BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

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

APPLICATION FOR REHEARING
OF
DUKE ENERGY OHIO, INC.

June 7, 2018

On May 29, 2014, Duke Energy Ohio, Inc., (Duke Energy Ohio or the Company) filed an application (Application) with the Public Utilities Commission of Ohio (Commission), seeking approval of a standard service offer (SSO), pursuant to R.C. 4928.141, in the form of an electric security plan (ESP), as set forth in R.C. 4928.143. Following a full hearing and the submission of briefs, the Commission issued its Opinion and Order (Order), on April 2, 2015. More recently, on May 30, 2018, the Commission issued an Entry (Entry) granting the Company's motion to extend its ESP (including its Distribution Capital Investment Rider (Rider DCI)) but denying the Company's motion to similarly extend the cap on Rider DCI for revenue recognized after August 1, 2018. The Commission's Order fails to account for the mechanics underlying Rider DCI, which omission warrants clarification regarding the treatment of approved investments already made under the existing Rider DCI cap, and, unless further clarified, exposes the Company and its customers to unforeseen and substantial consequence.

Ohio law, in R.C. 4903.10, allows any party that has entered an appearance in a Commission proceeding to apply for rehearing in respect to any matters determined in the proceeding, within thirty days after the issuance of the order. Duke Energy Ohio is hereby filing its Application for Rehearing of the Entry, pursuant to R.C. 4903.10 and Ohio Administrative Code (O.A.C.) 4901-1-35. Duke Energy Ohio asserts that the Commission's Entry is unlawful and/or unreasonable in the following respects:

> In denying the Company's request to increase the "cap" under Rider DCI while allowing the rider to continue, the Commission created a lack of clarity concerning the continuation period and thereafter, which lack of clarity should be corrected to avoid significant harm to the Company and its customers.

Duke Energy Ohio respectfully requests that the Commission modify its Entry, as discussed herein.

Respectfully submitted,

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MEMORANDUM IN SUPPORT OF APPLICATION FOR REHEARING OF DUKE ENERGY OHIO, INC.

Duke Energy Ohio, Inc., (Duke Energy Ohio or the Company) submits the following memorandum to the Public Utilities Commission of Ohio (Commission) in support of its Application for Rehearing of the Commission's Entry (Entry) addressing the continuation of the Company's third electric security plan (ESP III) and related issues. The Company alleges one error for the Commission's consideration and urges the Commission to reverse the conclusions referenced herein in its entry on rehearing.

> In denying the Company's request to increase the "cap" under Rider DCI while allowing the rider to continue, the Commission created a lack of clarity concerning the continuation period and thereafter, which lack of clarity should be corrected to avoid significant harm to the Company and its customers.

The Commission's Opinion and Order in the above-captioned proceedings granted the Company's request to institute Rider DCI but, in doing so, imposed caps on the amount that the Company would be allowed to recover. The cap, when viewed on a monthly basis, was set to increase over the term of the ESP III, such that the Company could be recovering up to $7 million per month at the end of the ESP III in 2018.

As settlement negotiations regarding the Company's ESP IV filing were still underway and with a hearing date on the related settlement of July 9, 2018, it became apparent that the term of the ESP III, and all of its provisions, would need to be extended as there was no practicable way that the Commission could approve the Company's next ESP (ESP IV) in time for it to begin on its intended start date of June 1, 2018. As such, Duke Energy Ohio filed a motion, on March 9, 2018, and again on May 11, 2018, to, among other things, extend the term of Rider DCI. This extension would have not been necessary if the procedural schedule had not been delayed seven times at the request of Commission Staff (and as consented to by all the parties). The Company's willingness to engage in settlement discussions, with all of the parties, meant that it had no control over the procedural schedule. Now, however, the Company is exposed to a highly prejudicial outcome because of its willingness to negotiate a settlement in the pending ESP IV case. It is undeniably punitive to abruptly terminate the Company's recovery of significant expenses and necessary revenue requirement through Rider DCI, as a consequence of its good faith actions. The continuation of recovery under Rider DCI is necessary to maintain the Company's financial integrity while continuing to provide essential electric service and making proactive investments in the electric grid. Although the hearing for the settlement that would, among other things, resolve the Company's ESP IV is currently scheduled to begin July 9, 2018, and assuming it proceeds as expeditiously as possible, Duke Energy Ohio has no assurance that the Commission will issue an order in sufficient time to implement the new ESP IV prior to the imposition of limitations now placed on the Rider DCI. Again, the Company has no control over the procedural schedule causing the delays in implementing its new ESP IV, but is being penalized nonetheless.

