

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke Energy Ohio, Inc. for an Increase in Electric Distribution Rates	)	Case No. 17-32-EL-AIR
	)	
In the Matter of the Application of Duke Energy Ohio, Inc. for Tariff Approval.	)	Case No. 17-33-EL-ATA
	)	
In the Matter of the Application of Duke Energy Ohio, Inc. for Approval to Change Accounting Methods	)	Case No. 17-34-EL-AAM
	)	

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**\*\*PUBLIC VERSION\*\***

**MOTION TO COMPEL RESPONSES TO DISCOVERY  
BY  
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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At a cost of \$200 million,<sup>1</sup> Duke Energy Ohio, Inc. ("Duke") installed 715,000 electric smart meters and 444,000 natural gas smart meters. Installation was complete in October 2015.<sup>2</sup> Yet now, less than two years and \$200 million later, Duke seeks to charge customers an additional \$143 million for new smart meter infrastructure—including replacing substantially all of the recently-installed residential electric smart meters, the communications infrastructure, and gas meter reading equipment.<sup>3</sup>

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<sup>1</sup> See *In re Application of Duke Energy Ohio, Inc. to Adjust Rider DR-IM & Rider AU for 2009 SmartGrid Costs*, Case No. 10-867-GE-RDR, Opinion & Order at 4 (Mar. 23, 2011) (stating that Duke will receive 50 cents from the federal government for every dollar it spends on smart grid upgrades, up to \$100 million from the government).

<sup>2</sup> See *In re Application of Duke Energy Ohio, Inc. to Adjust Rider DR-IM and Rider AU for 2010 SmartGrid Costs & Mid-Deployment Review*, Case No. 10-2326-GE-RDR, Notice of Staff Determination (Oct. 12, 2012).

<sup>3</sup> Direct Testimony of Donald L. Schneider, Jr. on Behalf of Duke Energy Ohio, Inc. at 9, 13 (Mar. 16, 2017).

To protect the interests of Duke's 629,000 residential electric customers, the Office of the Ohio Consumers' Counsel ("OCC") needs information regarding the proposed new smart meter infrastructure plan and the many other issues in Duke's rate case. OCC began serving discovery requests on Duke shortly after Duke filed its application and has continued to do so on a rolling basis since. Unfortunately, Duke, in responding to OCC's discovery, has not lived up to its obligations under the rules governing discovery. Despite OCC's best efforts, OCC has not received the information necessary to protect residential utility customers. Duke has left OCC with no choice but to seek the Public Utility Commission of Ohio's ("PUCO") assistance in getting the necessary information. Specifically, this motion to compel pertains to certain discovery requests found in OCC discovery sets 2 through 6, which OCC served on Duke between April 12 and June 2, 2017.<sup>4</sup>

The discovery requests in question pertain to Duke's proposal to charge customers over \$143 million for new smart grid infrastructure, which Duke refers to as its "AMI Transition" plan. The general tone of Duke's responses to OCC's discovery requests is that OCC has little right to obtain data regarding Duke's smart grid program, current meters, their capabilities, their costs, or the benefits that customers might derive from them or other smart grid investments because this information is irrelevant in this case.

But the prudence (or lack thereof) of Duke's investments in smart grid technologies—funded with customers' dollars—is a core matter in this rate case. The AMI Transition plan confirms that Duke's very expensive smart grid deployment is by the utility's own admission not used and useful. Yet customers have had to pay for that

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<sup>4</sup> OCC continues to review Duke's responses to OCC discovery sets 7 and 8 and will review Duke's responses to OCC's outstanding sets 9 and 10 once they are received. OCC reserves all rights regarding these discovery requests.

equipment. Duke's smart grid program was determined to be fully deployed in October 2015 and a mere eighteen months later, Duke revealed major infrastructure and obsolescence problems with its deployment.

OCC has attempted to resolve with Duke the issues surrounding these unanswered discovery requests. Despite these attempts, as of the date of this motion, Duke has failed to provide adequate responses. Thus, under O.A.C. 4901-1-12 and 4901-1-23, OCC moves for an order compelling Duke to fully respond to OCC interrogatories 2-11, 2-31, 2-45, 4-99, 4-103, 5-112 through 5-121, 6-129, 6-134, 6-146, and 6-147 and requests for the production of documents ("RPDs") 2-6 and 2-7 (collectively, the "Unanswered Discovery Requests").

Respectfully submitted,

BRUCE WESTON (0016973)  
OHIO CONSUMERS' COUNSEL

/s/ Christopher Healey  
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**MEMORANDUM IN SUPPORT OF  
MOTION TO COMPEL RESPONSES TO DISCOVERY  
BY  
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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**I. THE UNANSWERED DISCOVERY REQUESTS<sup>5</sup>**

Duke has failed to respond to numerous OCC discovery requests regarding the AMI Transition plan and Duke's smart grid infrastructure. The information that OCC seeks is essential to this case where Duke seeks to charge customers over \$143 million for new smart grid infrastructure, even though Duke just recently finished installing smart meters throughout its service territory. Duke has failed to provide adequate responses to the following Unanswered Discovery Requests:

- OCC RPD 2-6. OCC seeks documents related to Duke's use of U.S. Department of Energy Smart Grid Investment Grant funds for its current smart grid infrastructure. Duke objected that OCC's request is overly broad, unduly burdensome, and seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence. Duke then provided, as its response, a bare citation to the entirety of

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<sup>5</sup> See Healey Affidavit Ex. 1.

discovery that Duke may have provided to OCC in nine cases between 2007 and 2015.

- OCC RPD 2-7. OCC seeks documents related to Duke's requests for proposal related to smart grid infrastructure. Duke objected that OCC's request is overly broad, unduly burdensome, and seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence. Duke refused to provide the requested documents.
- OCC INT 2-11. OCC seeks information about Duke's use of U.S. Department of Energy Smart Grid Investment Grant funds for its current smart grid infrastructure. Duke objected that OCC's request is overly broad, unduly burdensome, and seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence. Duke also claimed that it is not required to provide this information because OCC could have asked for it in discovery in other proceedings in the past.
- OCC INT 2-31. OCC seeks information about interval customer data obtained from smart meters. Duke has continually provided non-responsive answers to OCC's interrogatory.
- OCC INT 2-45. OCC seeks information about the amounts that customers have been charged for different categories of smart grid infrastructure (meters, nodes, communication systems, etc.). Duke objected that this request is overly broad, unduly burdensome, and seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence. Duke then provided, as its response, a bare citation to the entire public record and discovery from eight previous PUCO proceedings.
- OCC INT 4-99. OCC seeks information about Duke's self-healing teams and whether they have improved reliability for consumers. Duke objected that this information is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Duke then provided non-responsive information and cited to a non-existent technical conference.
- OCC INT 4-103. OCC seeks information about self-optimizing grid pilot programs. Duke provided a non-responsive answer and declined to provide any more information.
- OCC INT 5-112 through 5-121. OCC seeks information about Duke's smart grid spending and revenues in different categories. Duke objected that OCC's request is overly broad, unduly burdensome, and seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence. Duke then provided non-responsive information about customer savings agreed to in an earlier case.

- OCC INT 6-129. OCC seeks information about Duke's energy data management system. Duke objected that this request is overly broad, unduly burdensome, and seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence. Duke then cited, without further detail, stipulations and orders from eight earlier cases between 2007 and 2015, none of which are responsive to OCC's request. Duke also cited, without further detail or information, collaborative meetings that allegedly occurred between 2009 and 2015.
- OCC INT 6-134. OCC seeks information about Duke's claim that the PUCO approved Duke's selection of Echelon meters and Duke's energy data management system. Duke objected that this request is overly broad, unduly burdensome, and seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence. Duke then cited, without further detail, stipulations and orders from six earlier cases between 2007 and 2013, none of which are responsive to OCC's request. Duke also cited, without further detail or information, collaborative meetings that allegedly occurred between 2009 and 2015.
- OCC INT 6-146. OCC seeks information about Duke's meter communications network and data proceeding system. Duke objected that this request is overly broad, unduly burdensome, and seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence. Duke then cited, without further detail, stipulations and orders from six earlier cases between 2007 and 2013, none of which are responsive to OCC's request. Duke also cited, without further detail or information, collaborative meetings that allegedly occurred between 2009 and 2015.
- OCC INT 6-147. OCC seeks information related to Duke's requests for proposal related to smart grid infrastructure. Duke objected that this request is overly broad, unduly burdensome, and seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence. Duke then cited, without further detail, stipulations and orders from six earlier cases between 2007 and 2013, none of which are responsive to OCC's request. Duke also cited, without further detail or information, collaborative meetings that allegedly occurred between 2009 and 2015.

## II. STANDARD OF REVIEW

The law requires OCC, as an intervenor and party in this case, to be "granted ample rights of discovery."<sup>6</sup> The General Assembly has also directed the PUCO to regularly review its rules to "aid full and reasonable discovery by all parties."<sup>7</sup> Accordingly, the PUCO has adopted O.A.C. 4901-1-16(B), which provides that "any party to a commission proceeding may obtain discovery on any matter, not privileged, which is relevant to the subject matter of the proceeding." The rule likewise provides: "It is not a ground for objection that the information sought would be inadmissible at the hearing, if the information sought appears reasonably calculated to lead to the discovery of admissible evidence."<sup>8</sup>

In acknowledging the similarities between the PUCO discovery rules and the Ohio Civil Rules, the Ohio Supreme Court has found that the applicable Ohio Civil Rules have been "liberally construed to allow for broad discovery of any unprivileged matter relevant to the subject matter of the pending proceeding."<sup>9</sup> The PUCO recognizes that "the policy of discovery is to allow the parties to prepare and to encourage them to prepare thoroughly without taking undue advantage of the other side's industry or efforts."<sup>10</sup> Further, the PUCO's rules on discovery "do not create an additional field of combat to delay trials or to appropriate the Commission's time and resources; they are

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<sup>6</sup> R.C. 4903.082.

<sup>7</sup> *Id.*

<sup>8</sup> O.A.C. 4901-1-16(B).

<sup>9</sup> *Ohio Consumers' Counsel*, 111 Ohio St.3d at 320.

<sup>10</sup> *In re Investigation into the Perry Nuclear Power Plant*, Case No. 85-521-EL-COI, Entry at 23 (Mar. 17, 1987).



designed to confine discovery procedures to counsel and to expedite the administration of the Commission proceedings."<sup>11</sup>

The PUCO has authorized parties to enforce their statutory right to discovery by filing a motion to compel. In particular, a party may move to compel discovery regarding any "failure of a party to answer an interrogatory under rule 4901-1-19 of the Administrative Code" and any "failure of a party to produce a document . . . requested under rule 4901-1-20 of the Administrative Code."<sup>12</sup> For purposes of these rules, "an evasive or incomplete answer shall be treated as a failure to answer."<sup>13</sup>

### III. MOTION TO COMPEL

#### A. **Discovery requests related to Duke's smart grid infrastructure and AMI Transition plan are relevant and reasonably calculated to lead to the discovery of admissible evidence.**

Intervenors are entitled to broad discovery in PUCO proceedings.<sup>14</sup> OCC seeks information about Duke's AMI Transition plan, including (i) Duke's use of Smart Grid Investment Grant funds,<sup>15</sup> (ii) requests for proposal related to Duke's current smart grid infrastructure,<sup>16</sup> (iii) interval customer data,<sup>17</sup> (iv) Duke's energy data management system,<sup>18</sup> (v) charges to customers for smart grid infrastructure,<sup>19</sup> (vi) Duke's self-healing

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<sup>11</sup> *Id.* (citing *Penn Cent. Transp. Co. v. Armco Steel Corp.* 27 Ohio Misc. 76 (C.P. 1971)) (emphasis added).

