff, and consultants in preparing for, and litigating,
7 utility proceedings involving Ohio's electric companies, the major gas companies,
8 and several telephone and water utilities. At the OCC, I also chair the OCC's
9 internal electric team, participate in and/or direct special regulatory projects
10 regarding energy issues, and provide training on regulatory technical issues.

11

12 **Q4. HAVE YOU PREVIOUSLY SUBMITTED TESTIMONY BEFORE**
13 **REGULATORY COMMISSIONS?**

14 **A4.** Yes. I have submitted testimony before the Public Utilities Commission of Ohio
15 ("PUCO" or "Commission") in the cases listed in Attachment BEH-1. As shown
16 on this Attachment, I have also submitted testimony in a case before the Indiana
17 Utility Regulatory Commission.

1 **II. PURPOSE OF TESTIMONY**

2
3 ***Q5. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS***
4 ***PROCEEDING?***

5 **A5.** The purpose of my testimony is to present a comparison between the results of
6 Duke Energy Ohio's ("Duke") proposed Electric Security Plan ("ESP") and the
7 results that would be expected under a Market Rate Offer ("MRO"). This
8 comparison has been referred to by the Commission as the "statutory test."¹ It is
9 my understanding, confirmed by counsel, that under Section 4928.143(C)(1) of
10 the Ohio Revised Code, the Commission shall approve or modify and approve an
11 ESP if it finds that the ESP "including its pricing and all other terms and
12 conditions, including any deferrals and future recovery of deferrals, is more
13 favorable in the aggregate as compared to the expected results that would
14 otherwise apply under section 4928.142 of the Revised Code." Section 4928.142
15 of the Revised Code pertains to a Standard Service Offer ("SSO") under an MRO.

16
17 In conducting the statutory test the Commission has generally evaluated three
18 parts - comparing the results of these elements under the proposed ESP to the
19 results expected under an MRO:

- 20 1. The SSO price of generation to customers,

¹ Duke Energy Ohio, Case No. 11-3549-EL-SSO, et al., Opinion and Order at 46 (November 22, 2011), Columbus Southern Power and Ohio Power, Case No. 11-346-EL-SSO, et al., Opinion and Order at 73 (August 8, 2012) and Dayton Power & Light, Case No. 12-426-EL-SSO, et al., Opinion and Order at 48-52 (September 3, 2013).

1 2. Other quantifiable provisions, and

2 3. Other qualitative provisions.²

3

4 **Q6. WHAT IS YOUR RECOMMENDATION TO THE COMMISSION**
5 **REGARDING THE STATUTORY TEST FOR DUKE'S PROPOSED**
6 **ELECTRIC SECURITY PLAN?**

7 **A6.** In my testimony I compare the proposed ESP results to the expected results of an
8 MRO for the three parts that the Commission has evaluated under the statutory
9 test. As indicated above, the first part of the analysis looks at the SSO price of
10 generation to customers. When comparing Duke's proposed ESP to an MRO the
11 SSO generation prices customers would pay under both the ESP and MRO are the
12 same. This is because prices would be determined through a Competitive Bidding
13 Process ("CBP") under Duke's proposed ESP and also under an MRO.

14

15 Secondly, for the other quantifiable provisions of Duke's proposed ESP, if the
16 proposed Price Stability Rider ("PSR") is approved, then customers would pay
17 \$ [REDACTED]³ more in costs than under an MRO.

18

19 Finally, for the items that Duke claims are qualitative benefits of the ESP over an
20 MRO, assuming *arguendo* that qualitative benefits may be considered in

² AEP Ohio ESP, Case No. 11-346-EL-SSO, et al., Opinion and Order at 73 (August 8, 2012) and Entry on Rehearing at 13-14 (January 30, 2013) and Dayton Power & Light, Case No. 12-426-EL-SSO, et al., Opinion and Order at 48-52 (September 3, 2013).

³ OCC Witness Wilson Testimony.

1 evaluating an ESP and an MRO,⁴ and to the extent those benefits do exist, most
2 would be equally available in the scenario of an MRO being filed. For the
3 qualitative benefits claimed by Duke related to the PSR, this provision of the ESP
4 will not provide a benefit to customers but instead imposes costs and risks onto
5 customers, as explained by OCC Witness Wilson.

6
7 Based on these comparisons, I conclude that the ESP produces results that are less
8 favorable in the aggregate than the expected MRO results by \$ [REDACTED]. I
9 recommend the Commission not approve the ESP as proposed by Duke because it
10 fails to meet the statutory test.

⁴ I am advised by counsel that the question whether qualitative provisions should be considered in the comparison of an ESP and an MRO is currently pending before the Ohio Supreme Court. See *In the Matter of Northeast Ohio Public Energy Council*, Appeal No. 2013-0513.