In its March 9, 2018, motion, Duke Energy Ohio acknowledged that it was not, at that time, seeking an increase in the Rider DCI cap for the period ending July 31, 2018. In doing so, the Company noted that failure to extend Rider DCI would result in the likely suspension of proactive investments encouraged by the Commission.

On May 11, 2018, Company requested authority to maintain the status quo by continuing to operate with Rider DCI under the already established average monthly $7 million revenue cap after August 1, 2018, until such time as a new ESP is approved and becomes effective. Importantly, in its filing, the Company expressly noted that it was "not seeking an increase in the average monthly Rider DCI revenue that was approved by the Commission as part of ESP III." Customers would see very little impact on their bills as a result of this proposal as the Rider DCI rate (calculated as a percentage of each customer's distribution charges) would be essentially the same until the new Rider DCI rate is approved in ESP IV. Rather, the Company simply sought a continuation of the rider to recover the pre-tax return, depreciation expense, and property taxes on the significant incremental investments the Company has made since March 31, 2012.[1]

On May 30, the Commission issued the Entry, extending the Company's third ESP, including Rider DCI. As the Commission succinctly stated, "Duke is permitted to extend its Rider DCI." The Commission further concluded that it would address, in a subsequent order, the Company's request for "recovery of capital investments made after August 1, 2018." However, the Entry is unclear insofar as it concerns the Company's ability to continue collecting under Rider DCI the incremental revenue requirement on its capital investments made since March 31, 2012 - investments that have already been made and may continue to be made through July 31,

[1] March 31, 2012, is the date certain in the most recent base rate case.

2018. The Commission's May 30 Entry creates a gap for recovering the pre-tax return, depreciation expense, and property taxes on investments made after May 31, 2018, but before August 1, 2018.

In its orders approving similar riders for all of the electric distribution utilities, the Commission has repeatedly acknowledged the importance of encouraging the utilities to make proactive investments in the electric grid. Most recently, in the pending appeal of the Commission's decision regarding an ESP for the FirstEnergy utilities, the Commission's merit brief emphasized the importance of modernizing the grid, the cost thereof, and the impact of the utilities' credit ratings on their ability to obtain financing at reasonable terms.[2] "[T]he Commission has a clear duty to promote modernization of the distribution grid."[3] Given this view, it is logical to conclude that the Commission did not intend an outcome here that would result in substantial financial uncertainty and hardship for Duke Energy Ohio, simply because of its willingness to engage in a protracted settlement process.

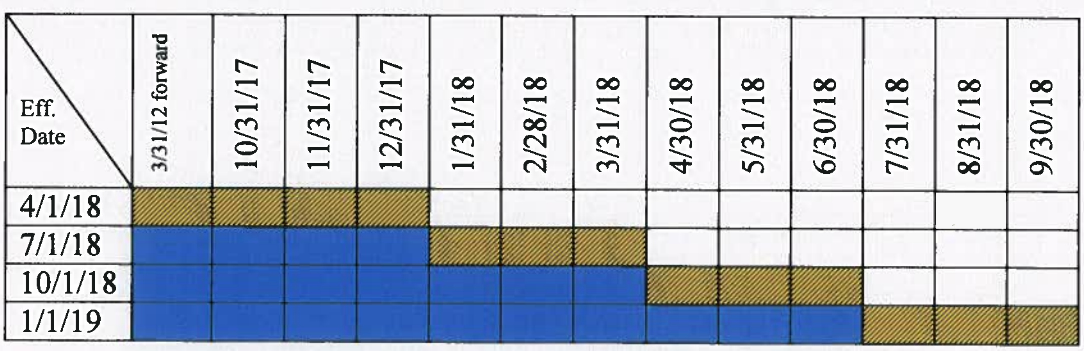
The Company's Rider DCI is structured so as to recover the incremental revenue requirement on all distribution capital that has been invested since March 31, 2012, the date certain of the Company's last approved distribution rate case. Rider DCI rate is adjusted quarterly for the new distribution rate base (excluding all SmartGrid related investment, which is recovered in another rider) as of the previous quarter end (essentially one quarter lag). In other words, the Company's current Rider DCI rate, which became effective on April 1, 2018, recovers the difference in total distribution capital revenue requirement (property taxes, depreciation, pre-tax return at the prevailing income tax rates) that exists between the level