<sup>12</sup> O.A.C. 4901-1-23(A)(1), (2).

<sup>13</sup> O.A.C. 4901-1-23(B).

<sup>14</sup> *Ohio Consumers' Counsel*, 111 Ohio St.3d at 320.

<sup>15</sup> OCC RPD 2-6, OCC INT 2-11.

<sup>16</sup> OCC RPD 2-7, OCC INT 6-147.

<sup>17</sup> OCC INT 2-31.

<sup>18</sup> OCC INT 6-129, OCC INT 6-146.

<sup>19</sup> OCC INT 2-45, OCC INT 5-112 through 121 (Confidential).

teams and whether they have improved reliability for customers,<sup>20</sup> (vii) self-optimizing grid pilot programs,<sup>21</sup> and (viii) Duke's selection of certain meters and its energy data management system.<sup>22</sup>

This information is relevant to this case and is reasonably calculated to lead to the discovery of admissible evidence. It pertains precisely to the technical attributes of Duke's smart grid program, purported customer benefits, and Duke's AMI Transition plan, for which Duke seeks to charge customers over \$143 million. The AMI Transition plan is described in the testimony of no fewer than six of Duke's witnesses: Cicely M. Hart, James P. Henning, Scott B. Nicholson, Donald L. Schneider Jr., William Don Wathen Jr., and Alexander J. Weintraub. OCC is entitled to this information under the PUCO's rules and under the law. There is no basis for Duke's objection that this information is irrelevant and is not reasonably calculated to lead to the discovery of admissible evidence. The PUCO should order Duke to provide this information to OCC.

**B. The PUCO should reject Duke's rote objections that OCC's requests are unduly burdensome.**

Duke objected to the majority of the Unanswered Discovery Requests on the grounds that it would be unduly burdensome for Duke to respond to them. But in none of these responses did Duke explain why it would be unduly burdensome for Duke to provide a response.

Duke, as the party making the objection, must demonstrate why it would be unduly burdensome for it to provide responses. As the Northern District of Ohio concluded in *Trabon Engineering Corp. v. Eaton Manufacturing Co.*: "A general

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<sup>20</sup> OCC INT 4-99.

<sup>21</sup> OCC INT 4-103.

<sup>22</sup> OCC INT 6-134.

objection that interrogatories are onerous and burdensome ... raises no issue. The objection must make a specific showing of reasons why the interrogatory should not be answered."<sup>23</sup> Duke has made no such showing. Instead, it relied on bare objections with no support whatsoever. Duke has not established that it would be unduly burdensome to provide responses to OCC's discovery requests. Indeed, OCC's requests are for information that is straightforward and should be readily available to Duke. The PUCO should order Duke to provide complete responses to OCC's discovery requests.

**C. Duke's references to other cases, collaborative meetings, and discovery from other cases are insufficient under the PUCO's discovery rules.**

In response to OCC's discovery requests, Duke repeatedly responded by pointing OCC to (i) entire dockets in other proceedings, (ii) the entirety of discovery responses that Duke claims to have provided in past cases, and (iii) collaborative meetings that Duke alleges were held between 2009 and 2015 and which Duke alleges OCC attended. These citations to documents found elsewhere do not comply with the PUCO's discovery rules.

Under OAC 4901-1-19(C), Duke is entitled to cite to public records in response to discovery requests. Duke is required to "specify the title of the document, the location of the document ..., and the page or pages from which the answer may be derived or ascertained."<sup>24</sup> Duke did not do this. Instead, Duke simply provided PUCO case numbers and cited "stipulations" and "orders" without further detail. Duke did not provide the title of relevant documents or the page or pages from which the answers to OCC's discovery requests could be derived or ascertained.

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<sup>23</sup> 37 F.R.D. 51, 54 (1964) (quoting 4 Moore's Federal Practice, 2nd Ed. at 2316).

<sup>24</sup> OAC 4901-1-19(C).

In response to OCC discovery requests, Duke also told OCC that the information requested could be found in discovery in other cases.<sup>25</sup> This, too, is insufficient under the PUCO's rules. Under OAC 4901-1-19(C), Duke is only permitted to cross-reference documents produced in discovery in another case if those documents were produced "within the preceding twelve months." But Duke cited discovery from cases as far back as 2007.<sup>26</sup> Nor did Duke identify the specific discovery responses, the title of the relevant documents, or the page numbers from these old cases that it believed to be responsive to OCC's current discovery requests. Instead, Duke offered to permit OCC to sift through an unknown quantity of discovery files at Duke's offices.<sup>27</sup> The PUCO's rules do not permit Duke to respond to OCC's reasonable discovery requests with this type of data dump. If Duke is going to rely on documents provided in other cases, (i) it can only do so if those documents were provided in the past 12 months, and (ii) Duke must specifically identify those documents by title and page number. Duke has failed to do so.

**D. OCC undertook reasonable efforts to resolve the discovery disputes.**

OCC served its second through sixth discovery sets in April through June 2017 and received responses from Duke in May and June 2017. On June 29, 2017, counsel for OCC contacted counsel for Duke to inform Duke that OCC had some follow-up comments and questions regarding Duke's responses to OCC discovery sets 2 through 5.

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<sup>25</sup> See Healey Affidavit Ex. 1.

<sup>26</sup> See Healey Affidavit Exs. 1-3.

<sup>27</sup> *Id.*

OCC then sent a letter<sup>28</sup> to Duke explaining its needs for supplemental responses to certain discovery requests.<sup>29</sup>

Duke responded to OCC's June 29 letter with a letter dated July 14, 2017.<sup>30</sup> Duke's letter resolved some, but not all, of the issues that OCC raised in its June 29 letter. On August 17, 2017, OCC contacted Duke by telephone to further discuss the issues raised in OCC's June 29 letter and Duke's July 14 response. Regarding several OCC discovery requests, Duke's counsel stated that she needed to consult with her team and would send a follow-up response to OCC in writing. On August 25, 2017, OCC contacted Duke's counsel to inquire about Duke's response. Duke responded that it was working with a third party regarding one of OCC's requests but did not otherwise respond to any of OCC's outstanding concerns.

Separately, during OCC's August 17 phone call with Duke, OCC informed Duke that it has some issues with Duke's responses to OCC discovery sets 5 and 6. OCC stated that it would send Duke a letter outlining these issues. OCC sent Duke this letter on August 22, 2017, describing the reasons that OCC believed Duke's responses to OCC sets 5 and 6 were inadequate. On August 25, 2017, OCC sent a follow-up email to Duke regarding its August 22 letter. As of the date of this motion to compel, Duke has not responded to OCC's letter.

Despite several rounds of back and forth between OCC and Duke, including by telephone, email, and letter, Duke has not provided complete responses to the

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<sup>28</sup> See Healey Affidavit Ex. 2.

<sup>29</sup> OCC's follow-ups primarily pertained to sets 2 and 4, though OCC included one follow-up question from set 5 at that time.

<sup>30</sup> See Healey Affidavit Ex. 3.

Unanswered Discovery Requests. OCC has exhausted all reasonable means of resolving its discovery dispute with Duke.

#### **IV. CONCLUSION**

Through this case, Duke seeks approval to charge customers over \$143 million for new smart grid infrastructure, even though it just spent approximately \$200 million on a complete overhaul of that same infrastructure. OCC has a legal right, and obligation, to thoroughly investigate and scrutinize this proposal to ensure that residential consumers are not being charged rates that are unjust and unreasonable. This requires Duke to provide complete, timely responses to OCC's discovery requests. To date, Duke has not provided such responses to many of OCC's requests.

OCC's requests are relevant, reasonably calculated to lead to the discovery of admissible evidence, and do not impose any undue burden on Duke. The PUCO should reject Duke's meritless objections to OCC's discovery requests and should order Duke to provide complete responses within two days of the order granting this motion to compel.

Respectfully submitted,

BRUCE WESTON (0016973)  
OHIO CONSUMERS' COUNSEL

/s/ Christopher Healey

William J. Michael (0070921)  
Counsel of Record  
Christopher Healey (0086027)  
Assistant Consumers' Counsel

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(Both will accept service via email)

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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	)	

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**AFFIDAVIT OF CHRISTOPHER HEALEY IN SUPPORT OF MOTION TO  
COMPEL RESPONSES TO DISCOVERY**

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I, Christopher Healey, attorney for the Ohio Consumers' Counsel ("OCC") in the above-captioned cases, submit this affidavit in support of OCC's Motion to Compel Responses to Discovery.

1. True and correct copies of OCC RPDs 2-6 and 2-7, and OCC INTs 2-11, 2-31, 2-45, 4-99, 4-103, 5-112 through 5-121, 6-129, 6-134, 6-146, and 6-147 are attached as Exhibit 1.
2. OCC served its second through sixth discovery sets in April through June 2017 and received responses from Duke in May and June.
3. On June 29, 2017, counsel for OCC contacted counsel for Duke to inform Duke that OCC had some follow-up comments and questions regarding Duke's responses to OCC discovery sets 2 through 5.



4. OCC then sent a letter dated June 29, 2017 to Duke explaining its need for supplemental responses to certain discovery requests. A true and correct copy of this letter is attached as Exhibit 2.

5. Duke responded to OCC's June 29 letter with a letter dated July 14, 2017. Duke's letter provides additional responses to some, but not all, of the discovery requests that OCC followed up on in its June 29, 2017 letter. A true and correct copy of this July 14, 2017 letter is attached as Exhibit 3.

6. On August 17, 2017, OCC contacted Duke by telephone to further discuss the issues raised in OCC's June 29 letter and Duke's July 14 response. Regarding several OCC discovery requests, Duke's counsel stated that she needed to consult with her team and would send a follow-up response to OCC in writing.

7. During OCC's August 17 phone call with Duke, OCC informed Duke that it has some issues with Duke's responses to OCC discovery sets 5 and 6. OCC stated that it would send Duke a letter outlining these issues. OCC sent Duke this letter on August 22, 2017, describing the reasons that OCC believed Duke's responses to OCC sets 5 and 6 were inadequate. A true and correct copy of OCC's August 22, 2017 letter is attached as Exhibit 4.

8. On August 25, 2017, OCC contacted Duke's counsel via email to inquire about Duke's response to OCC's outstanding requests from its June 29 letter and about Duke's response to OCC's August 22 letter. Duke responded that it was working with a third party regarding one of OCC's requests but did not otherwise respond to any of OCC's outstanding concerns. Duke did not provide any response to OCC's August 22 letter, nor has Duke provided any response thereto as of the date of this affidavit. True

and correct copies of OCC's August 25 email and Duke's response are attached as Exhibit 5.