1 **III. STATUTORY TEST OF DUKE'S PROPOSED ELECTRIC SECURITY**
2 **PLAN**

3
4 **A. Duke's "Better in the Aggregate Test".**
5

6 ***Q7. HOW DOES DUKE PROPOSE THAT THE COMMISSION EVALUATE THE***
7 ***ELECTRIC SECURITY PLAN FOR PURPOSES OF THE STATUTORY***
8 ***TEST?***

9 **A7.** Duke Witness Wathen concludes that Duke's proposed ESP is "better in the
10 aggregate than the results that would be expected under R.C. 4918.142 (sic)"⁵

11 This conclusion is supported by Mr. Wathen's determinations that:

- 12 1. The SSO price to customers would be the same under the
13 proposed ESP and an MRO - "the cost of generation
14 service to customers under the proposed ESP is necessarily
15 equal to the cost of generation under an MRO."
- 16 2. No other costs are quantifiable under the proposed ESP -
17 "the only driver of costs under the proposed ESP is
18 competitively priced, market-based generation service."
- 19 3. Qualitative benefits of the proposed ESP are not "available
20 under an MRO."⁶

⁵ Duke Witness Wathen Direct Testimony at 27. The proper citation is to R.C. 4928.142.

⁶ Duke Witness Wathen Direct Testimony at 24-27.

1 **B. ESP v. MRO - The SSO Price of Generation to Customers.**

2

3 ***Q8. WHAT IS YOUR DETERMINATION IN COMPARING THE COST TO***
4 ***CUSTOMERS OF SSO GENERATION UNDER THE PROPOSED ESP***
5 ***VERSUS UNDER AN MRO?***

6 **A8.** Because Duke has proposed to obtain SSO generation supply during the ESP
7 through a CBP, and under an MRO generation supply would also be procured
8 through a CBP, the prices to customers under either scenario would be the same.
9 For SSO generation, the proposed ESP with its CBP, as compared to an MRO
10 with a CBP, does not save customers money or cost customers more money.
11 Therefore, I agree with Mr. Wathen that the SSO generation pricing under the
12 proposed ESP and an MRO would be equal.

13

14 **C. ESP v. MRO - Other Quantifiable Provisions**

15

16 ***Q9. DO YOU AGREE WITH MR. WATHEN THAT THERE ARE NO OTHER***
17 ***QUANTIFIABLE COSTS OF THE ESP?***

18 **A9.** No. In his comparison, Mr. Wathen gives no consideration for the costs to
19 customers of the new Price Stability Rider (“PSR”) that Duke proposes in its ESP.

20

21 ***Q10. WHY SHOULD THE PSR COSTS BE QUANTIFIED?***

22 **A10.** Assuming *arguendo* that the PSR can be included in an ESP, its costs should be
23 considered costs of the ESP because the PSR would not be available to Duke

1 under an MRO scenario. Duke also clearly believes that the PSR would “not be
2 available under an MRO” because Mr. Wathen claims certain qualitative benefits
3 from the PSR to be “ascribed to an ESP” and “not available under an MRO.”⁷ In
4 addition, in Duke’s response to OCC Interrogatory No. 17, the utility indicated
5 that R.C. 4928.142 “does not make provision for implementation of the proposed
6 PSR.” (Attachment BEH-2.)

7
8 ***Q11. WHAT ARE THE ESTIMATED COSTS TO CUSTOMERS OF THE PSR?***

9 ***ALL.*** While Duke did not provide estimates in its Application and Direct Testimonies
10 of the costs to customers of the PSR,⁸ Duke did provide estimates of PSR
11 revenues and costs in responses to discovery. In his testimony OCC Witness
12 Wilson provides Duke’s estimate of a \$ [REDACTED] cumulative net cost for the PSR
13 over the ESP period, and explains how the proposed PSR will impose costs and
14 risks onto customers.⁹ These costs of the PSR to customers should be considered
15 as costs of Duke’s proposed ESP that customers would not pay under an MRO
16 scenario.

⁷ Duke Witness Wathen Direct Testimony at 27.

⁸ Duke’s financial projections in this case contain \$0 for PSR revenues and/or costs because the forecast “assumed that margins on Duke Energy Ohio’s contractual entitlement in OVEC were \$0 for the term of the proposed ESP.” (OCC Interrogatories Nos. 10 and 11, Attachments BEH-3 and BEH-4.)

Duke has not prepared forecasts of the expected rate impacts of the proposed PSR for the term of the ESP, or for the remaining term of Duke’s contract with Ohio Valley Electric Corporation. (IEU-Interrogatories Nos. 1 and 2, Attachments BEH-5 and BEH-6.)

In Duke Witness Ziolkowski’s Typical Bill Impacts, Attachment JEZ-3, proposed Riders DCI, DSR and PSR are set at zero. (OCC Interrogatory No. 60, Attachment BEH-7.)

⁹ OCC Witness Wilson Testimony.

