BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In The Matter of the Application of Duke Energy Ohio, Inc., for Authority to Establish a Standard Service Offer Pursuant to R.C. 4928.143, in the Form of an Electric Security Plan, Accounting Modifications, and Tariffs for Generation Service.	)	Case No. 14-841-EL-SSO
In the Matter of the Application of Duke Energy Ohio, Inc. for Authority to Amend its Certified Supplier Tariff, P.U.C.O. No. 20.	)	Case No. 14-842-EL-ATA

INITIAL BRIEF OF THE KROGER COMPANY

Rebecca L. Hussey (0079444) (Counsel of Record)
CARPENTER LIPPS & LELAND LLP
280 Plaza, Suite 1300
280 North High Street
Columbus, Ohio 43215
Telephone: (614) 365-4110
Fax: (614) 365-9145
Email: Hussey@carpenterlipps.com

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Counsel for The Kroger Company

TABLE OF CONTENTS

I. INTRODUCTION **3**

II. ARGUMENT **3**

A. If the Commission adopts Duke Energy Ohio's proposal to establish Rider DCI, the Commission should reject the Company's proposed allocation methodology in favor of a simple, equal percentage rider applicable to all rate classes. 3

B. The Commission should adopt Staff witness Donlon's approach regarding Rider LFA. 5

C. The Company's request to retain the option to terminate the ESP after its second year is unreasonable and should be denied. 7

D. The Commission should deny Duke's proposal to establish the PSR, as the PSR is contrary to law and improperly shifts the risk associated with Duke's interest in the OVEC generation units to ratepayers. 8

1. The Company's proposed PSR does not comply with the provisions of Section 4928.143(B)(2), Revised Code and inappropriately shifts the risks associated with the OVEC generation units from the Company to customers. 8

2. The proposed PSR fails to comply with the policies of the state of Ohio codified in Section 4928.02, Revised Code. 12

3. Granting the PSR would be tantamount to unlawfully permitting Duke to recover transition revenues. 13

E. The Company has not demonstrated that the ESP, as filed, is more favorable in the aggregate than a market rate offer (MRO), as required under Section 4928.143(C)(1), Revised Code. 15

III. CONCLUSION **17**

I. INTRODUCTION

On May 29, 2014, Duke Energy Ohio, Inc. (Duke or the Company) filed an application (Application) for authority to establish a standard service offer, in the form of an electric security plan (ESP), pursuant to Section 4928.143, Revised Code.[1] Inter alia, Duke requested that the Commission establish and approve, as proposed, its Distribution Capital Investment Rider (Rider DCI), discontinue its Load Factor Adjustment Rider (Rider LFA) immediately prior to the effective date of the ESP, and approve its proposed Price Stabilization Rider (PSR) through the term of its agreement with the Ohio Valley Electric Corporation (OVEC), which is effective through 2040.

The Kroger Company (Kroger) was granted intervention in the above-captioned matters and participated in a hearing on the same, which commenced on October 22, 2014. Kroger hereby submits its initial brief on the Company's proposed ESP.

II. ARGUMENT

A. If the Commission adopts Duke Energy Ohio's proposal to establish Rider DCI, the Commission should reject the Company's proposed allocation methodology in favor of a simple, equal percentage rider applicable to all rate classes.

In its Application, Duke requests that the Commission establish Rider DCI.[2] Kroger does not oppose the Company's request to establish Rider DCI; however, in the event that the Commission approves Duke's request to establish Rider DCI, Kroger recommends that the Commission adopt a rider mechanism that applies a simple, equal percentage increase on distribution rates to all rate classes, rather than the approach the Company has proposed.

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[1] Duke Energy Ohio Ex. 1.

[2] Application at 11.

As explained by Duke witness Laub, Rider DCI is designed to recover only the incremental revenue requirement on distribution investment, including grid modernization.[3] The Company has proposed to allocate the incremental revenue requirement "based on the same allocation as used in Schedule E in the Company's then most recently approved distribution base rate case."[4] However, in practice, as demonstrated in an attachment to Duke witness Laub's testimony, Attachment PAL-1,[5] Page 1, the share of costs allocated to each rate class is not directly proportional to the class's share of revenues, as determined in Case No. 12-1682-EL-AIR, Duke's most recently approved distribution rate case.