9. OCC has exhausted all reasonable means of resolving its discovery dispute with Duke.


STATE OF OHIO                     )  
  ) SS:  
COUNTY OF FRANKLIN         )

The undersigned, being of lawful age and duly sworn on oath, hereby certifies,  
deposes and states the following:

I have caused to be prepared the attached written affidavit for OCC in the above  
referenced docket. This affidavit is true and correct to the best of my knowledge,  
information and belief.

  
\_\_\_\_\_  
Christopher Healey, Affiant

Subscribed and sworn to before me this 1st day of September, 2017.

  
\_\_\_\_\_  
Notary Public



Debra Jo Bingham, Notary Public  
Union County, State of Ohio  
My Commission Expires June 13, 2020

**Duke Energy Ohio  
Case No. 17-0032-EL-AIR  
OCC Second Set Production of Documents  
Date Received: April 12, 2017**

**OCC-POD-02-006**

**REQUEST:**

Referring to the Duke AMI transition proposal generally. Please provide:

- a. The confidential versions of Company witness Kiergan's testimony and attachment CDK-1 in 07-589-GA-AIR, dated July 28, 2008 related to smart grid cost-benefit analysis.
- b. Duke Energy's application to the U.S. Department of Energy for Smart Grid Investment Grant funds and any amendments filed prior to the formal approval of the funding agreement.
- c. All presentations, meeting minutes, and reports made by Duke Energy Ohio to the Ohio Smart Grid Collaborative from the Collaborative's inception through the presentation of results from the time-varying rate pilot conducted as part of the smart grid deployment.

**RESPONSE:**

This Interrogatory is overly broad, and unduly burdensome, given that it seeks information that is unlimited as to time and that is neither relevant to this proceeding nor likely to lead to the discovery of admissible evidence in this proceeding. Objecting further, representatives from the Office of the Ohio Consumers' Counsel were present at each of the Company's SmartGrid collaborative meetings held monthly at the Commission. Thus, the information sought in this Request for Production is equally available to the OCC. Objecting further, matters related to the initiation of the Company's program to deploy a smart grid were approved by the Commission as early as 2008. The OCC stipulated settlement in each and every case involving questions of prudence and cost recovery related to the deployment, including the Commission's mid-term review in Case No.10-2326, wherein it was determined that deployment should continue. Thus the material requested is not relevant in this proceeding.

**PERSON RESPONSIBLE:** Legal

**Duke Energy Ohio**  
**Case No. 17-0032-EL-AIR**  
**OCC Second Set Production of Documents**  
**Date Received: April 12, 2017**

**OCC-POD-02-007**

**REQUEST:**

Referring to the Duke AMI transition proposal generally. Please provide:

- a. All RFPs issued by the Company for smart meters, gas meter communication modules, smart meter communications networks, and smart meter data processing software from 2004 to 2012.
- b. All responses submitted by all potential suppliers to these RFPs.
- c. Please describe the processes and criteria used by the Company to evaluate potential suppliers' responses to these RFPs.
- d. Please explain why the Company chose the Echelon/Badger/Ambient/Oracle as its preferred suppliers, and the electric PLC/gas transmitter/node/EDMS solution as its preferred approach, over other potential suppliers and solutions. In your response, identify the functionalities and capabilities of the chosen systems that the Company determined were responsive to its RFPs.

**RESPONSE:**

This Request for Production is overly broad, and unduly burdensome, given that it seeks documents that are unlimited as to time and that are neither relevant to this proceeding nor likely to lead to the discovery of admissible evidence in this proceeding. Without waiving said objection, to the extent discoverable, and in the spirit of discovery, documents related to the selection of vendors at the initiation of the SmartGrid deployment were approved in earlier cases and were then reviewed by the Public Utilities Commission of Ohio in its mid-term review of the Company's deployment in Case No.10-2326-GE-RDR. These documents are not relevant to the Company's current application for an increase in rates.

**PERSON RESPONSIBLE:** Legal

**Duke Energy Ohio  
Case No. 17-0032-EL-AIR  
OCC Second Set of Interrogatories  
Date Received: April 12, 2017**

**OCC-INT-02-011**

**REQUEST:**

Concerning the Duke Energy Business Services grant that was received from the U.S. Department of Energy Smart Grid Investment Grant (SGIG) program.

- a. Please identify the total dollar amount of the grant.
- b. Please identify the dollar amount of funds that Duke allocated or spent in each State and the specific purpose of the funds spent in each State, using the following categories:
  - i. Smart Meters;
  - ii. AMI Network nodes;
  - iii. AMI Communication Systems;
  - iv. Meter Communication Network (type);
  - v. Cellular (Backhaul);
  - vi. Meter Data Management System;
  - vii. In-Home Displays;
  - viii. Customer Web Portals;
  - ix. Distribution Automation Equipment; and
  - x. Time-Based Rate Programs/Pilots.
- c. Please identify the ratepayer funds approved in each State to match the DOE grant.
- d. Provide each state regulatory order or decision in which Duke's smart grid program using the DOE funds was approved.
- e. Please provide all progress and compliance reports provided to the US DOE that specifically reflect expenditures and projects in Ohio.
- f. Provide any analysis done by DOE or its contractor of the Duke Smart Grid programs in the states for which the \$200,000,000 grant was provided.
- g. Please provide all requests for SGIG matching funds Duke Energy submitted for its Ohio smart grid deployment. Please include all supplier invoices or other documentation provided in support of these requests.

**RESPONSE:**

Objection. This Interrogatory is overly broad, unduly burdensome, and designed to elicit information that is both irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Answering further, this Interrogatory seeks information that is of public record and thus equally accessible to the Office of the Ohio Consumers' Counsel. Also, this Interrogatory fails to contain any reasonable time parameters pursuant to which it is to be answered. Indeed this information has been provided to OCC in response to previous discovery requests in SmartGrid rider cases during pertinent years. Without waiving said objection, to the extent discoverable, and in the spirit of discovery, matters related to DOE funds were addressed at the time the funds were received and thus are not relevant in this proceeding.

**PERSON RESPONSIBLE:** Legal

**Duke Energy Ohio  
Case No. 17-0032-EL-AIR  
OCC Second Set of Interrogatories  
Date Received: April 12, 2017**

**OCC-INT-02-031**

**REQUEST:**

Referring to Mr. Nicolson' testimony at page 3, line 19, in your supplier web portal, define what is meant by "interval customer data." In your response, define the "interval" that is available to suppliers for both Echelon and Itron metered customers and whether that "interval" data is billing quality.

**RESPONSE:**

Please see page 4, lines 1 through 5, of Mr. Nicholson's testimony. The AMI interval data provided on the supplier web portal is the same for Itron and Echelon meters.

**PERSON RESPONSIBLE:** Scott Nicholson



**Duke Energy Ohio  
Case No. 17-0032-EL-AIR  
OCC Second Set of Interrogatories  
Date Received: April 12, 2017**

**OCC-INT-02-045**

**REQUEST:**

Identify the amount associated with each of the following categories of costs recovered through Rider DR-IM for each year since its inception:

- a. Smart Meters.
  - i. Echelon;
  - ii. Itron.
- b. AMI Network nodes (for each type of meter).
- c. AMI Communication Systems (for each type of meter).
  - i. Meter Communication Network (type);
  - ii. Cellular (Backhaul).
- d. Meter Data Management System.
- e. In-Home Displays.
- f. Customer Web Portals.
- g. Distribution Automation Equipment.
- h. Time-Based Rate Programs/Pilots.

**RESPONSE:**

Objection. This Interrogatory is overly broad, and unduly burdensome, given that it seeks information that is unlimited as to time and that is neither relevant to this proceeding nor likely to lead to the discovery of admissible evidence in this proceeding. This Interrogatory seeks to elicit information that is of public record for the captioned proceeding and thus is equally accessible to the Office of the Consumers' Counsel. Without waiving said objection, to the extent discoverable, and in the spirit of discovery, see publicly filed material and responses to previous discovery requests provided to the Office of the Ohio Consumers' Counsel in the following cases:

08-920-EL-SSO; 08-709-EL-AIR; 10-867-GE-RDR; 10-2326-GE-RDR; 12-1811-GE-RDR; 13-1141-GE-RDR; 14-1051-GE-RDR; 15-883-GE-RDR.

**PERSON RESPONSIBLE:** Legal

**Duke Energy Ohio**  
**Case No. 17-0032-EL-AIR**  
**OCC Fourth Set of Interrogatories**  
**Date Received: May 18, 2017**

**OCC-INT-04-099**

**REQUEST:**

Describe any impact that the self-healing team deployments had on the SAIFI and CAIDI reliability indices for each year between 2010 and 2016.

**RESPONSE:**

Objection. This Interrogatory seeks to elicit information that is of public record and thus equally available to and accessible by the Office of the Ohio Consumers' Counsel. Information related to Duke Energy Ohio's SAIFI AND CAIDI metrics have been provided to the Office of the Ohio Consumers' Counsel in other proceedings. Objecting further, information related to SAIFI AND CAIDI prior to 2016 is both irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Without waiving said objection, to the extent discoverable, and in the spirit of discovery: self-healing team operations lower SAIFI by reducing the number of customers experiencing a sustained interruption due to a fault. Self-healing team operations raise CAIDI because they reduce the number of customers interrupted more than the customer minutes of interruption. Since  $CAIDI = CMI/CI$  (Customer Minutes Interrupted / Customer Interruptions), a greater reduction in CI vs. CMI will cause CAIDI to increase.

**PERSON RESPONSIBLE:**

As to objection:

Legal

As to response:

Donald L. Schneider, Jr.

**Duke Energy Ohio  
Case No. 17-0032-EL-AIR  
OCC Fourth Set of Interrogatories  
Date Received: May 18, 2017**

**OCC-INT-04-103**

**REQUEST:**

Has Duke implemented any self-optimizing grid pilot programs in Ohio or elsewhere?

**RESPONSE:**

Yes, Duke Energy Ohio Self-Healing Teams were a foundational step in the progression towards the Self-Optimizing Grid. The Self-Optimizing Grid is an advancement from Self-Healing Teams. Instead of having individual circuit pairs that can back each other up, the integrated grid network allows for multiple circuit rerouting options to re-energize segments and minimize customer outage events. The Self-Optimizing Grid will further segment the circuits to minimize the number of customers affected by sustained outages and assure the necessary capacity and connectivity to fully leverage the segmentation.

**PERSON RESPONSIBLE: Cicely Hart**

**OCC INT 5-112 THROUGH 5-121 ARE DEEMED CONFIDENTIAL UNDER A  
PROTECTIVE AGREEMENT BETWEEN OCC AND DUKE AND HAVE BEEN  
EXCLUDED FROM THIS PUBLIC VERSION OF OCC'S MOTION TO COMPEL.**

**Duke Energy Ohio  
Case No. 17-0032-EL-AIR  
OCC Sixth Set of Interrogatories  
Date Received: June 2, 2017**

**OCC-INT-06-129**

**REQUEST:**

Define the word “scalable” in your response to OCC-INT-02-036: “At the time of purchase, Duke Energy Ohio was aware that EDMS did have VEE functionality for interval AMI CEUD in a scalable manner.”

- a. Does Duke agree that there is a missing word “not” in this sentence from your response to OCC-INT-02-036?
- b. Please identify the document(s) that contain the statements by Duke to inform the Commission that the “cost and long term support” for the functionality to provide VEE data for interval AMI CEUD “was not optimal.”