1 **D. ESP v. MRO – Non-quantifiable/Qualitative Provisions.**

2

3 ***Q12. WHAT DOES DUKE CONSIDER TO BE THE QUALITATIVE BENEFITS***
4 ***OF ITS PROPOSED ESP?***

5 ***A12.*** Duke claims the following are qualitative benefits of the proposed ESP that make
6 it better, in the aggregate, than the results under an MRO:

7 • “enables timely investment in the Company’s distribution
8 system while simultaneously protecting Duke Energy
9 Ohio’s financial integrity,”

10 • “provides customers with price stability and certainty,
11 affording them the benefits of Duke Energy Ohio’s
12 contractual entitlement in OVEC in an otherwise volatile
13 environment,” and

14 • further enhancing “development of the competitive retail
15 market” through:
16 ○ modifications to rate design that “result in costs for
17 SSO supply being charged consistent with the
18 manner in which they are incurred and in a manner
19 that is reflective of the offers that customers may
20 receive from CRES providers,” and

1 ○ “eliminating non-market based rider or
2 arrangements” so that “generation-related costs will
3 be established by market forces.”¹⁰
4

5 **Q13. DO YOU AGREE WITH DUKE THAT THESE CLAIMED QUALITATIVE**
6 **BENEFITS MAKE THE PROPOSED ESP BETTER, IN THE AGGREGATE,**
7 **THAN THE RESULTS UNDER AN MRO?**

8 **A13.** No. Assuming *arguendo* that qualitative benefits can be considered under the
9 statutory test,¹¹ and to the extent that the benefits do exist, most would be equally
10 available if an MRO were filed and some come at additional costs to customers.
11

12 **Q14. WHAT ARE THE PROVISIONS OF THE PROPOSED ESP THAT DUKE**
13 **CLAIMS WILL ENABLE “TIMELY INVESTMENT IN THE COMPANY’S**
14 **DISTRIBUTION SYSTEM WHILE SIMULTANEOUSLY PROTECTING**
15 **DUKE ENERGY OHIO’S FINANCIAL INTEGRITY”?**

16 **A14.** In response to OCC Interrogatory No. 107 Duke stated that the “only provision of
17 the ESP that enables timely investment in the Company’s distribution system
18 while simultaneously protecting Duke Energy Ohio’s financial integrity”¹² is
19 Rider DCI. Duke Witness Wathen states that Rider DCI provides a qualitative

¹⁰ May 29, 2014 Application at 15.

¹¹ I am advised by counsel that the question whether qualitative provisions should be considered in the comparison of an ESP and an MRO is currently pending before the Ohio Supreme Court. See *In the Matter of Northeast Ohio Public Energy Council*, Appeal No. 2013-0513.

¹² OCC Interrogatory No. 107, Attachment BEH-7.

1 benefit of the proposed ESP, which would not be available under an MRO.¹³ On
2 the contrary, Duke's Application at page 15 states that "Rider DCI and Rider DSR
3 are also available should the Company provide an SSO in the form of an MRO,
4 and as such, "they have no impact on the qualitative comparison and should be
5 excluded." Under an MRO scenario, Duke would be able to seek approval of rate
6 increases for investments in its distribution system by filing a distribution base
7 rate case.

8
9 ***Q15. IN EVALUATING THE PROPOSED ESP AS COMPARED TO THE***
10 ***RESULTS UNDER AN MRO, WHAT CONSIDERATION SHOULD THE***
11 ***COMMISSION GIVE TO RIDER DCI?***

12 ***A15.*** To the extent that Rider DCI can be claimed to be a qualitative benefit, the
13 Commission should be aware of the potential additional costs to customers
14 associated with those claimed qualitative benefits. Duke did not provide specific
15 estimates of the costs and rate impacts to customers of Rider DCI in its
16 Application and Direct Testimonies.¹⁴ However, in response to OCC
17 Interrogatory No. 10, Duke stated that its financial projections for the ESP term
18 included \$272 million in revenue collected from customers through Rider DCI.¹⁵

¹³ Duke Witness Wathen Direct Testimony at 27.

¹⁴ In Duke Witness Ziolkowski's Attachment JEZ-3, Typical Bill Impacts, proposed Riders DCI, DSR and PSR are set at zero. (OCC Interrogatory No. 60, Attachment BEH-8.)

¹⁵ OCC Interrogatory No. 10, Attachment BEH-2. I also am advised by counsel that the question whether these quantified costs should be included as a cost of the ESP, and not an MRO, currently is pending before the Ohio Supreme Court. See *In the Matter of Northeast Ohio Public Energy Council*, Appeal No. 2013-0513.

1 While Duke could, under an MRO scenario, seek rate increases for similar types
2 of investments in the distribution system, the proposed Rider DCI accelerates
3 collection from customers as compared to collection determined in a distribution
4 rate case. The Commission has acknowledged such accelerated collection in
5 riders like Duke's proposed Rider DCI, characterizing AEP Ohio's Distribution
6 Improvement Rider as an "incentive ratemaking to accelerate recovery of the
7 Company's investment in distribution service."¹⁶

8
9 Given that Duke's Rider DCI would collect only distribution investment, it is very
10 possible that the same level of revenue might not be approved through a distribution rate
11 case because such a rate case incorporates Commission review of the utility's entire rate
12 base, revenues, expenses and rate of return. So even if it is assumed that the identical
13 level of Rider DCI revenues would be paid by customers through a future distribution
14 rate increase case, the additional cost for customers of having to pay the utility sooner
15 needs to be considered. To estimate the difference between revenue collected under the
16 Rider DCI and revenue that would be collected under a distribution rate increase,
17 assumptions would have to be made on what increase the utility would request, what the
18 Commission would approve and when the increase would be effective. Thus, estimates
19 of the cost to customers for the accelerated payment may not be readily quantifiable – but
20 it is known that customers will pay Duke sooner through Rider DCI.