As noted in Kroger witness Higgins' testimony, for purposes of developing a cost allocation for Rider DCI, the Company has utilized an "elaborate series of calculations…which appears to result in a shifting level of revenue shortfall for Rates DP and DS. This series of calculations essentially *redistributes* cost responsibility among the classes, rather than reflecting the spread of base distribution revenue determined in the last distribution rate case."[6] The result of the Company's approach to allocation is to "lock in each class's share of costs irrespective of what happens to the relative sizes of each class's load."[7] This result is undesirable, especially in circumstances where the profiles of rate classes have changed dramatically over short periods of time.

As a solution to the inequitable results yielded by the Company's approach, Kroger witness Higgins recommends that Rider DCI be designed as an equal percentage rider applicable to base distribution rates, consistent with the design of AEP Ohio's Commission-approved

[3] Direct Testimony of Peggy A. Laub, Duke Energy Ohio Ex. 9 (Laub Direct) at 4.

[4] Id.

[5] See Corrected Attachment PAL-1 to the Direct Testimony of Peggy A. Laub, Duke Energy Ohio Ex. 10.

[6] Direct Testimony of Kevin C. Higgins, Kroger Ex. 1 (Higgins Direct) at 10.

[7] Id. at 11.

Distribution Investment Rider.[8] Under this approach, incremental Rider DCI costs will be allocated in proportion to each customer's base distribution rates, thereby accurately reflecting the allocation of base distribution revenues determined in Duke's last approved distribution rate case.[9] The calculation of the rider under this approach will be simple and straightforward. In fact, Duke witness Ziolkowski testified that using the approach recommended by Kroger witness Higgins would be "a reasonable way to calculate" Rider DCI rates.[10] Given that Kroger witness Higgins' recommendation for the allocation and design of Rider DCI will effectuate Duke's stated intent regarding allocation of the rider, is straightforward, easy to administer, and is a method which has previously been approved by the Commission, the Commission should adopt this approach for allocation of Rider DCI, rather than the approach proposed by the Company.

B. The Commission should adopt Staff witness Donlon's approach regarding Rider LFA.

The Company has proposed to eliminate Rider LFA effective June 1, 2015.[11] According to Duke witness Ziolkowski, as proposed, Rider LFA will terminate with the expiration of the Company's current ESP, but for a final true-up to zero-out the rider's balance.[12] Adopting the approach advanced by the Company, however, would have an adverse impact on high load factor customers taking service under rate schedules DS, DP, and TS. As noted by Staff witness Donlon, "Staff believes that the initial rate increase to certain customers would be too high and thus [Rider LFA] should be phased out over the period of the ESP."[13] The option presented in

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[8] Id.

[9] Id.

[10] Tr. Vol. VI at 1621.

[11] Direct Testimony of William Don Wathen Jr., Duke Energy Ohio Ex. 6 (Wathen Direct) at 21.

[12] Direct Testimony of James E. Ziolkowski, Duke Energy Ohio Ex. 18 (Ziolkowski Direct) at 7.

[13] Prefiled Testimony of Patrick Donlon, Staff Ex. 5 (Donlon Direct) at 3.

Staff witness Donlon's testimony, which recommends reducing Rider LFA by 33% in years one and two of the proposed ESP, and by 34% in year three, with a true-up to follow for any remaining balance, is preferable to the approach advocated by the Company. As acknowledged by Duke witness Ziolkowski, Staff witness Donlon's recommended approach for Rider LFA promotes the concept of gradualism.[14]

Staff witness Donlon's recommendation regarding Rider LFA is likewise preferable to the recommendation advanced by Ohio Energy Group (OEG) witness Baron. Although OEG witness Baron recommends, like Staff witness Donlon, that the Commission phase Rider LFA out (or "down") over the course of the ESP term, OEG witness Baron also recommends that the Commission modify the LFA Rider by requiring that the rider only apply to customers taking service under Rates DP and TS over the proposed ESP period.[15] Although this recommendation may appear to be reasonable at first glance, it would effectively deny high load factor customers taking service under Rate DS the benefit of gradualism when facing rate increases due to the phase-out of Rider LFA, while reserving such benefit for customers taking services under Rates DP and TS. In contrast to the scenario advanced in OEG witness Baron's proposal, under Staff witness Donlon's proposal, customers in <u>any</u> rate class who are presently benefiting from Rider LFA would be permitted to gradually adjust to the rate increases resulting from elimination of Rider LFA.[16] This is a desirable result. Given that the principle of gradualism would benefit all rate classes impacted by Rider LFA under Staff witness Donlon's approach, Kroger requests that the Commission adopt Staff witness Donlon's proposal for Rider LFA over the term of the proposed ESP.