**RESPONSE:**

Scalable is generally meant as the ability of a system to process an increasing amount of work or its ability to be enlarged to accommodate the growth in work.

- a. There is no missing word in Duke Energy Ohio’s response to OCC-INT-02-036.
- b. Objection. This Interrogatory is overly broad and unduly burdensome, given that it seeks information that is unlimited as to time and that is neither relevant to this proceeding nor likely to lead to the discovery of admissible evidence in this proceeding. Objecting further, this Interrogatory seeks to elicit information that is of public record and thus is equally accessible to the Office of the Consumers’ Counsel. Without waiving said objection, to the extent discoverable, and in the spirit of discovery, see Stipulations and the Commission’s Opinions and Orders adopting stipulations in the following cases, all of which were agreed to by the Office of the Ohio Consumers’ Counsel. Please note also that OCC attended each monthly collaborative meeting that occurred between 2009 and 2015 wherein such matters were presented in detail to members.

Case No.08-920-EL-SSO  
Case No.07-598-GA-AIR  
Case No.10-867-GE-RDR  
Case No.10-2326-GE-RDR  
Case No.12-1811-GE-RDR  
Case No.13-1141-GE-RDR

Case No.14-1051-GE-RDR  
Case No.15-883-GE-RDR

**PERSON RESPONSIBLE:**

As to response a:  
As to objection b:

Don L. Schneider, Jr.  
Legal

**Duke Energy Ohio  
Case No. 17-0032-EL-AIR  
OCC Sixth Set of Interrogatories  
Date Received: June 2, 2017**

**OCC-INT-06-134**

**REQUEST:**

With regard to your response to OCC-INT-02-037, please identify the specific documents and statements in these documents to support your assertion that the selection of the Echelon meters and associated EDMS was “approved” by the Commission.

**RESPONSE:**

Objection. This Interrogatory is overly broad and unduly burdensome, given that it seeks information that is unlimited as to time and that is neither relevant to this proceeding nor likely to lead to the discovery of admissible evidence in this proceeding. Objecting further, this Interrogatory seeks to elicit information that is of public record and thus is equally accessible to the Office of the Consumers’ Counsel. Without waiving said objection, to the extent discoverable, and in the spirit of discovery, see Stipulations and the Commission’s Opinions and Orders adopting stipulations in the following cases, all of which were agreed to by the Office of the Ohio Consumers’ Counsel. Please note also that OCC attended each monthly collaborative meeting that occurred between 2009 and 2015 wherein such matters were presented in detail to members.

Case No.08-920-EL-SSO  
Case No.07-598-GA-AIR  
Case No.10-867-GE-RDR  
Case No.10-2326-GE-RDR  
Case No.12-1811-GE-RDR  
Case No.13-1141-GE-RDR

**PERSON RESPONSIBLE:** Legal



**Duke Energy Ohio  
Case No. 17-0032-EL-AIR  
OCC Sixth Set of Interrogatories  
Date Received: June 2, 2017**

**OCC-INT-06-146**

**REQUEST:**

Please provide any use cases, product specification, product requirements, or similar documents that the Company developed to determine the minimum functionality of the meter communications network and data processing systems that would be needed for the first smart meter deployment the Company planned in its Ohio service territory. If no such use cases/product specifications/product requirements or similar were developed for the first smart meter deployment, please explain why not.

**RESPONSE:**

Objection. This Interrogatory is overly broad and unduly burdensome, given that it seeks information that is unlimited as to time and that is neither relevant to this proceeding nor likely to lead to the discovery of admissible evidence in this proceeding. Objecting further, this Interrogatory seeks to elicit information that is of public record and thus is equally accessible to the Office of the Consumers' Counsel. Without waiving said objection, to the extent discoverable, and in the spirit of discovery, see Stipulations and the Commission's Opinions and Orders adopting stipulations in the following cases, all of which were agreed to by the Office of the Ohio Consumers' Counsel. Please note also that OCC attended each monthly collaborative meeting that occurred between 2009 and 2015 wherein such matters were presented in detail to members.

Case No.08-920-EL-SSO  
Case No.07-598-GA-AIR  
Case No.10-867-GE-RDR  
Case No.10-2326-GE-RDR  
Case No.12-1811-GE-RDR  
Case No.13-1141-GE-RDR

**PERSON RESPONSIBLE:** Legal

**Duke Energy Ohio  
Case No. 17-0032-EL-AIR  
OCC Sixth Set of Interrogatories  
Date Received: June 2, 2017**

**OCC-INT-06-147**

**REQUEST:**

Please provide any and all RFPs the Company issued, and all associated responses, for the meters, communications network, and data processing systems the Company issued in the process of selecting suppliers for the first smart meter deployment in the Company's Ohio service territory. If no such RFPs were issued, please explain why not.

**RESPONSE:**

Objection. This Interrogatory is overly broad and unduly burdensome, given that it seeks information that is unlimited as to time and that is neither relevant to this proceeding nor likely to lead to the discovery of admissible evidence in this proceeding. Objecting further, this Interrogatory seeks to elicit information that is of public record and thus is equally accessible to the Office of the Consumers' Counsel. Without waiving said objection, to the extent discoverable, and in the spirit of discovery, see Stipulations and the Commission's Opinions and Orders adopting stipulations in the following cases, all of which were agreed to by the Office of the Ohio Consumers' Counsel. Please note also that OCC attended each monthly collaborative meeting that occurred between 2009 and 2015 wherein such matters were presented in detail to members.

Case No.08-920-EL-SSO  
Case No.07-598-GA-AIR  
Case No.10-867-GE-RDR  
Case No.10-2326-GE-RDR  
Case No.12-1811-GE-RDR  
Case No.13-1141-GE-RDR

**PERSON RESPONSIBLE:** Legal



## Office of the Ohio Consumers' Counsel

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June 29, 2017

### VIA EMAIL

Amy Spiller  
Duke Energy Business Services, L.L.C.  
139 E. Fourth St., 1303-Main  
P.O. Box 961  
Cincinnati, Ohio 45201-0960  
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RE: In the Matter of the Application of Duke Energy Ohio, Inc., for an Increase in Electric Distribution Rates, PUCO No. 17-0032-EL-AIR et al.

Dear Ms. Spiller:

Thank you for providing your responses and objections to OCC's seventh set of discovery requests. Attached we have provided our follow-up to your objections and responses to OCC's discovery. We reserve the right to send additional follow-up to any discovery. Please contact me at your convenience if you would like to discuss any issues you have with the below.

Best regards,

/s/ Jodi J. Bair  
Jodi J. Bair

CC: Ajay Kumar ([ajay.kumar@occ.ohio.gov](mailto:ajay.kumar@occ.ohio.gov))  
Christopher Healey ([Christopher.healey@occ.ohio.gov](mailto:Christopher.healey@occ.ohio.gov))  
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Rocco D'Ascenzo ([Rocco.dascenzo@duke-energy.com](mailto:Rocco.dascenzo@duke-energy.com))

**OCC RPD-2-6:**

Referring to the Duke AMI transition proposal generally. Please provide:

- a. The confidential versions of Company witness Kiergan's testimony and attachment CDK-1 in 07-589-GA-AIR, dated July 28, 2008 related to smart grid cost-benefit analysis.
- b. Duke Energy's application to the U.S. Department of Energy for Smart Grid Investment Grant funds and any amendments filed prior to the formal approval of the funding agreement.
- c. All presentations, meeting minutes, and reports made by Duke Energy Ohio to the Ohio Smart Grid Collaborative from the Collaborative's inception through the presentation of results from the time-varying rate pilot conducted as part of the smart grid deployment.

**Duke Response:**

This Interrogatory is overly broad, and unduly burdensome, given that it seeks information that is unlimited as to time and that is neither relevant to this proceeding nor likely to lead to the discovery of admissible evidence in this proceeding. Objecting further, representatives from the Office of the Ohio consumers' counsel were present at each of the Company's SmartGrid collaborative meetings held monthly at the Commission. Thus, the information sought in this Request for Production is equally available to the OCC. Objecting further, matters related to the initiation of the Company's program to deploy a smart grid were approved by the Commission as early as 2008. The OCC stipulated settlement in each and every case involving questions of prudence and cost recovery related to the deployment, including the Commission's mid-term review in Case No. 10-2326, wherein it was determined that deployment should continue. Thus the material is not relevant in this proceeding.

**OCC Response:**

The Company's answer is not responsive. The question is not broad, and in fact, is very specific. Duke acknowledges the existence of the information – "the information sought in this Request for Production is equally available to OCC." That the information is equally available to OCC does not justify the Company's failure to produce such documents. In this case, Duke requests approval of replacing meters and communication instruments. While it may be true that OCC signed a settlement in those cases, that has no bearing on OCC's right to receive discovery in this new proceeding. Duke has a duty to produce the requested information because it relates directly to its cost recovery and other proposals in this rate case.

**OCC-INT-2-7:**

c. Please provide the results of any cost analyses the Company completed to evaluate options which avoid replacing the Echelon meters, including, but not limited to:

- i. Replacing the communications card in the Echelon meters with communications cards which could be read directly by the public 4G cellular network;
- ii. Replacing the communications cards in the Echelon meters with communications cards which could be read by the Cisco Connected Grid routers;
- iii. Replacing the communications network, including the communications cards in the Echelon meters, with the L&G communications network solution Ericsson is now using;

- iv. Replacing the communications nodes with Ericsson's SGN 3200 product; and
- v. Other scenarios to avoiding Echelon meter replacement the Company may have considered.

**Duke Response:**

- c. Objection This Interrogatory is overly broad and unduly burdensome, given that it seeks information that is unlimited as to time and that is neither relevant to this proceeding nor likely to lead to the discovery of admissible evidence in this proceeding. Without waiving said objection, to the extent discoverable, and in the spirit of discovery, Duke Energy Ohio Cannot confirm the OCC's claim that certain "options" it contemplates would actually allow Duke Energy Ohio to "avoid replacing the Echelon meters". These "options" would not be in service elsewhere in North America, presenting similar issues we have today with Ambient/Echelon AMI solution. Duke Energy Ohio's proposed solution is a marketable proven AMI solution that Duke has chosen to standardize across all jurisdictions, keeping AMI systems and inventory costs down.
- i. Duke Energy Ohio did not perform a formal cost analysis for this exact "option".
- ii. Duke Energy Ohio did not perform a formal cost analysis for this exact "option".
- iii. Duke Energy Ohio did not perform a formal cost analysis for this exact "option".
- iv. Duke Energy Ohio did not perform a formal cost analysis for this exact "option".
- v. Attachment DLS-1 represents Duke Energy Ohio's cost analysis of avoiding Echelon meter replacement.

**OCC Response:**

Duke did not provide any results of any cost analyses. Duke limited its response to "exact options." OCC requested any cost analyses which avoid replacing the Echelon meters, including, but not limited to. OCC did not limit its question to the exact options nor did the request ask for formal cost analysis. OCC requests any cost analyses performed by, or on behalf Duke.