¹⁶ AEP Ohio Case Nos. 11-346-EL-SSO, et al., Opinion and Order at 46 (August 8, 2012).

1 **Q16. WHAT ARE THE PROVISIONS OF THE PROPOSED ESP THAT DUKE**
2 **CLAIMS WILL PROVIDE “CUSTOMERS WITH PRICE STABILITY AND**
3 **CERTAINTY, AFFORDING THEM THE BENEFITS OF DUKE ENERGY**
4 **OHIO’S CONTRACTUAL ENTITLEMENT IN OVEC IN AN OTHERWISE**
5 **VOLATILE ENVIRONMENT”?**

6 **A16.** Duke Witness Wathen explains that a qualitative benefit of the ESP not available
7 under an MRO is the PSR, which is a “means to stabilize competitive generation
8 prices for shopping and non-shopping customers.”¹⁷

9
10 **Q17. SHOULD THE COMMISSION CONSIDER DUKE’S PROPOSED PSR AS**
11 **PROVIDING A QUALITATIVE BENEFIT TO CUSTOMERS?**

12 **A17.** No. As explained by OCC Witness Wilson, the proposed PSR will not provide
13 the price stability and certainty that Duke claims, but instead will impose costs
14 and risk onto customers,¹⁸ which the Commission should consider as a cost of the
15 ESP that would not exist under an MRO.

16
17 **Q18. HOW DOES DUKE CLAIM ITS PROPOSED ESP WILL FURTHER**
18 **ENHANCE “DEVELOPMENT OF THE COMPETITIVE RETAIL**
19 **MARKET”?**

20 **A18.** Qualitative benefits related to the development of the competitive retail market
21 that are claimed by Duke from its proposed ESP are described by Duke Witness

¹⁷ Duke Witness Wathen Direct Testimony at 27.

¹⁸ OCC Witness Wilson Testimony.

1 Wathen as “changes to rate design and the elimination of non-market-based
2 influences on customer behavior” and “further leveling the playing field between
3 SSO auction winners and CRES providers.”¹⁹ As discussed in the testimonies of
4 Duke Witnesses Wathen and Ziolkowski, provisions of the proposed ESP which
5 Duke indicates will result in these qualitative benefits are:

- 6 1. Changes to allocation and rate design for Rider RC –
7 allocating capacity costs to rate classes based on a class’s
8 PJM 5 CP demand, replacing demand charges for certain
9 rate schedules with load factor kWh charges, and reducing
10 the difference in stepped rates for certain rate schedules.
- 11 2. Changes to rate design for Rider RE – reducing the
12 difference in stepped rates for certain rate schedules.
- 13 3. Not continue Rider LFA – eliminating the Load Factor
14 Adjustment Rider now applicable to certain high load
15 factor customers.
- 16 4. Not continue special provisions for demand response –
17 eliminating the interruptible credits (which are paid for
18 through Rider DR-ECF) provided to certain customers for
19 participation in a demand response program.
- 20 5. Changes to Rider NM – clarifying the billing process for
21 net metering customers.

¹⁹ Duke Witness Wathen Direct Testimony at 26-27.

1 6. Not continue the Percentage of Income Payment Plan
2 ("PIPP") customer discount – combining PIPP load with
3 other SSO load supplied through the auction process.²⁰
4

5 ***Q19. DO YOU AGREE WITH DUKE THAT THESE CLAIMED QUALITATIVE***
6 ***BENEFITS WOULD NOT BE AVAILABLE UNDER AN MRO AND THUS***
7 ***MAKE THE PROPOSED ESP BETTER THAN AN MRO?***

8 ***A19.*** No. Rather than following the statutory test which compares the *proposed ESP* to
9 the expected results under an MRO, Duke's analysis of qualitative benefits is
10 more of a comparison of the provisions of its current ESP with the provisions of
11 its proposed ESP.²¹ Comparing the proposed ESP to the current ESP is an
12 incorrect evaluation.

13
14 Second, even if Duke's evaluation were accepted as appropriate, an examination
15 of these proposed changes, which are primarily rate design changes that Duke
16 ascribes to the ESP, reveals that they would be available in an MRO and/or in
17 other proceedings. If the changes are available in an MRO and/or in other
18 proceedings, then the benefits which Duke claims from them would be equally
19 available under an MRO scenario. Therefore, these changes proposed by Duke
20 should not be considered in the comparison between an ESP and an MRO.

²⁰ OCC Interrogatories Nos. 14 and 15 (Attachments BEH-9 and BEH-10).

²¹ For example, Duke considers the 5CP method proposed in this ESP to be a benefit over the current allocation of capacity costs, and the proposed rate designs to be a benefit over current rate designs. In addition, it considers the elimination of the current ESP provisions for Riders LFA, DR-ECF, NM, and the PIPP customer discount to be benefits of the proposed ESP, when these items are due to expire anyway at the end of the current ESP.