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[14] Tr. Vol. VI at 1532, 1533.

[15] Direct Testimony of Stephen J. Baron, OEG Ex. 2 (Baron Direct) at 23.

[16] See Tr. Vol. VIII at 2308.

C. The Company's request to retain the option to terminate the ESP after its second year is unreasonable and should be denied.

Although Duke has proposed its ESP for the period commencing June 1, 2015, and ending May 31, 2018, it has attempted to expressly reserve the following:

> [T]he right to terminate its proposed ESP at the conclusion of the second year thereof, or May 31, 2017. Said unilateral right may be exercised in the event there is a substantive change in either Ohio or federal law that affects SSOs or rate plans concerning [the] same. For purposes of this provision, Ohio law includes statutes, rules, regulations, Ohio Supreme Court decisions, and Commission decisions and federal law includes statutes, federal court decisions, rules, regulations, decisions of the Federal Energy Regulatory Commission, and the rules, tariffs, and agreements of PJM Interconnection, L.L.C., or any successor regional transmission operator.[17]

Duke's purported reservation of the right to terminate the ESP early poses a number of concerns and should be denied by the Commission. Notably, the events that function as conditions precedent to Duke rightfully terminating its ESP one year early appear to be purposely undefined. Although early termination may be exercised only in the event there is a "substantive change" in Ohio or federal law affecting SSOs or SSO rate plans, a "substantive change" may arguably accommodate a vast number of situations. Thus, if for any reason prior to June 1, 2017, Duke believes that it may be more beneficial for the Company to terminate the ESP early than to continue the plan through the end of the three year period, the language set forth above would likely permit the Company to terminate the plan.

Permitting Duke to terminate its ESP one year early would provide the Company with an opportunity that is not specifically authorized by statute.[18] Section 4928.143(B)(2), Revised Code, which governs the permissible content of ESPs, does not include among its provisions the ability for an EDU to terminate a Commission-approved ESP early. Further, permitting early

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[17] Application at 16.

[18] Section 4928.143(B)(2).

termination on a broad basis, such as that allegedly reserved by the Company, strips from consumers the predictability and security arising from the approval of an ESP for a defined term. In view of these circumstances, the Commission should not permit Duke to terminate the proposed ESP a year early in the event of a "substantive change" in Ohio or federal law affecting SSOs or SSO rate plans.

D. The Commission should deny Duke's proposal to establish the PSR, as the PSR is contrary to law and improperly shifts the risk associated with Duke's interest in the OVEC generation units to ratepayers.

Duke's proposed PSR does not comply with key components of Ohio law or policy, as codified in the Ohio Revised Code. Further, although the Company has characterized the PSR as a stabilization mechanism for customers, the PSR will actually shift to customers significant risks associated with the OVEC generation units which currently reside with the Company and its shareholders. These facts support Commission denial of the PSR.

1. The Company's proposed PSR does not comply with the provisions of Section 4928.143(B)(2), Revised Code and inappropriately shifts the risks associated with the OVEC generation units from the Company to customers.

Section 4928.143(B), Revised Code, establishes the mandatory and permissible components of an ESP. Whereas Paragraph (B)(1) establishes the mandatory components of a plan, Paragraph (B)(2) establishes those items or mechanisms that may be included in an ESP.[19] Section 4928.143(B)(2)(a), Revised Code, states that an ESP may provide for or include "the cost of purchased power supplied under the offer, including the cost of energy and capacity, and including purchased power acquired from an affiliate[.]" In contrast to what is permitted under the statute, however, Duke "proposes that the energy, capacity, and ancillary services to which it

[19] See generally Section 4928.143(B), Revised Code.

is currently entitled from its contractual rights in OVEC not be used for such supply obligations. Rather, Duke Energy Ohio proposes that it sell energy, capacity and ancillary services associated with the OVEC contract into the market."[20] Thus, including the PSR, which is not associated with the cost of supplying energy or capacity to standard service offer customers, in the Company's ESP is not permitted under the statute.