**OCC RPD-2-7:**

Referring to the Duke AMI transition proposal generally. Please provide:

- a. All RFPs issued by the Company for smart meters, gas meter communication modules, smart meter communications networks, and smart meter data processing software from 2004 to 2012.
- b. All responses submitted by all potential suppliers to these RFPs.
- c. Please describe the processes and criteria used by the Company to evaluate potential suppliers' responses to these RFPs.
- d. Please explain why the Company chose the Echelon/Badger/Ambient/Oracle as its preferred suppliers, and the electric PLC/gas transmitter/node/EDMS solution as its preferred approach, over other potential suppliers and solutions. In your response, identify the functionalities and capabilities of the chosen systems that the Company determined were responsive to its RFPs.

**Duke Response:**

This Request for Production is overly broad, and unduly burdensome, given that it seeks documents that are unlimited as to time and that are neither relevant to this proceeding nor likely to lead to the discovery of admissible evidence in this proceeding. Without waiving said objection, to the extent discoverable, and in the spirit of discovery, documents related to the selection of vendors at the initiation of the SmartGrid deployment were approved in earlier cases and were then reviewed by the Public Utilities Commission of Ohio in its mid-term review of the Company's deployment in case No. 10-2326-GE-RDR. These documents are not relevant to the Company's current application for an increase in rates.

**OCC Response:**

Duke admits that the documents exist, and Duke must provide them to OCC. The standard for discovery is not whether the requested material is relevant but whether the information requested is likely to lead to admissible evidence. See Ohio Adm. Code 4901-1-16(B). In Mr. Nicholson's testimony, on page 12, Mr. Nicholson was asked "[i]s the company proposing to recover costs associated with providing data to CRES providers in these proceedings?" Mr. Nicholson answered yes. The request for production of documents seeks the information specifically related to cost estimates and ultimately recovery for the AMI transition – exactly what Mr. Nicholson, in his testimony, asks for customers to pay for in this case.

**OCC INT-2-11:**

Concerning the Duke Energy Business Services grant that was received from the U.S. Department of Energy Smart Grid Investment Grant (SGIG) program.

- a. Please identify the total dollar amount of the grant.
- b. Please identify the dollar amount of funds that Duke allocated or spent in each State and the specific purpose of the funds spent in each State, using the following categories:
  - i. Smart Meters;
  - ii. AMI Network nodes;
  - iii. AMI Communication Systems;
  - iv. Meter Communication Network (type);
  - iv. Cellular (Backhaul);
  - v. Meter Data Management System;
  - vi. In-Home Displays;
  - vii. Customer Web Portals;
  - ix. Distribution Automation Equipment; and
  - x. Time-Based Rate Programs/Pilots.
- c. Please identify the ratepayer funds approved in each State to match the DOE grant.
- d. Provide each state regulatory order or decision in which Duke's smart grid program using the DOE funds was approved
- e. Please provide all progress and compliance reports provided to the US DOE that specifically reflect expenditures and projects in Ohio.
- f. Provide any analysis done by DOE or its contractor of the Duke Smart Grid programs in the states for which the \$200,000,000 grant was provided.

- g. Please provide all requests for SGIG matching funds Duke Energy submitted for its Ohio smart grid deployment. Please include all supplier invoices or other documentation provided in support of these requests.

**Duke Response:**

Objection. This Interrogatory is overly broad, unduly burdensome, and designed to elicit information that is both irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Answering further, this Interrogatory seeks information that is of public record and thus equally accessible to the Office of the Ohio Consumers' Counsel. Also, this Interrogatory fails to contain any reasonable time parameters pursuant to which it is to be answered. Indeed this information has been provided to OCC in response to previous discovery requests in Smart Grid rider cases during pertinent years. Without waiving said objection, to the extent discoverable, and in the spirit of discovery, matter related to DOE funds were addressed at the time the funds were received and thus are not relevant to this proceeding.

**OCC Response:**

The standard for discovery is not whether the requested material is relevant but whether the information requested is likely to lead to admissible evidence. See Ohio Adm. Code 4901-1-16(B). Duke's response that this information is part of a public record and also that this information has been provided to OCC in SmartGrid rider cases does not allow Duke to avoid providing the information in this docket where Duke proposes customers pay to replace already-installed SmartGrid hardware i.e., node network, Echelon meters, data management systems, etc. Duke must produce such requested information in this docket because it asks customers to replace that which has been recently paid for. It is part of Duke's request for recovery in this case and therefore Duke must produce the supporting documentation.

**OCC INT-2-14:**

Referring to Mr. Schneider's testimony, page 6, line 23, when did Duke become aware that Echelon was not going to develop metering systems "for all other meter forms".

**Duke Response:**

It is not possible to recollect the exact date.

**OCC Response:**

OCC asked when Duke became aware that Echelon was not going to develop metering systems for all other meter forms. OCC did not ask for an exact date. Duke can provide a period of time when the Company understood that Echelon was not developing metering systems for all other meter forms. OCC requests that Duke provide a period of time or time range in which it became aware that Echelon was not going to develop metering systems "for all other meter forms."

**OCC INT-2-17:**

Identify the physical location where Duke's internal CEUD is stored for the EDMS and the MDM. In your response, also identify where similar data is stored for Duke's affiliated utilities in other States.

**Duke Response:**

Objection. This Interrogatory seeks to elicit information that is irrelevant and not likely to lead to the discovery of admissible evidence. Answering further, this information seeks information that is related to the Company's critical energy infrastructure and imposes an undue burden on cybersecurity concerns. Moreover, this Interrogatory contains a reference to "internal CEUD" which is undefined and thus forces Duke Energy Ohio to engage in impermissible speculation and guesswork with regard to its intended meaning. Without waiving said objection and without waiving the right of Duke Energy Ohio to object to admission of evidence that is not relevant to the present proceeding, to the extent discoverable, and in the spirit of discovery, all data from EDMS and MDM are stored on Duke Energy owned servers in Duke owned data centers. All of Duke Energy's affiliated utilities share common hardware.

**OCC Response:**

In order to allay Duke's concerns about cybersecurity, OCC asks Duke to please supply the allocations among Duke's affiliated utilities with respect to the common hardware identified in Duke's response to OCC-INT-002-017.

**OCC INT-2-19:**

When did Duke become aware that Ericsson was no longer manufacturing communication nodes used in Duke's AMI system?

**Duke Response:**

Objection. This Interrogatory is overly broad and unduly burdensome, given that it seeks information that is unlimited as to time and that is neither relevant to this proceeding or likely to lead to the discovery of admissible evidence in this proceeding. Without waiving said objection, to the extent discoverable, and in the spirit of discovery, since Ericsson acquired ambient it has not manufactured the communication nodes used in Duke Energy Ohio's AMI system.

**OCC Response:**

In this rate case, Duke asks customers to pay to replace its communication nodes. OCC asks when (a period of time) Duke became aware that Ericsson was no longer manufacturing communication nodes used in Duke's AMI system. OCC asks when Duke (a range or period of time) it became aware that Ericsson was no longer manufacturing communication nodes used in Duke's AMI system.



**OCC INT-2-21:**

Provide the analysis undertaken by Duke to determine the least cost method to maintain and operate its current AMI system for both Echelon and Itron meters. In your response, identify all the alternatives and cost estimates for each action identified and considered prior to the approach reflected in Duke's filing in this proceeding. In your response, provide the date that each option was identified and developed.

**Duke Response:**

Duke Energy Ohio provided this analysis in Attachment DLS-1, as described in the testimony of Donald Schneider, Jr.

**OCC Response:**

Duke's response is not responsive. OCC asks for workpapers or analyses that support DLS-1.

**OCC INT-2-25.**

When did Duke determine to transition entirely from the AMI node environment to the AMI mesh environment? Provide the internal analysis and the documentation concerning Duke Energy's senior management consideration and approval of this determination and decision.

**Duke Response:**

Objection: This Interrogatory is vague, ambiguous, and unduly burdensome. The Interrogatory misstates the testimony of Donald L. Schneider, Jr., which reads, "the Company proposes to transition entirely from the AMI node environment to the AMI mesh environment".

**OCC Response:**

Duke failed to answer the question. OCC's Interrogatory asks a question regarding the above quoted piece of Schnieder's testimony, as quoted by Duke. When did Duke propose to transition from AMI node environment to AMI mesh environment? Did Duke's management approve the proposal to transition from node to mesh environment? If so, what analysis did the management rely upon in approving the proposed transition?

**OCC INT-2-31:**

Referring to Mr. Nicolson's testimony at page 3, line 19, in your supplier web portal, define what is meant by "interval customer data." In your response, define the "interval" that is available to suppliers for both Echelon and Itron metered customers and whether that "interval" data is billing quality.

**Duke Response:**

Please see page 4, lines 1 through 5, of Mr. Nicholson's testimony. The AMI interval data provided on the supplier web portal is the same for Itron and Echelon meters.

**OCC Response:**

Duke's answer is not responsive. Do Echelon meters provide bill quality interval data to the supplier web portal? Do Itron meters provide bill quality interval data in the supplier portal? Please provide answers to these questions. Mr. Nicholson's testimony does not answer these questions.

**OCC INT-2-34.**

Referring to Mr. Nicholson's testimony at page 5, lines 19-21, with regard to the "complexity associated with the current system constraints," identify Duke's role in designing and deploying this "complexity" or any regulatory constraints associated with such "constraints."

**Duke Response:**

Objection. This Interrogatory seeks to elicit a narrative response and thus is properly suited for deposition. See generally, *Penn. Cent. Transp. Co. v. Armco Steel Corp.* (1971) 27 Ohio Misc. 76, 271 N.E.2d 877.

**OCC Response:**

Duke's answer is unresponsive. The question, taken directly from Mr. Nicholson's testimony, asks - what are the system constraints? Asking specifically for the system constraints that Mr. Nicholson discusses in his testimony does not call for a narrative response and is the proper subject of an interrogatory. Please provide an answer.

**OCC INT-2-39:**

Referring to Mr. Nicholson's testimony at page 8, lines 19-21, identify the specific "efficiency and effective exchange of data" that is "consistent with the Commission's intentions as well as the policies of the State." In your response, identify the Commission's "intentions" and the State's "policies" that are referenced in this statement.

**Duke Response:**

Objection. This Interrogatory seeks to elicit a narrative response and thus is properly 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, to the extent discoverable and in the spirit of discovery, to the extent this interrogatory calls for a legal response, Mr. Nicholson is not a lawyer. Answering further, the Commission, speaking through its orders has directed Duke Energy Ohio to provide certain specified information in Case No. 14-2209-EL-ATA.

**OCC Response:**

The Interrogatory was taken directly from Mr. Nicholson's testimony on page 8: In response to "Please explain what you mean by 'a more consequential exchange of data,'" Mr. Nicholson states on page 8, lines 19 through 21:

"Duke Energy Ohio believes that this more efficient and effective exchange of data is consistent with the Commission's intentions as well as the policies of the state."

OCC asked Mr. Nicholson to identify the intentions and policies that are contained in his testimony. If Mr. Nicholson is relying upon these intentions and policies in his

testimony, OCC is entitled to understand what policies and intentions Mr. Nicholson relies upon. That Mr. Nicholson may not be a lawyer is irrelevant. See Ohio Adm. Code 4901-1-19(B) ("An interrogatory ... is not objectionable merely because it calls for an opinion, contention, or legal conclusion ..."). This question does not call for a narrative response. Duke's answer is not responsive. Please provide an answer to Interrogatory 2-39.