1 **Q20. PLEASE EXPLAIN WHY YOU BELIEVE THAT THESE CHANGES**
2 **PROPOSED BY DUKE WOULD BE AVAILABLE UNDER AN MRO**
3 **SCENARIO.**

4 **A20.** First, changes to the rate design of SSO generation-related rates, like Duke's
5 Rider RC, Rider RE and Rider LFA,²² are clearly available in an MRO. Under
6 the PUCO's rules for the filing an MRO, a utility is required to provide proposed
7 SSO generation rates derived from a Competitive Bidding Process. The PUCO's
8 requirements include a proposed retail rate design,²³ an indication of how bid
9 prices were used for deriving rates,²⁴ and a description of the rate structure chosen
10 by the utility with the method used to convert bid prices to retail rates.²⁵ In fact,
11 when Duke filed an MRO application in 2010, it proposed a retail rate design for
12 SSO generation, including a four coincident peak allocation method for capacity
13 costs and elimination of demand-billed charges.²⁶ Thus, changes to SSO
14 generation-related rates in Duke's proposed ESP (*i.e.*, items 1, 2 and 3 listed
15 above) should not be considered by the Commission as benefits of the ESP that
16 are not available in an MRO.

²² Duke Witness Wathen discusses reasons for not continuing Rider LFA as "the Company believes that the price customers pay for all generation-related costs should be established by market forces." (Direct Testimony at 21) It should also be noted that while Duke now claims elimination of Rider LFA as benefit, the establishment of the same rider was a considered a benefit in Duke's current ESP. (Case No. 10-2586-EL-SSO, Duke Witness Janson Supplemental Testimony at 11.)

²³ OAC 4901:1-35-03(B)(2)(a).

²⁴ OAC 4901:1-35-03(B)(2)(c).

²⁵ OAC 4901:1-35-03(B)(2)(i).

²⁶ Duke Case No. 10-2586-EL-SSO, Opinion and Order at 52-56 (February 23, 2011).

1 Second, Duke claiming that it will no longer continue its current demand response
2 program for certain transmission voltage customers²⁷ does not constitute a
3 qualitative benefit of the proposed ESP. Whether Duke had filed an ESP or an
4 MRO, this program was scheduled to end. As Duke Witness Wathen states “the
5 sunset provision on the program in the current ESP inarguably expires on May 31,
6 2015.” Mr. Wathen opines that for affected customers to think the program was
7 to continue “could only be characterized as speculative.”²⁸ Thus, this demand
8 response program ending²⁹ (*i.e.*, item 4 listed above) should not be considered by
9 the Commission as a benefit of the ESP that is not available under an MRO.

10
11 Third, Duke’s proposal for changes to its Net Metering tariff is not a qualitative
12 benefit of the proposed ESP. Duke Witness Ziolkowski explains that Duke
13 proposes to add language to clarify the billing process for net metering customers.
14 Whether Duke filed an ESP or an MRO, the utility has opportunities in other
15 proceedings to seek PUCO approval of changes to tariff language. Thus, changes
16 to tariff language (*i.e.*, item 5 listed above) should not be considered by the
17 Commission as a benefit of the ESP that is not available under an MRO.

²⁷ This demand response program is funded through Rider DR-ECF.

²⁸ Duke Witness Wathen Direct Testimony at 23.

²⁹ It should also be noted that while Duke now claims elimination of this demand response program as a benefit, the establishment of the same program was a considered a benefit in Duke’s current ESP. (Case No. 10-2586-EL-SSO, Duke Witness Jansen Supplemental Testimony at 11.)

1 Finally, not continuing the PIPP customer discount off the SSO generation price
2 is not a qualitative benefit of the proposed ESP. Initially, it should be noted that a
3 discount for PIPP customers would generally be viewed as benefit to customers
4 and not having that discount as a detriment to customers. In evaluating Duke's
5 current ESP, the five percent discount for PIPP customers was considered an
6 "undeniable" quantifiable benefit.³⁰ It is unreasonable now to consider, as Duke
7 does, the elimination of this discount as a benefit to customers. However, to the
8 extent that any benefit exists related to no longer having the PIPP customer
9 discount, such benefit would exist whether Duke had filed an ESP or an MRO.
10 Because the discount was scheduled to end on May 31, 2015,³¹ the PIPP load
11 would have been included in the SSO load to be competitively bid under either an
12 ESP or an MRO. Thus, including the PIPP load in the SSO load to be bid, and
13 not having a PIPP customer discount (*i.e.*, item 6 listed above) should not be
14 considered by the Commission as a benefit of the ESP that is not available under
15 an MRO.

³⁰ Case No. 11-3549-EL-SSO, Duke Witness Wathen Supplemental Testimony at 31, "the estimated benefits of the ESP also includes the savings projected for PIPP customers" and Duke Witness Janson Supplemental Testimony at 11, "the ESP also provides an undeniable benefit to our customers enrolled in PIPP by affording them a confirmed discount."

³¹ Duke witness Ziolkowski Direct Testimony at 7.