In support of its proposal to include the PSR in its ESP, Duke contends that the PSR will "have the effect of stabilizing or providing certainty regarding retail electric service" pursuant to Section 4928.143(B)(2)(d).[21] In its Application, Duke proposes that the Commission approve use of the PSR mechanism through 2040, which marks the termination date associated with the Company's interest in the OVEC generating units.[22] Duke also characterizes the PSR as a "partial hedge structure" that "will serve to mitigate some of the volatility in overall rates that customers pay for generation service."[23]

Contrary to Duke's stated rationale for the PSR, the rider actually introduces uncertainty, rather than stability and certainty regarding retail electric service to customers, in that under the PSR, customers gain responsibility for the costs of generating units for which they have not previously been responsible. Under the Company's proposal, the PSR is projected to result in a net charge to customers over the term of the ESP.[24] It appears that the only certainty that the PSR provides customers is that they will pay more for electric distribution if the PSR is approved than they would otherwise. The lack of customer certainty brought about by the PSR is accentuated by the proposed 25-year term of the PSR, given that numerous costs which would

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[20] Application at 13.

[21] Id. at 12-13.

[22] Id. at 14.

[23] See Direct Testimony of James P. Henning, Duke Energy Ohio Ex. 2 (Henning Direct) at 10.

[24] Higgins Direct at 6.

accrue to customers over this period of time are unknown and may be subject to significant changes. The uncertainty inherent in the PSR is additionally emphasized by the fact that, as proposed, the PSR "could be expanded to include similar financial arrangement with other generators[.]"[25]

Although Duke touts stability as an underpinning of the PSR, Staff witness Choueiki testified that the PSR merely "shifts the risk associated with the OVEC generating stations to Duke Energy Ohio's customers. Th[is] is, in Staff's opinion, inconsistent with the Commission's objective of transitioning all Ohio EDUs to a fully-competitive retail-market construct and violates one of the state's policy goals as articulated in §4928.02(H), Revised Code."[26] Confirming suspicions that the Company plans to use the PSR to provide certainty for itself and its shareholders rather than customers, Duke witnesses testified that if Rider PSR is approved as proposed, the Company's interest in OVEC would be revenue neutral.[27] The revenue neutrality for the Company resulting from an approved PSR would insulate Duke from any significant costs associated with the OVEC units that may arise over the PSR term. Although the PSR would concomitantly preclude Duke from realizing any possible benefits from its interest in OVEC, the certainty provided to the Company under the PSR that it will not be financially responsible for the costs of any environmental upgrades, decommissioning costs, or other fixed costs during the PSR term appears to be more valuable to the Company than any possible benefits from the OVEC entitlement over the term of the entitlement. When asked whether the PSR's guarantee of no losses for Duke from its OVEC entitlement would provide the Company

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[25] Henning Direct at 10.

[26] Direct Testimony of Hisham M. Choueiki, Staff Ex. 1 (Choueiki Direct) at 11.

[27] See Tr. Vol. II at 519 (Duke witness Wathen); see also Tr. Vol. XVI at 4295 (Duke witness Jennings).

with certainty, Duke witness Wathen responded, "[c]learly."[28] Logic strongly suggests that if Duke had forecasted its OVEC entitlement to be extremely profitable over its term, the Company would not have precluded its shareholders from enjoying those benefits, to the benefit of its customers, by proposing the PSR.

The lack of customer stability resulting from the PSR and the significant shift in risk from the Company to customers for the OVEC generating units resulting from the same are further exacerbated by the changing environmental regulatory environment. The Clean Power Plan, as proposed by the U.S. Environmental Protection Agency on June 2, 2014,[29] would regulate carbon emissions from power plants. The OVEC generating units implicated by the proposed PSR are likely among those units that would be affected by the Clean Power Plan, potentially requiring additional pollution controls to be installed on the generating units, resulting in significant additional costs. Those costs would inure to customers, rather than Duke, under the proposed PSR. As noted by Kroger witness Higgins, "[i]n the section of Duke Energy Corporation's 2013 Form 10-K which discusses OVEC, it states, 'As discussed in Note 5, proposed environmental rulemaking could increase the costs of OVEC, which would be passed through to Duke Energy Ohio."[30] Duke Energy Corporation's 10-K cautions that possible new environmental regulations could increase the Company's costs for OVEC. Effectively, in proposing the PSR, Duke has flipped the risk associated with such potential environmental rulemakings onto customers. OEG witness Taylor testified that uncertainty surrounding the fixed and variable costs of the OVEC generating unit increases after 2023.[31] In fact, he

[28] Tr. Vol. II at 519.