[2] *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Authority to Provide for a Standard Service Offer Pursuant to R.C. 4928.143 in the form of an Electric Security Plan*, Case No. 17-1444, *et al.*, Merit Brief Submitted on Behalf of Appellee, The Public Utilities Commission of Ohio, pp. 7-8 (May 29, 2018).
[3] Id. at pg. 14.

established in base rates (*i.e.,* March 31, 2012) and the revenue requirement based on distribution rate base as of December 31, 2017. Similarly, the Company's next quarterly DCI filing (to become effective July 1, 2018) will update the Rider DCI revenue requirement to include the difference between the distribution capital account balances through March 31, 2018. The following table illustrates the timeline (assuming no change going forward):

Filing deadline for rate update	**Effective date for new rates**	**Period of investments for which rates collect**	
		Start	**Finish**
November 1, 2017	1/1/2018	3/31/2012	9/30/2017
February 1, 2018	4/1/2018	3/31/2012	12/31/2017
May 1, 2018	7/1/2018	3/31/2012	3/31/2018
August 1, 2018	10/1/2019	3/31/2012	6/30/2018

Presenting this information in a different way, the following table pictorially demonstrates the functioning of Rider DCI. The left-most column lists the effective date of any given rider rate adjustment. Orange, textured squares represent the months of capital investments that are newly included in the revenue requirement calculation, as of the effective date. Blue squares represent amounts that were previously included in the revenue requirement.



As is evident, the Rider DCI rates that would be in effect on August 1, 2018, (*i.e.*, the latest possible Rider DCI termination date that appears to be established by the Commission's

May 30, 2018 Entry, assuming Rider DCI has not, by a prior date, resulted in $35 million in recovery during 2018), will only be based on the Company's distribution "rate base" as of March 31, 2018 (end of 1st quarter 2018), a period of time encompassing investments made under the ESP III term. At that point, the Entry seems to require that the Company stop collecting anything at all under Rider DCI until, potentially, after the Commission has considered and approved the Company's next ESP IV, which could be for several months.

It is critical to understand that the revenue requirement for incremental investments in distribution plant that the Company has already made during the course of ESP III has not been fully recovered and is ongoing, no different than how the Company recovers its return on rate base through rates. The Commission's Entry should be clarified to account for the recovery of ongoing revenue requirement for the Company's already-invested capital, as well as the three month lag between the time the capital is invested and when recovery begins under the rider.

Any incremental revenue requirement based upon capital investments that have been made on or after April 1, 2018, and covering the entire second quarter of 2018, will not be reflected in the Company's Rider DCI until the effective date for the Company's third-quarter DCI filing, with the rate effective October 1, 2018. Likewise, the Rider DCI revenue requirement for incremental distribution plant investments made through the third quarter of 2018, (*i.e.*, investments made on or after July 1, 2018, which would include the August 1, 2018, time limit under the Entry), would not appear in the Rider DCI rate until the Company's fourth quarter DCI filing, which would go into effect on January 1, 2019.

The Commission's Entry, if intended to invoke an August 1, 2018 ***time*** limit for the current Rider DCI recovery, would result in the Company no longer recovering ***any*** of the incremental revenue requirement (pre-tax return, depreciation, and property taxes) on any of the incremental electric distribution plant that has been invested by the Company between April 1, 2012, through March 31, 2018. This is an outcome that cannot be reconciled with the Commission's initial approval of Rider DCI in these proceedings and its repeated recognition of encouraging proactive investments under a structure that appropriately preserves the financial integrity of the utility.