1 **IV. CONCLUSION**

2

3 **Q21. BASED ON YOUR REVIEW OF THE STATUTORY TEST FOR DUKE'S**
4 **PROPOSED ELECTRIC SECURITY PLAN, WHAT IS YOUR**
5 **RECOMMENDATION TO THE COMMISSION?**

6 **A21.** I recommend the Commission reject the ESP as proposed by Duke because it fails
7 to meet the statutory test. Based on the following determinations, Duke's
8 proposed ESP is not more favorable in the aggregate as compared to the expected
9 results that would otherwise apply under an MRO under Ohio law:

10 1. For generation prices that SSO customers would pay, there
11 would not be a benefit of the ESP over the MRO, because
12 under both scenarios the SSO generation prices would be
13 determined through a competitive bid.

14 2. For other quantifiable provisions, there would not be a
15 benefit of the ESP over the MRO. Instead, Duke's
16 proposed PSR would impose costs (\$██████████) and risks
17 upon customers³² that would not be imposed under an
18 MRO.

19 3. Assuming *arguendo* that qualitative benefits can even be
20 considered,³³ for Duke's claimed qualitative benefits of the
21 ESP, to the extent such qualitative benefits exist, most

³² See testimony of OCC Witness Wilson.

³³ I am advised by counsel that the question whether qualitative provisions should be considered in the comparison of an ESP and an MRO is currently pending before the Ohio Supreme Court. See *In the Matter of Northeast Ohio Public Energy Council*, Appeal No. 2013-0513.

1 would also be available in the scenario of an MRO being
2 filed. Thus, Duke's claimed qualitative benefits should not
3 be considered in comparison of the ESP to an MRO. For
4 the qualitative benefits claimed by Duke related to the PSR,
5 this provision of the ESP will not provide benefit to
6 customers but instead is a quantifiable cost to customers.

7

8 ***Q22. DOES THIS CONCLUDE YOUR TESTIMONY?***

9 ***A22.*** Yes. However, I reserve the right to incorporate new information that may
10 subsequently become available. I also reserve the right to supplement my
11 testimony in the event that the utility, the PUCO Staff or other parties submit new
12 or corrected information in connection with this proceeding.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing *Direct Testimony of Beth E. Hixon on Behalf of the Office of the Ohio Consumers' Counsel's, Public Version*, was served via electronic transmission to the persons listed below on this 26th day of September 2014.

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Beth E. Hixon
Testimony Submitted on Public Utility Regulation

As an employee of the Office of the Ohio Consumers' Counsel (OCC):

Company	Docket No.	Date
Ohio Power	83-98-EL-AIR	1984
Ohio Gas	83-505-GA-AIR	1984
Dominion East Ohio Gas	05-474-GA-ATA	2005
Dayton Power & Light	05-792-EL-ATA	2006
Duke Energy Ohio	03-93-EL-ATA, et al.	2007
Dominion East Ohio	08-729-GA-AIR	2008
AEP Ohio	08-917-EL-SSO, et al.	2008
AEP Ohio	11-346-EL-SSO, et al.	2012
Duke Energy Ohio	12-1682-EL-AIR, et al.	2013
Duke Energy Ohio	12-1685-GA-AIR, et al.	2013
Dayton Power & Light	12-426-EL-SSO, et al.	2013
AEP Ohio	13-1406-EL-RDR	2013

As an employee of Berkshire Consulting Service:

Company	Docket No.	Date	Client
Toledo Edison	88-171-EL-AIR	1988	OCC
Cleveland Electric Illuminating	88-170-EL-AIR	1988	OCC
Columbia Gas of Ohio	88-716-GA-AIR, et al.	1989	OCC
Ohio Edison	89-1001-EL-AIR	1990	OCC
Indiana American Water	Cause No. 39595	1993	Indiana
			Office of the Utility Consumer Counsel
Ohio Bell	93-487-TP-CSS	1994	OCC
Ohio Power	94-996-EL-AIR	1995	OCC
Toledo Edison	95-299-EL-AIR	1996	OCC
Cleveland Electric Illuminating	95-300-EL-AIR	1996	OCC
Cincinnati Gas & Electric	95-656-GA-AIR	1996	City of Cincinnati, OH

**Duke Energy Ohio
Case No. 14-841-EL-SSO
OCC Second Set Interrogatories
Date Received: June 13, 2014**

OCC-INT-02-017

REQUEST:

Referring to the qualitative benefit of Rider PSR on page 26-27 of the Direct Testimony of Duke witness Wathen,

- a. Would Rider PSR be available under an MRO?
- b. If the response to part (a) is negative, why not?
- c. If the response to part (a) is negative (i.e. Rider PSR not available under an MRO), then under an MRO how would Duke treat its continuing OVEC generation commitment for ratemaking and accounting purposes?

RESPONSE:

- a. Objection. Seeks to elicit a legal opinion of statutory construction. Without waiving said objection, to the extent discoverable and in the spirit of discovery, see R.C. 4928.142, which does not make provision for implementation of the proposed PSR.
- b. Objection. Seeks to elicit a legal opinion of statutory construction. Without waiving said objection, to the extent discoverable and in the spirit of discovery, see response to OCC-INT-02-007(a).
- c. Objection. This Interrogatory seeks to elicit information that can only be provided after resorting to speculation and guesswork. Duke Energy Ohio is not seeking an SSO in the form of an MRO and thus did not evaluate its contractual entitlement in OVEC under such a framework.