[29] https://www.federalregister.gov/articles/2014/06/18/2014-13726/carbon-pollution-emission-guidelines-for-existing-stationary-sources-electric-utility-generating

[30] Higgins Direct at 7.

[31] See Tr. Vol. VII at 2063-2064.

contends, the increase in uncertainty after that date is the principal reason behind his proposal to limit the PSR to a nine and a half year term, as opposed to Duke's proposed 25 year term.[32] The nine and a half year term for the PSR proposed by OEG witness Taylor coincides, at least in part, with the likely effective date of any carbon emissions regulations for power plants.

Although promoted by the Company as a stabilizing mechanism consistent with Section 4928.143(B), Revised Code, as discussed above, the PSR will not result in stability or certainty for customers. In fact, if approved, the proposed PSR will actually be utilized by Duke as a means to shift the risks associated with the Company's OVEC entitlement to customers. For these reasons, the Commission should not approve the PSR.

2. The proposed PSR fails to comply with the policies of the state of Ohio codified in Section 4928.02, Revised Code.

The establishment of the PSR and collection of costs through the same would permit Duke to recover generation-related costs through distribution rates, which undermines the state policy set forth in Section 4928.02(H), Revised Code. Section 4928.02(H), Revised Code, provides that it is the policy of the state of Ohio to, inter alia,

> Ensure effective competition in the provision of retail electric service by avoiding anticompetitive subsidies flowing from a noncompetitive retail electric service to a competitive retail electric service or to a product or service other than retail electric service, and vice versa, including by prohibiting the recovery of any generation-related costs through distribution or transmission rates[.]

In contrast to this provision, the net costs resulting from the "hedge" Duke has proposed pursuant to the PSR arise from generation and, accordingly, may be characterized as "generation-related costs." Staff witness Choueiki testified that any cost to customers arising from the PSR would be "a function of generation."[33] Further, Direct Energy witness Ringenbach

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[32] Id. at 2063.

[33] Tr. Vol. XII at 3369.

testified that the PSR covers "generation output from the [OVEC] plant being sold into the market. Customers are paying for that [generation output] if what flows back to them is not a credit. And, therefore, they are paying for generation they are not using."[34]

The costs for which Duke seeks recovery from customers under the PSR arise solely from the Company's contractual entitlement in the OVEC generating units. Requiring all electric distribution customers to pay for generation-related costs associated with Duke's interest in the generation derived from its entitlement is analogous to subsidizing Duke's generation, which is anticompetitive and prohibited under Ohio law.[35] Because establishment and operation of the PSR would violate codified state policy, the Commission should deny the PSR proposed by the Company.

3. Granting the PSR would be tantamount to unlawfully permitting Duke to recover transition revenues.

An additional obstacle to approval of the PSR is the fact that the costs of the PSR are indistinguishable from legally prohibited transition charges. Kroger witness Higgins testified that the "PSR appears to be a form of recovering transition revenues, making shopping and non-shopping customers responsible for Duke's legacy generation costs long after the period for transition cost recovery has ended.[36] Providing an EDU with revenues associated with the costs of a generating facility is tantamount to providing the EDU with transition revenues outside of the market development period in violation of Section 4928.38, Revised Code. Transition revenues are defined in accordance with Sections 4928.31 through 4928.40, Revised Code.[37] Section 4928.38, Revised Code, states in pertinent part:

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[34] Tr. Vol. IX at 2627.

[35] See Section 4928.02(H), Revised Code.

[36] Higgins Direct at 5.

[37] See Section 4928.34(B)(12), Revised Code; see also Tr. Vol. V at 1161.

> [A]n electric utility that receives…transition revenues shall be wholly responsible for how to use those revenues and wholly responsible for whether it is in a competitive position after the market development period. The utility's receipt of transition revenues shall terminate at the end of the market development period. With the termination of that approved revenue source, the utility shall be fully on its own in the competitive market. The commission shall not authorize the receipt of transition revenues or any equivalent revenues by an electric utility except as expressly authorized in sections 4928.31 to 4928.40 of the Revised Code.