**OCC INT-2-45:**

Identify the amount associated with each of the following categories of costs recovered through Rider DR-IM for each year since its inception:

- a. Smart Meters.
  - i. Echelon;
  - ii. Itron.
- b. AMI Network nodes (for each type of meter).
- c. AMI Communication Systems (for each type of meter).
  - i. Meter Communication Network (type);
  - ii. Cellular (Backhaul).
- d. Meter Data Management System.
- e. In-Home Displays.
- f. Customer Web Portals.
- g. Distribution Automation Equipment.
- h. Time-Based Rate Programs/Pilots.

**Duke Response:**

Objection. This Interrogatory is overly broad, and unduly burdensome, given that it seeks information that is unlimited as to time and that is neither relevant to this proceeding nor likely to lead to the discovery of admissible evidence in this proceeding. This Interrogatory seeks to elicit information that is of public record for the captioned proceeding and thus is equally accessible to the Office of the Consumers' counsel. Without waiving said objection, to the extent discoverable, and in the spirit of discovery, see publicly filed material and responses to previous discovery request provided to the Office of the Ohio Consumers' counsel in the following cases: 08-920-EL-SSO; 08-709-EL-AIR; 10-867-EL-RDR; 10-2326-EL-RDR; 12-1811-GE-RDR; 13-1141-GE-RDR; 14-1051-GE-RDR; 15-883-GE-RDR.

**OCC Response:**

Duke's answer is not responsive. In fact, Duke confirms that the requested information does exist and thus must produce it. OCC asks Duke to provide a complete response to INT-2-45 in order to support Duke's request in this case to ask customers to pay for replacing recently-installed meters with new meters. To the extent Duke is directing OCC to public documents on file in the state of Ohio, Duke's response does not comply with Ohio Adm. Code 4901-1-19(C), which requires Duke to specify the title of each relevant document, the location of the document or the circumstances under which it was furnished to OCC, and the page or pages from which the answer may be derived or ascertained.

**OCC RPD-4-12:**

Referenced in response to staff data request DR-44-001, provide a copy of the following:

- a. Please provide a copy of the illustrative budget for the public service advertising & customer education program referenced.
- b. Please provide the actual costs Duke Energy incurred in recent years to produce and support various tactics across numerous, separate campaigns in the company's six U.S. service territories.

**Duke Response:**

This response will be provided to all parties in these proceedings upon execution of a Confidentiality Agreement

**OCC Response:**

OCC signed a confidentiality Agreement with Duke on March 27, 2017. Please provide the requested information.

**OCC RPD-4-14:**

Referencing Supplemental (C) (10), please provide Duke Energy, Ohio Budget Guidelines and Assumptions for 2016.

**Duke Response:**

See OCC-POD-04-014 Attachment for the 2016 Ohio Budget Guidelines.

**OCC Response:**

OCC has not received OCC-POD-04-014 Attachment. Please provide responsive information to OCC RPD-4-14.

**OCC RPD-4-16:**

Please provide a copy of monthly managerial reports providing results of operations and comparison of actual to forecast for the test year and the twelve months immediately preceding the test year.

**Duke Response:**

This response will be provided to any party in these proceedings upon execution of a Confidentiality agreement.

**OCC Response:**

OCC signed a confidentiality Agreement with Duke on March 27, 2017. Please provide the requested information.

**OCC INT-4-83:**

For operating revenue and expenses by account, as shown in Schedule C-2.1, please provide twelve months actual ending March 31, 2017, by subaccount, by month, for all non-labor accounts, in Excel format.

**Duke Response:**

See Staff-DR-25-001b for twelve months actual ending March 31, 2017 for all non-labor accounts.

**OCC Response:**

OCC has never received any response to Staff-DR-25. Please provide Staff-DR-25 to OCC.

**OCC INT-4-84:**

Referencing Schedule C-3.20 Street Light Audits, and the direct testimony of Cicely M. Hart, provide answers to the following:

- a. Why should the residential consumers of Duke Energy be responsible for paying for an annual audit to ensure Duke Energy is charging the correct customer for street lights that are in the field?
- b. Why doesn't Duke Energy believe it has an obligation to locate and correct any billing errors on its own given the fact that the customers of Duke Energy paid for its capital investment, provides the Company with a return on its investment, provides the Company a return of its investment through depreciation expense, and pays for all operating expenses?
- c. Given that Duke Energy believes it is not billing the correct customer for street lights in the field, what assurances do the residential consumers have that they are being billed correctly?
- d. Why is Duke Energy requesting from its customers to prefund an audit to correct Duke Energy billing errors?
- e. Why does Duke Energy believe it is not charging the correct customers for street lights that are in the field?

**Duke Response:**

See response provided contemporaneously herewith.

**OCC Response:**

No response was provided. Please provide a response to INT-4-84.

**OCC INT-4-97:**

Referring to the testimony of Ms. Hart at pages 11-12, what is the total number of self-healing teams that were deployed by Duke on an annual basis between 2010 and 2016?

**Duke Response:**

Objection. This Interrogatory seeks to elicit information that is of public record and thus equally available to and accessible by the Office of the Ohio Consumers' Counsel. Information related to self-healing teams deployed has been provided to the

Office of the Ohio Consumers' Counsel in Duke Energy Ohio's SmartGrid rider proceedings. Objecting further, information related to self-healing deployment prior to 2016 is both irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Without waiving said objection, to the extent discoverable, and in the spirit of discovery, Duke Energy Ohio deployed 3 self-healing teams in 2016.

**OCC Response:**

Claiming irrelevancy does not allow Duke to avoid answering the question and, in fact the response to this question is reasonably calculated to lead to discovery of admissible evidence. Furthermore, Duke provided the information for 2016, but failed to provide the information from 2010 through 2015. Duke also claims that OCC already possesses the information; however, Duke is required to provide that information as part of this proceeding because Duke, as referenced on pages 11 – 12 of Ms. Hart's testimony, seeks to charge customers for the costs of the self-optimization project. Please provide the number of self-healing teams deployed between 2010 and 2016.

**OCC INT-4-98:**

On an annual basis between 2010 and 2016, how many times were the self-healing teams called upon to operate? How many times did the self-healing teams successfully operate?

**Duke Response:**

Objection. This Interrogatory seeks to elicit information that is of public record and thus equally available to and accessible by the Office of the Ohio Consumers' Counsel. Information related to self-healing teams deployed has been provided to the Office of the Ohio Consumers' Counsel in Duke Energy Ohio's SmartGrid rider proceedings. Objecting further, information related to self-healing deployment prior to 2016 is both irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Without waiving said objection, to the extent discoverable, and in the spirit of discovery, self-healing teams were called upon to operate 109 times in 2016 and successfully operated 88 times.

**OCC Response:**

Claiming irrelevancy does not allow Duke to avoid answering the question and, in fact the response to this question is reasonably calculated to lead to discovery of admissible evidence. Furthermore, Duke provided the information for 2016, but failed to provide the information from 2010 through 2015. Duke also claims that OCC already possesses the information; however, Duke is required to provide that information as part of this proceeding because Duke, as referenced on pages 11 – 12 of Ms. Hart's testimony, seeks to charge customers for the costs of the self-optimization project. Please provide the number of times that the self-healing were called upon to operate between 2010 and 2016 and how many times they operated successfully.

**OCC INT-4-99:**

Describe any impact that the self-healing team deployments had on the SAIFI and CAIDI reliability indices for each year between 2010 and 2016

**Duke Response:**

Objection. This Interrogatory seeks to elicit information that is of public record and thus equally available to and accessible by the Office of the Ohio Consumers' Counsel. Information related to Duke Energy Ohio's SAIFI and CAIDI metric have been provided to the Office of the Ohio Consumers' Counsel in other proceedings. Objecting further, information related to SAIFI and CAIDI prior to 2016 is both irrelevant and not reasonable calculated to lead to the discovery of admissible evidence. Without waiving said objection, to the extent discoverable, and in the spirit of discovery: self-healing team operations lower SAIFI by reducing the number of customers experiencing a sustained interruption due to a fault. Self-healing team operations raise CAIDI because they reduce the number of customers interrupted more than the customer minutes of interruption. Since  $CAIDI = CMI/CI$  (Customer Minutes Interrupted/Customer Interruptions), a greater reduction in CI vs. CMI will cause CAIDI to increase.

**OCC Response:**

Claiming irrelevancy does not permit Duke to avoid answering the question and the response to this question is reasonably calculated to lead to discovery of admissible evidence. Duke provided the information for 2016, but failed to provide the information from 2010 through 2015. Duke also claims that OCC already possesses the information; however, Duke is required to provide that information as part of this proceeding because Duke requests cost recovery for the self-healing and self-optimization facilities that Duke admits directly affect SAIFI and CAIDI. Duke must provide the impact that the self-healing team deployments had on the SAIFI and CAIDI reliability indices for the years 2010 through 2015. Please provide the impact that the self-healing team deployments had on the SAIFI and CAIDI reliability indices for each year between 2010 through 2016.

**OCC INT-4-103:**

Has Duke implemented any self-optimizing grid pilot programs in Ohio or elsewhere?

**Duke Response:**

Yes, Duke Energy Ohio Self-Healing Teams were a foundational step in the progression towards the Self-Optimizing Grid. The Self-Optimizing Grid is an advancement from Self-Healing Teams. Instead of having individual circuit pairs that can back each other up, the integrated grid network allows for multiple circuit rerouting options to re-energize segments and minimize customer outage events. The Self-Optimizing Grid will further segment the circuits to minimize the number of customers affected by sustained outages and assure the necessary capacity and connectivity to fully leverage the segmentation.

**OCC Response:**

Duke's answer is non-responsive. The question is if Duke implemented any pilot self-optimizing grid programs, not if Duke has implemented any self-healing programs. Please provide a response to OCC INT-4-103.

**OCC INT-5-122:**

This Interrogatory references confidential information so it will not be provided in this letter

**Duke Response:**

See response provided contemporaneously herewith.

**OCC Response:**

No response was provided to OCC. Please provide a response to OCC INT 5-122.





Elizabeth H. Watts  
Associate General Counsel

July 14, 2017

Jodi Bair  
Office of the Ohio Consumers' Counsel  
10 West Broad Street, Suite 1800  
Columbus, Ohio 43215

Re: In the Matter of the Application of Duke Energy Ohio, Inc., for an Increase in  
Electric Distribution Rates, Case No.17-32-EL-AIR, *et al.*

Dear Ms. Bair:

This letter responds to yours of June 29, 2017 regarding follow-up to discovery provided by Duke Energy Ohio. We have noted each item in the same order submitted and we are providing some additional responses attached.

Please contact me if you have any questions.

Very truly yours,

A handwritten signature in cursive script that reads 'Elizabeth H. Watts' followed by a small mark that appears to be 'DHW'.

Elizabeth H. Watts

cc: Amy B. Spiller  
Jeanne W. Kingery  
Rocco O. D'Ascenzo

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**OCC RPD-2-6:**

In this request, OCC is seeking: (a) testimony that was filed with the Commission and provided to OCC in Case No.07-589-GA-AIR, (b) information related to the grant the Company received from the US Department of Energy, and (c) presentations, minutes, reports, etc. from the Duke Energy SmartGrid collaborative that OCC attended each month from approximately 2009 to 2015.