PERSON RESPONSIBLE: As to objection, Legal
As to response, William Don Wathen Jr.

**Duke Energy Ohio
Case No. 14-841-EL-SSO
OCC Second Set Interrogatories
Date Received: June 13, 2014**

OCC-INT-02-010

REQUEST:

Referring to Direct Testimony of Duke witness Mullin's pro forma financial projections and the ESP-related assumptions (page 5), for each calendar year 2015-2018, what is the amount of:

- a. Distribution Capital Investment Rider revenue,
- b. Distribution Storm Rider revenue, and
- c. Price Stabilization Rider revenue and/or cost?

RESPONSE:

- a. \$22M, \$63M, \$83M, \$104M for calendar years 2015 through 2018, respectively.
- b. \$0.
- c. \$0.

PERSON RESPONSIBLE: Patricia W. Mullins

**Duke Energy Ohio
Case No. 14-841-EL-SSO
OCC Second Set Interrogatories
Date Received: June 13, 2014**

OCC-INT-02-011

REQUEST:

If Duke's response to the prior Interrogatory, part (c) indicates that no Price Stabilization Rider revenue and/or cost was included in the pro forma financial projections:

- a. How were revenue and costs associated with Duke's OVEC generation "entitlement" treated for these projections?
- b. For each year, what was the annual amount of revenue and cost associated with Duke's OVEC generation "entitlement"?

RESPONSE:

- a. The forecast assumed that margins on Duke Energy Ohio's contractual entitlement in OVEC were \$0 for the term of the proposed ESP.
- b. See response to OCC-INT-02-11(a).

PERSON RESPONSIBLE: Patty A. Mullins

**Duke Energy Ohio
Case No. 14-841-EL-SSO
IEU First Set Interrogatories
Date Received: June 12, 2014**

IEU-INT-01-001

REQUEST:

Has Duke prepared any financial modeling or forecasts of the expected rate impacts of the proposed Price Stabilization Rider for the term of the proposed electric security plan?

RESPONSE:

No.

PERSON RESPONSIBLE: William Don Wathen Jr.

**Duke Energy Ohio
Case No. 14-841-EL-SSO
IEU First Set Interrogatories
Date Received: June 12, 2014**

IEU-INT-01-002

REQUEST:

Has Duke prepared any financial modeling or forecasts of the expected rate impacts of the proposed Price Stabilization Rider for the remaining term of Duke's contract with Ohio Valley Electric Corporation ("OVEC")?

RESPONSE:

No.

PERSON RESPONSIBLE: William Don Wathen Jr.

Duke Energy Ohio
Case No. 14-841-EL-SSO, 14-842-EL-ATA
OCC Fifth Set Interrogatories
Date Received: July 14, 2014

OCC-INT-05-107

REQUEST:

In response to OCC-INT-02-012 Duke states that “implementation of Rider DCI does contribute to this benefit” (i.e. the benefit of “enables timely investment in the Company’s distribution system while simultaneously protecting Duke Energy Ohio’s financial integrity” (Application at 15)). With respect to such statement, please identify the following:

- a. What other provisions, if any, of the proposed ESP “contribute to this benefit”?
- b. How do the provisions provided in response to part (a) contribute to this benefit?

RESPONSE:

Objection. To the extent this Interrogatory is intended to be duplicative of OCC-INT-02-016, it is overly burdensome and must be seen as intending to harass. Without waiving said objection, to the extent discoverable, and in the spirit of discovery:

- a. The only provision of the ESP that “enables timely investment in the Company’s distribution system while simultaneously protecting Duke Energy Ohio’s financial integrity” is the proposed Rider DCI.
- b. As the Commission opined in its order approving a similar rider for AEP Ohio, in Case No. 11-346-EL-SSO, *et al.*, “the [distribution investment rider] is an incentive to accelerate recovery of the Company’s investment in distribution service.” The proposed Rider DCI would allow for timely recovery of investments in the distribution system, significantly mitigating the regulatory lag that impedes Duke Energy Ohio’s ability to make necessary investments to maintain and improve its distribution system and that impedes the Company’s ability to meet its and its customers’ expectations for reliability, safety, and efficiency.

PERSON RESPONSIBLE: William Don Wathen Jr.

**Duke Energy Ohio
Case No. 14-841-EL-SSO, 14-842-EL-ATA
OCC Third Set Interrogatories
Date Received: June 25, 2014**

OCC-INT-03-060

REQUEST:

Please identify all charges (riders, rates) sought to be approved (new, existing, continued) in the Utility's ESP that are not included in the bill comparison shown on Witness Ziolkowski Schedule JEZ-3.