The Commission may not, at this late phase, lawfully grant additional transition revenues such as those which would be received by Duke from the implementation of the PSR.[38] In a competitive market, collecting revenues associated with a generating facility from customers when the customers do not receive generation (or any other service) from the generating facility is unlawful, unjust, and unreasonable. Kroger witness Higgins testified that the proposed PSR "forces all customers, including shopping customers, to insure against the Company's potential exposure to cost increases or declining market prices related to the Company's continued ownership of its legacy OVEC entitlement. Although Duke's PSR proposal places emphasis on the potential customer benefits of the OVEC sharing arrangement, these benefits are not expected to materialize in the near term."[39]

Because the costs Duke seeks to collect through the PSR are best characterized as transition revenues, which EDUs may not lawfully recover after December 31, 2010, the Commission should deny the Company's collection of these costs through the PSR. Authorizing Duke to collect transition revenues nearly five years after the prescribed statutory period has ended would be unlawful, unreasonable, and improper. As such, the Commission should deny the proposed establishment of the PSR and the Company's collection of the costs associated with the OVEC generating units through the PSR mechanism.

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[38] See Section 4928.40, Revised Code, which expressly limits recovery of transition revenues to no later than December 31, 2010.

[39] Higgins Direct at 6.

E. The Company has not demonstrated that the ESP, as filed, is more favorable in the aggregate than a market rate offer (MRO), as required under Section 4928.143(C)(1), Revised Code.

Section 4928.143(C)(1), Revised Code, sets forth the following standard of review, which applies to ESP cases:

> The burden of proof in the proceeding shall be on the electric distribution utility. Subject to division (D) of this section, the commission by order shall approve or modify and approve an application filed under division (A) of this section if it finds that the electric security plan so approved, including its pricing and all other terms and conditions, including any deferrals and any future recovery of deferrals, is more favorable in the aggregate as compared to the expected results that would otherwise apply under section 4928.142 of the Revised Code.

Pursuant to this standard, before approving an ESP, the Commission must determine that the ESP is more favorable in the aggregate as compared to the expected results arising from an MRO ("the MRO test").[40] In this proceeding, Duke has the burden of demonstrating that its proposed ESP is more favorable in the aggregate than an MRO.[41] In support of the ESP, Duke witness Wathen testified that the "totality of the proposed ESP provides benefits to customers as compared to the expected results under the MRO provision" of Section 4928.143(C)(1).[42] As part of this conclusion, Duke witness Wathen contends that the cost of standard service offer (SSO) service under the proposed ESP is equal to the cost of SSO service that would be expected under an MRO.[43] This testimony fails to take into account the costs of a key component of the Company's proposed ESP, however: the PSR.[44] As explained above, the Company projected that the PSR would result in a net cost to customers over the term of the proposed ESP.

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[40] Section 4928.143(C)(1), Revised Code; see also *In the Matter of the Application of The Dayton Power and Light Company for Approval of its Electric Security Plan*, Case No. 12-426-EL-SSO, Opinion and Order at 48 (September 4, 2013).

[41] Id.

[42] Wathen Direct at 24.

[43] Id. at 25.

[44] Tr. Vol. II at 439-441.

Notwithstanding its projections, Duke did not include this net cost to customers when conducting the MRO test. Thus, quantitatively, the cost of service under the proposed ESP will actually be greater than it would be under an MRO.

As additional support for its contention that the proposed ESP is more favorable in the aggregate than an MRO, Duke contends that its proposed ESP is qualitatively better than the results from an MRO would be. Duke witness Wathen testified that the Company "believes that its proposed ESP provides significant advantages over the results that could be expected under an MRO" based on the following benefits: changes to rate design and the elimination of non-market-based influences on customer behavior; promotion of the competitive market; the opportunity to improve the safety and reliability of the distribution system in an economical and efficient manner under Rider DCI; and a means to stabilize competitive generation process through the PSR.[45] As explained at length above, the PSR will not result in stability for customers, as Duke contends. Further, imposition of the PSR under the proposed ESP may arguably be interpreted as incorporating a non-market-based charge into electric distribution rates. As such, the Company's argument that the proposed ESP eliminates non-market based influences cuts against it. The two remaining factors, promotion of the competitive market and the efficient improvement of the safety and reliability of the distribution system, must therefore be weighed against the costs to which customers are exposed under Rider PSR in order to determine whether the proposed ESP is more favorable in the aggregate than an MRO. Because the PSR exposes customers to not only forecasted costs during the proposed ESP term, but also numerous other presently unknown and unquantified costs, the proposed ESP may not reasonably be determined to be more favorable in the aggregate than an MRO. Consequently, the Commission should not approve the Company's proposed ESP.