O.A.C. Rule 4901-1-19 states:

“Where the answer to an interrogatory may be derived or ascertained from the business records of the party upon whom the interrogatory has been served or from an examination, audit, or inspection of such records, and the burden of deriving the answer is substantially the same for the party submitting the interrogatory as for the party served, it is a sufficient answer to such interrogatory to specify the records from which the answer may be derived or ascertained and to afford the party submitting the interrogatory a reasonable opportunity to examine, audit, or inspect such records.”

OCC fails to explain how any of this material is relevant to the present rate case proceeding. The information requested by OCC in the above Request for Production has all been provided to OCC previously in the following cases: 07-589-GA-AIR, 08-920-EL-SSO, 08-709-EL-AIR, 10-867-GE-RDR, 12-2326-GE-RDR, 12-1811-GE-RDR, 13-1141-GE-RDR, 14-1051-GE-RDR, 15-883-GE-RDR. If OCC does not have records of its own discovery, given sufficient notice, the Company can make OCC's own discovery available for inspection at the Company's offices for the cases noted above.

**OCC INT-2-7:**

Duke Energy Ohio responded, as quoted by OCC in its letter, that Attachment DLS-1 represents Duke Energy Ohio's cost analysis of avoiding Echelon meter replacement. There are no other formal cost analyses to provide.

**OCC RPD-2-7:**

In this request, OCC seeks data related to SmartGrid deployment as far back as 2004. OCC refers to Mr. Nicholson's testimony related to cost recovery and asserts that it is entitled to request such data. Costs referred to by Mr. Nicholson in his testimony are costs associated with providing data to CRES providers, as quoted by OCC in its letter. Your request seeks information related to past costs incurred and approved by the Commission in each rider proceeding. Moreover, information related to costs in other states are not relevant to this proceeding and will not be produced. As stated in the rule

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cited by OCC, the question is whether the information requested is likely to lead to the discovery of admissible evidence. The request is not so framed.

**OCC INT-2-11:**

This interrogatory seeks information related to funds received from the U.S. Department of Energy Smart Grid Investment Grant (SGIG) program. These funds were received by the Company and accounted for in the testimony and attachments of Peggy Laub in each of the SmartGrid rider proceedings noted above. The OCC had opportunities to ask discovery questions and review accounting related to the grant during these proceedings.

OCC need only perform a cursory review of the testimony and attachments to readily locate the information requested. See for example, Schedule 13 attached to Ms. Laub's testimony in Case No.15-883-GE-RDR.

To the extent OCC seeks information relevant to other states, such information is irrelevant and inadmissible and the Company declines to provide such information.

**OCC INT-2-14:**

This interrogatory refers to the testimony of Duke Energy Ohio witness Donald L. Schneider, Jr. and asks when Duke became aware that Echelon was not going to develop a metering system. The Company responded that it is not possible to recollect the exact date. The Company has nothing to add to this response.

**OCC INT-2-17:**

This interrogatory had requested that the Company identify the physical location where internal customer energy usage data (CEUD) is stored for Duke's affiliated utilities in other states. OCC has now amended its request and seeks to know the allocations among Duke's affiliated utilities with respect to the common hardware identified in Duke Energy's response to OCC-INT-002-017.

This Interrogatory seeks to elicit information that is irrelevant and not likely to lead to the discovery of admissible evidence. Answering further, this information seeks information that is related to the Company's critical energy infrastructure and imposes an undue burden on cybersecurity concerns. Moreover, this Interrogatory forces Duke Energy Ohio to engage in impermissible speculation and guesswork with regard to its intended meaning. Without waiving said objection and without waiving the right of Duke Energy Ohio to object to admission of evidence that is not relevant to the present proceeding, to the extent discoverable, and in the spirit of discovery, costs for hardware is allocated. Actual sharing of hardware is not partitioned off for each jurisdiction.

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**OCC INT-2-19:**

This interrogatory asks when Duke became aware that Ericsson was no longer manufacturing communication nodes used in Duke's AMI system.

Duke Energy has known since the acquisition of Ambient by Ericsson that Ericsson has not manufactured the communication nodes used in Duke Energy Ohio's AMI system.

**OCC INT-2-21:**

This interrogatory is actually a request for production of documents. Duke Energy Ohio responded by pointing to Attachment DLS-1 to the testimony of Donald Schneider, Jr. Duke Energy Ohio's response to OCC INT-02-009 describes and provides the workpapers to support DLS-1.

**OCC INT-2-25:**

The interrogatory asks when did Duke determine to transition entirely from the AMI node environment to the AMI mesh environment. The interrogatory also seeks internal analyses and the documentation concerning Duke Energy's senior management consideration and approval of this determination.

The Company responded that OCC misstated Mr. Schneider's testimony. However, no such determination has been made. The Company is presently proposing such a plan and seeking the Commission's approval in this proceeding. Thus, Duke Energy Ohio has nothing to add to the response provided.

**OCC INT-2-31:**

In this interrogatory, OCC asked the Company to define what is meant by interval customer data, to define the interval available to suppliers and whether the data is of billing quality.

Duke Energy Ohio responded by asking OCC to please refer to page 4, lines 1-5 of Mr. Nicholson's testimony where direct responses may be found. The Company further noted that the data from Itron and Echelon meters is the same. The Company has nothing more to add to this response.

**OCC INT-2-34:**

In this interrogatory, OCC referred to Mr. Nicholson's testimony at p.5, lines 19-21 and with regard to "complexity associated with the current system constraints," asked Duke

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Energy Ohio to identify the Company's role in designing and deploying this "complexity" or any regulatory constraints associated with such "constraints."

The Company responded by objecting and noting that this interrogatory seeks to elicit a narrative response. OCC responds by simply stating that it is entitled to a response. As noted in the response, this interrogatory is not capable of a simple written response. OCC seems to suggest by its question that the Company had a role in designing undue complexity. There are many system constraints that create such complexity. Some of the constraints may include such things as size of servers, interactions with other information technology within and without the Company, customer requirements and billing differences among the six states in which Duke Energy provides energy, regulatory mandates, etc. However, it is not possible to list all such constraints.

#### **OCC INT-2-39**

This interrogatory asks Duke Energy Ohio to identify specific "efficiency and effective exchange of data" that is "consistent with the Commission's intentions as well as the policies of the State.

Duke Energy Ohio responded by noting that the Commission speaks through its orders and has directed Duke Energy Ohio to provide certain specified information in Case No.14-2209-EL-ATA.

Additionally, Duke Energy Ohio responds that the policy of the State of Ohio as it relates to this proceeding may be found in R.C.4928.02.

#### **OCC INT-2-45:**

For further response to this interrogatory please note that the Company does not maintain records in the form requested by OCC and thus, no such information is available. However, for information related to that which was requested see as follows:

10-867-EL-RDR	Testimony of Peggy Laub and attached schedules.
10-2326-EL-RDR	Testimony of Peggy Laub and attached schedules.
12-1811-GE-RDR	Testimony of Peggy Laub and attached schedules.
13-1141-GE-RDR	Testimony of Peggy Laub and attached schedules.
14-1051-GE-RDR	Testimony of Peggy Laub and attached schedules.
15-883-GE-RDR	Testimony of Peggy Laub and attached schedules.

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Please note that no information is available for an item known as “in-home displays,” or time-based rate programs/pilots. The Customer Web Portal costs are included in the application in this case in Schedule C-3.17.

**OCC RPD-4-12:**

This confidential response is included herewith.

**OCC RPD-4-14:**

OCC POD-04-014 Confidential attachment and response is included herewith.

**OCC RPD-4-16:**

OCC POD-04-16 Confidential attachment and response is included herewith.

**OCC INT-4-083:**

OCC INT-4-083 response is included herewith.

**STAFF-DR-25-001b**

(twelve months actual ending March 31, 2017 for all non-labor accounts) attachment and response is included herewith.

**OCC INT-4-084**

OCC INT-04-84 is included herewith.

**OCC INT-4-97**

See:

Case No.14-1411-GE-RDR OCC Interrogatories 02-007 through 02-011.

Case No.15-883-GE-RDR OCC Interrogatories 01-015 through 01-021.

See also the Duke Energy Ohio Non-financial Metric Report that has been provided to OCC on an annual basis since 2013.

**OCC INT-4-98**

See response to OCC INT-4-97 above.

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**OCC INT-4-99**

See presentation that was provided to OCC at the technical conference on February 2, 2017 for this proceeding.

**OCC INT-4-103**

Duke Energy Ohio has nothing to add to the response already provided.

**OCC INT-5-122**

OCC INT-05-122 attachment and response is included herewith.



## Office of the Ohio Consumers' Counsel

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*Contains information deemed by Duke to be confidential under a protective agreement with OCC. OCC reserves all rights under the protective agreement to dispute Duke's claims of confidentiality.*

August 22, 2017

### VIA EMAIL

Elizabeth Watts  
Duke Energy Business Services, L.L.C.  
139 E. Fourth St., 1303-Main  
P.O. Box 961  
Cincinnati, Ohio 45201-0960  
[Elizabeth.watts@duke-energy.com](mailto:Elizabeth.watts@duke-energy.com)

RE: *CONFIDENTIAL* – In the Matter of the Application of Duke Energy Ohio, Inc., for an Increase in Electric Distribution Rates, PUCO No. 17-0032-EL-AIR et al.

Dear Ms. Watts:

Thank you for continuing to work with OCC on our discovery requests in this case. As I mentioned on our call last week, OCC has follow-up questions on some of Duke's responses to OCC's 5th and 6th discovery sets. These are found below. We continue to review all of Duke's discovery responses, and we reserve the right to follow up on additional discovery in the future. Please contact me at your convenience if you would like to discuss these issues.

Best regards,

/s/ Christopher Healey  
Christopher Healey

CC: Amy B. Spiller ([Amy.spiller@duke-energy.com](mailto:Amy.spiller@duke-energy.com))  
Jeanne Kingery ([Jeanne.kingery@duke-energy.com](mailto:Jeanne.kingery@duke-energy.com))  
Rocco D'Ascenzo ([Rocco.dascenzo@duke-energy.com](mailto:Rocco.dascenzo@duke-energy.com))



**PAGES 2-16 OF THIS EXHIBIT ARE DEEMED CONFIDENTIAL UNDER A  
PROTECTIVE AGREEMENT BETWEEN OCC AND DUKE AND HAVE BEEN  
EXCLUDED FROM THIS PUBLIC VERSION OF OCC'S MOTION TO COMPEL.**

**OCC INT-6-129:**

Define the word “scalable” in your response to OCC-INT-02-036: “At the time of purchase, Duke Energy Ohio was aware that EDMS did have VEE functionality for interval AMI CEUD in a scalable manner.”

- a. Does Duke agree that there is a missing word “not” in this sentence from your response to OCC-INT-02-036?
- b. Please identify the document(s) that contain the statements by Duke to inform the Commission that the “cost and long term support” for the functionality to provide VEE data for interval AMI CEUD “was not optimal.”