RESPONSE:

Objection. This Interrogatory seeks to elicit information readily available upon a review of the testimony filed in connection with these proceedings and, as such, it runs afoul of OAC 4901-1-16(G). Without waiving said objection and in the spirit of discovery,

Attachment JEZ-3 includes all riders that are projected to be in effect as of May 2015, except for Rider LFA. Rider ESSC terminates after December 31, 2014 by its own terms and is not included in Attachment JEZ-3. In the schedule, the proposed Riders DCI, DSR, and PSR are set at zero. Attachment JEZ-3 shows the impacts of the revised design of Rider RC and Rider RE.

PERSON RESPONSIBLE: As to objection – Legal
As to response – James E. Ziolkowski

**Duke Energy Ohio
Case No. 14-841-EL-SSO
OCC Second Set Interrogatories
Date Received: June 13, 2014**

OCC-INT-02-014

REQUEST:

Referring to “the benefits of the proposed ESP” on page 26 of the Direct Testimony of Duke witness Wathen:

- a. Which of the following Duke proposed changes are considered to be the “changes to rate design and the elimination of non-market-based influences on customer behavior”?
 - i. 5 CP allocation methodology of capacity costs for Rider RC
 - ii. Removal of demand charges from Rider RC
 - iii. Elimination of the LFA
 - iv. Elimination of the DR-ECF
- b. If any of the items (i) through (iv) are not considered, why not?
- c. If there are additional Duke proposed changes that are considered applicable to these benefits, what are they?
- d. Would the changes in items i through iv, and those provided in response to part (c) be available under an MRO?
- e. If the response to part (d) is negative, why not?

RESPONSE:

- a. Objection. This Interrogatory seeks to elicit information readily available upon a review of the testimony filed in connection with these proceedings and, as such, it runs afoul of OAC 4901-1-16(G). Without waiving said objection and in the spirit of discovery, all.

- b. Objection. This Interrogatory is confusing as written and can be answered only with regard to speculation and guesswork. Without waiving said objection, to the extent discoverable, and in the spirit of discovery, not applicable.
- c. Objection. This Interrogatory seeks to elicit information protected by the attorney client privilege and/or work product doctrine. Further, this Interrogatory seeks to elicit information readily available upon a review of the testimony filed in connection with these proceedings and, as such, it contradicts O.A.C. 4901-1-16(G). Without waiving said objection, to the extent discoverable, and in the spirit of discovery, as discussed in the testimony of James E. Ziolkowski, the Company is also proposing to migrate toward unified residential generation rates and away from energy blocks for those generation rates.

Mr. Ziolkowski also describes the changes to Rider RC to recognize load factor differences while still relying exclusively on energy rates by implementing an 'hours-use-demand' rate design.

Also, associated with the elimination of Rider DR-ECF, the Company is proposing to eliminate the current program to provide above-market demand response credits to certain commercial and industrial customers at one-half net cost.

Mr. Ziolkowski also proposes a change to the Net Metering Rider (Rider NM) to clarify the billing process for net metering customers.

Finally, the Company is proposing to eliminate the arrangement for PIPP customers to be served by FirstEnergy Solutions such that PIPP load is included in the SSO load.

- d. Objection. This Interrogatory can only be answered through application of speculation and guesswork. The riders and rate design referenced herein were the product of a settlement of an ESP filed under R.C. 4928.143. Whether similar rate designs would have been proposed by the Company and approved by the Commission in the context of an MRO is unknown. This Interrogatory is further objectionable in that it seeks legal interpretation of Ohio statute and thus impermissibly seeks attorney work product.
- e. Not applicable.

PERSON RESPONSIBLE: As to objection, Counsel
As to response, James E. Ziolkowski

**Duke Energy Ohio
Case No. 14-841-EL-SSO
OCC Second Set Interrogatories
Date Received: June 13, 2014**

OCC-INT-02-015

REQUEST:

Referring to “the benefits of the proposed ESP” on page 26-27 of the Direct Testimony of Duke witness Wathen:

- a. What provisions of the proposed ESP result in “Promotion of the competitive market by further leveling the playing field between SSO auction winners and CRES providers?”
- b. Would the provisions provided in response to part (a) be available under an MRO?
- c. If the response to part (b) is negative, why not?

RESPONSE:

- a. Objection. This Interrogatory calls for a narrative answer better suited for deposition. See generally, *Penn Cent. Transp. Co. v Armco Steel Corp.* (1971), 27 Ohio Misc. 76, 271 N.E.2d 877. Without waiving said objection and in the spirit of discovery, see direct testimony of William Don Wathen Jr., and references to the elimination of non-market based influences as described therein. As discussed in response to OCC-INT-02-014, the changes being proposed in this ESP to promote a level playing field include:
 - Allocation and rate design for Rider RC
 - Changes to Rider RE for residential customers
 - Elimination of Rider LFA
 - Elimination of special provisions for demand response
 - Elimination of special provision for PIPP load
- b. See response to OCC-INT-02-014.
- c. Not applicable.

PERSON RESPONSIBLE: As to objection, Counsel
As to response, William Don Wathen Jr.

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Case No(s). 14-0841-EL-SSO, 14-0842-EL-ATA

Summary: Testimony Direct Testimony of Beth H. Hixon, Public Version, on Behalf of the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Grady, Maureen R. Ms.