[45] Wathen Direct at 26-27.

Notwithstanding the analysis contained herein, in the event that the Commission determines it is in the best interest of Duke and its customers to modify and approve the proposed ESP, Kroger recommends that the Commission adopt the following changes: (1) the Commission should reject the Company's proposed allocation methodology for Rider DCI in favor of a simple, equal percentage rider applicable to all rate classes; (2) the Commission should adopt Staff witness Donlon's approach regarding Rider LFA, rather than the Company's proposal; (3) the Commission should reject the Company's reservation of the right to terminate the ESP one year early; and (4) the Commission should reject the proposed PSR. To the extent the Commission adopts these proposed changes, Kroger believes the ESP would be more favorable in the aggregate than an MRO, and may accordingly be adopted and approved by the Commission.

III. CONCLUSION

As explained in detail above, as proposed, the Company's ESP is not more favorable in the aggregate than an MRO. Kroger recommends that the Commission adopt the following changes to the proposed ESP in order to render the proposed ESP lawful and reasonable: (1) the Rider DCI allocation methodology advanced by Kroger witness Higgins and acknowledged as reasonable by Duke witness Ziolkowski should be adopted; (2) the phase-out of Rider LFA proposed by Staff witness Donlon should be adopted; (3) the purported reservation by the Company of the right to terminate the ESP early should be rejected; and (4) the establishment of the PSR and its proposed operation through 2040 should be rejected.

Respectfully submitted,

___/s/ Rebecca L. Hussey____________________

Rebecca L. Hussey (0079444) (Counsel of Record)
CARPENTER LIPPS & LELAND LLP
280 Plaza, Suite 1300
280 North High Street
Columbus, Ohio 43215
Telephone: (614) 365-4110
Fax: (614) 365-9145
Email: Hussey@carpenterlipps.com

Counsel for The Kroger Company

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served upon the following parties via electronic mail on December 15, 2014.

/s/ Rebecca L. Hussey
Rebecca L. Hussey

Amy.Spiller@duke-energy.com
Elizabeth.watts@duke-energy.com
Rocco.dascenzo@duke-energy.com
Jeanne.Kingery@duke-energy.com
haydenm@firstenergycorp.com
scasto@firstenergycorp.com
joliker@igsenergy.com
mswhite@igsenergy.com
joseph.clark@directenergy.com
sam@mwncmh.com
fdarr@mwncmh.com
mpritchard@mwncmh.com
Bojko@carpenterlipps.com
Allison@carpenterlipps.com
Sechler@carpenterlipps.com
tdougherty@theoec.org
callwein@wamenergylaw.com
toddm@wamenergylaw.com
dhart@douglasehart.com
tobrien@bricker.com
dstinson@bricker.com
dborchers@bricker.com
damson@ralaw.com
mtraven@ralaw.com
rchamberlain@okenergylaw.com
tony.mendoza@sierraclub.org

Steven.beeler@puc.state.oh.us
Thomas.lindgren@puc.state.oh.us
Ryan.orourke@puc.state.oh.us
dboehm@BKLlawfirm.com
mkurtz@BKLlawfirm.com
jkylercohn@BKLlawfirm.com
kboehm@bkllawfirm.com
Schmidt@sppgrp.com
Judi.sobecki@aes.com
cmooney@ohiopartners.org
yalami@aep.com
stnourse@aep.com
mjsatterwhite@aep.com
asonderman@keglerbrown.com
mkimbrough@keglerbrown.com
mchristensen@columbuslaw.org
Edmund.berger@occ.ohio.gov
Maureen.grady@occ.ohio.gov
Joseph.serio@occ.ohio.gov
gpoulos@enernoc.com
mhpetricoff@vorys.com
mjsettineri@vorys.com
glpetrucci@vorys.com
ghull@eckertseamans.com
jvickers@elpc.org
swilliams@nrdc.org

Attorney Examiners:
Christine.pirik@puc.state.oh.us
Nicholas.walstra@puc.state.oh.us

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