**Duke Response:**

Scalable is generally meant as the ability of a system to process an increasing amount of work or its ability to be enlarged to accommodate the growth in work.

- a. There is no missing word in Duke Energy Ohio's response to OCC-INT-02-036.
- b. Objection. This Interrogatory is overly broad and unduly burdensome, given that it seeks information that is unlimited as to time and that is neither relevant to this proceeding nor likely to lead to the discovery of admissible evidence in this proceeding. Objecting further, this Interrogatory seeks to elicit information that is of public record and thus is equally accessible to the Office of the Consumers' Counsel. Without waiving said objection, to the extent discoverable, and in the spirit of discovery, see Stipulations and the Commission's Opinions and Orders adopting stipulations in the following cases, all of which were agreed to by the Office of the Ohio Consumers' Counsel. Please note also that OCC attended each monthly collaborative meeting that occurred between 2009 and 2015 wherein such matters were presented in detail to members.  
Case No.08-920-EL-SSO  
Case No.07-598-GA-AIR  
Case No.10-867-GE-RDR  
Case No.10-2326-GE-RDR  
Case No.12-1811-GE-RDR  
Case No.13-1141-GE-RDR  
Case No.14-1051-GE-RDR  
Case No.15-883-GE-RDR

**OCC Reply (8-22-17):** Duke was asked to identify the document(s) that it referred to in INT-2-036 containing the statements by Duke to inform the Commission that the "cost and long term support" for the functionality to provide VEE data for interval AMI CEUD "was not optimal." Duke provided cites to a list of cases but not to the specific reference it made in the original response. Further, Duke claims OCC agreed to settlements in a list of cases and this is not true. OCC did not agree to each of these cases. Further, Duke reference to monthly collaborative meetings between 2009 and 2015 is inaccurate. Duke has not responded with minutes or other materials to substantiate its claim.

**OCC INT-6-134:**

With regard to your response to OCC-INT-02-037, please identify the specific documents and statements in these documents to support your assertion that the selection of the Echelon meters and associated EDMS was “approved” by the Commission.

**Duke Response:** Objection. This Interrogatory is overly broad and unduly burdensome, given that it seeks information that is unlimited as to time and that is neither relevant to this proceeding nor likely to lead to the discovery of admissible evidence in this proceeding. Objecting further, this Interrogatory seeks to elicit information that is of public record and thus is equally accessible to the Office of the Consumers' Counsel. Without waiving said objection, to the extent discoverable, and in the spirit of discovery, see Stipulations and the Commission's Opinions and Orders adopting stipulations in the following cases, all of which were agreed to by the Office of the Ohio Consumers' Counsel. Please note also that OCC attended each monthly collaborative meeting that occurred between 2009 and 2015 wherein such matters were presented in detail to members.

Case No.08-920-EL-SSO  
Case No.07-598-GA-AIR  
Case No.10-867-GE-RDR  
Case No.10-2326-GE-RDR  
Case No.12-1811-GE-RDR  
Case No.13-1141-GE-RDR

**OCC Reply (8-22-17):** Duke was asked to identify the document(s) that it referred to in INT-2-037 containing the statements by Duke supporting your assertion that the selection of the Echelon meters and associated EDMS was “approved” by the Commission. Duke provided cites to a list of cases but not to the specific reference it made in the original response. This is insufficient under PUCO Rule 4901-1-19(C), which requires Duke to identify the title of the document and the page or pages from which the answer may be derived or ascertained. Duke claims OCC agreed to settlements in a list of cases. Duke did not cite to any reference where OCC or the PUCO agreed to a specific metering solution. Further, Duke reference to monthly collaborative meetings between 2009 and 2015 that is inaccurate. Further, whether OCC attended any such meetings is irrelevant. Duke has an obligation to respond to OCC's discovery request, regardless of whether OCC attended any such meetings. *See* Ohio Adm. Code 4901-1-19(C) (permitting Duke to rely on documents previously furnished to OCC only if those documents were furnished in the last 12 months). Duke has not responded with minutes or other materials to substantiate its claim.

**OCC INT-6-146:**

Please provide any use cases, product specification, product requirements, or similar documents that the Company developed to determine the minimum functionality of the meter communications network and data processing systems that would be needed for the first smart meter deployment the Company planned in its Ohio service territory. If no such use cases/product specifications/product requirements or similar were developed for the first smart meter deployment, please explain why not.

**Duke Response:** Objection. This Interrogatory is overly broad and unduly burdensome, given that it seeks information that is unlimited as to time and that is neither relevant to this proceeding nor likely to lead to the discovery of admissible evidence in this proceeding. Objecting further, this Interrogatory seeks to elicit information that is of public record and thus is equally accessible to the Office of the Consumers' Counsel. Without waiving said objection, to the extent discoverable, and in the spirit of discovery, see Stipulations and the Commission's Opinions and Orders adopting stipulations in the following cases, all of which were agreed to by the Office of the Ohio Consumers' Counsel. Please note also that OCC attended each monthly collaborative meeting that occurred between 2009 and 2015 wherein such matters were presented in detail to members.

Case No.08-920-EL-SSO  
Case No.07-598-GA-AIR  
Case No.10-867-GE-RDR  
Case No.10-2326-GE-RDR  
Case No.12-1811-GE-RDR  
Case No.13-1141-GE-RDR

**OCC Reply (8-22-17):** Duke is refusing to provide use cases, product specifications, product requirements, and similar documents used to develop the minimum functionality for the first smart meter deployment. Duke provides a list of cases but not specific references in these cases that answer the interrogatory. Duke claims OCC agreed to settlements in these cases. Duke did not cite to any reference where OCC or the PUCO agreed to minimum functionality requirements for the smart meters. Further, Duke reference to monthly collaborative that were attended by OCC between 2009 and 2015. However, this is not true. Further, whether OCC attended any such meetings is irrelevant. Duke has an obligation to respond to OCC's discovery request, regardless of whether OCC attended any such meetings. *See* Ohio Adm. Code 4901-1-19(C) (permitting Duke to rely on documents previously furnished to OCC only if those documents were furnished in the last 12 months). Further Duke has not provided presentation materials or minutes of said collaborative meetings.

**OCC INT-6-147:**

Please provide any and all RFPs the Company issued, and all associated responses, for the meters, communications network, and data processing systems the Company issued in the process of selecting suppliers for the first smart meter deployment in the Company's Ohio service territory. If no such RFPs were issued, please explain why not.

**Duke Response:** Objection. This Interrogatory is overly broad and unduly burdensome, given that it seeks information that is unlimited as to time and that is neither relevant to this proceeding nor likely to lead to the discovery of admissible evidence in this proceeding. Objecting further, this Interrogatory seeks to elicit information that is of public record and thus is equally accessible to the Office of the Consumers' Counsel. Without waiving said objection, to the extent discoverable, and in the spirit of discovery, see Stipulations and the Commission's Opinions and Orders adopting stipulations in the following cases, all of which were agreed to by the Office of the Ohio Consumers' Counsel. Please note also that OCC attended each monthly collaborative meeting that occurred between 2009 and 2015 wherein such matters were presented in detail to members.

Case No.08-920-EL-SSO  
Case No.07-598-GA-AIR  
Case No.10-867-GE-RDR  
Case No.10-2326-GE-RDR  
Case No.12-1811-GE-RDR  
Case No.13-1141-GE-RDR

**OCC Reply (8-22-17):** Duke has refused to provide copies of RFPs used to purchase meters, the communications network, and data processing system used with the initial smart meter deployment. Duke provides a list of cases but not specific references in these cases that reference the RFPs that were requested. Duke claims OCC agreed to settlements in these cases. Duke did not cite to any reference where OCC somehow participated in the RFP selection process. Further, Duke reference to monthly collaborative that were attended by OCC between 2009 and 2015. However, this is not true. Further, whether OCC attended any such meetings is irrelevant. Duke has an obligation to respond to OCC's discovery request, regardless of whether OCC attended any such meetings. *See* Ohio Adm. Code 4901-1-19(C) (permitting Duke to rely on documents previously furnished to OCC only if those documents were furnished in the last 12 months). Further Duke has not provided presentation materials or minutes of said collaborative meetings.

**Healey, Christopher**

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**From:** Spiller, Amy B <Amy.Spiller@duke-energy.com>  
**Sent:** Friday, August 25, 2017 11:32 AM  
**To:** Healey, Christopher  
**Cc:** Watts, Elizabeth H  
**Subject:** RE: Duke 17-0032 - OCC Discovery Letter 8-22-17 - Confidential

Chris

We are following up with ICF in connection with your inquiries regarding Document Request 02-10. We hope to have a substantive response by Monday. To help expedite the process, please consider directing your communications on this case to me.

Elizabeth will respond to your questions regarding your conversation with her.

Thank you.

**Amy B. Spiller**

Deputy General Counsel  
Duke Energy Business Services  
139 E. Fourth Street, 1303-Main  
Cincinnati, Ohio 45202  
(513) 287-4359 (telephone)  
(513) 287-4385 (facsimile)

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**From:** [Christopher.Healey@occ.ohio.gov](mailto:Christopher.Healey@occ.ohio.gov) [<mailto:Christopher.Healey@occ.ohio.gov>]  
**Sent:** Friday, August 25, 2017 9:09 AM  
**To:** Watts, Elizabeth H  
**Cc:** Spiller, Amy B; Kingery, Jeanne W.; D'Ascenzo, Rocco  
**Subject:** RE: Duke 17-0032 - OCC Discovery Letter 8-22-17 - Confidential

\*\*\* Exercise caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. \*\*\*

Elizabeth,

Do you have an ETA on a response to our letter from earlier this week?

Separately, you and I spoke on August 17 with respect to your July 14 letter and OCC's outstanding discovery requests from OCC sets 2 and 4. You told me you needed to consult with your team and would send a written response back to me on these requests. Please let me know the status of that as well.

Thank you,  
Chris

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**From:** Healey, Christopher  
**Sent:** Tuesday, August 22, 2017 11:17 AM  
**To:** Elizabeth Watts  
**Cc:** Spiller, Amy B ([Amy.Spiller@duke-energy.com](mailto:Amy.Spiller@duke-energy.com)); 'jeanne.kingery@duke-energy.com'; 'rocco.dascenzo@duke-energy.com'  
**Subject:** Duke 17-0032 - OCC Discovery Letter 8-22-17 - Confidential

Elizabeth,

Please see the attached letter regarding OCC's outstanding discovery issues. This pertains, in part, to OCC Set 5 and therefore includes information that Duke has deemed to be confidential under our protective agreement in this case.

Thank you,  
Chris

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Christopher M. Healey  
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614-466-9571  
[christopher.healey@occ.ohio.gov](mailto:christopher.healey@occ.ohio.gov)

## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of this Motion to Compel, Public Version, was served on the persons stated below via electronic transmission, this 1<sup>st</sup> day of September 2017.

/s/ Christopher Healey

Christopher Healey  
Assistant Consumers' Counsel

## **SERVICE LIST**

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**Case No(s). 17-0032-EL-AIR, 17-0033-EL-ATA, 17-0034-EL-AAM**

Summary: Motion Motion to Compel Responses to Discovery by the Office of the Ohio Consumers' Counsel (Public Version) electronically filed by Ms. Deb J. Bingham on behalf of Healey, Christopher Mr.