Abruptly shutting down Rider DCI, effective August 1, 2018, would also mean that the Company would have only recovered any pre-tax return, depreciation expense, and property taxes on one single month for all of the distribution investment it has made through March 31, 2018, as that rate would have only gone into effect July 1, 2018. That July 1, 2018revenue requirement, would be the first Rider DCI adjustment to include any investments made during 2018 under ESP III An August 1, Rider DCI recovery limitation also provides no opportunity for recovery of any incremental revenue requirement on distribution capital plant that has been invested on or after April 1, 2018, and is already being used and useful in the provision of electric distribution service.

To underscore the magnitude of the potential impact of abruptly ending Rider DCI, the base distribution revenue requirement approved in the Company's last base electric distribution case, Case No. 12-1682-EL-AIR, was $404.4 million[4], on an annual basis. This is the amount of base distribution revenue that is included in the quarterly Rider DCI updates. The first page of the attached spreadsheet is the summary page from the Company's most recently filed update to Rider DCI[5], showing the calculation of the rates that will be effective beginning July 1, 2018. As shown on line 11 of that page, the annualized Rider DCI revenue requirement for the upcoming Rider DCI is about $52.9 million, before grossing up for Commercial Activities Taxes. The

[4] From Stipulation Attachment 1, as approved in Case No. 12-1682-EL-AIR, *et al.* Total retail distribution revenue less revenue from TS customers less Miscellaneous Revenue.
[5] April 30, 2018, filing in Case No. 17-2088-EL-RDR.

second page of the attachment illustrates the impact on the Company's return on equity (ROE) if Rider DCI is abruptly discontinued. The Company's only revenue then would be the base distribution revenue, set in 2012, but its actual costs will be the current costs for interest expense, depreciation, property taxes, and income taxes. Abruptly eliminating $53 million of the Company's revenue will have the impact of reducing its ROE from the approved 9.84 percent to 1.90 percent. It is difficult to imagine that the Commission can achieve its goal of supporting the financial integrity of the Duke Energy Ohio and promoting infrastructure investment to modernize the grid by putting the Company in jeopardy of not having enough operating income to cover its costs.

Finally, it should be noted that the language in the Entry indicates that, in its order approving the next ESP, the Commission might consider recovery for capital investments made after August 1, 2018. The Entry says nothing about consideration of investments made after March 31, 2018, which investments would not have been included in any Rider DCI rate that was effective prior to the apparent August 1, 2018, limitation to Rider DCI. Additionally, unless the Entry intended the Company could continue to collect Rider DCI at its existing level on or after August 1 so as to continue recovery of its existing Rider DCI revenue requirement on distribution capital invested since the implementation of Rider DCI, the Commission's Entry would have the unintended consequence of the Company's recovery of its distribution system investments reverting to the levels that existed on March 31, 2012. If, as demonstrated above, the Commission believes that proactive investment in the distribution grid and the financial integrity utilities are important policy considerations, then it must not have meant to prohibit recovery related to a several-month period of investment and cease recovery of more than six years of distribution system capital investments that have previously been made.

The Company thus asks for clarification that the Commission did not intend, through its Entry, to cause Rider DCI to abruptly cease recovery with regard to distribution capital investments. Rather, the Commission should clarify that Rider DCI will continue in effect under its current structure, functioning to continue recovery of the incremental revenue requirement on electric distribution plant in service in which the Company has already invested, and will continue to invest through July 31, 2018. Again, because the Rider DCI rate that will be in effect on August 1, 2018, will only include the revenue requirement on incremental distribution capital plant as of March 31, 2018, continued operation of Rider DCI at that level beyond August 1 is reasonable. Similarly, the Company should have an opportunity to recover its revenue requirement on incremental distribution capital investments made between April 1, 2018, and June 30, 2018, through the DCI, which investments would not otherwise be reflected in the Rider DCI rate until October 1, 2018. Recovery of the incremental revenue requirement applicable to investments made between July 1, 2018, and July 31, 2018, should similarly be recoverable under the current structure of Rider DCI. As stated in the Entry, investments made on August 1 or thereafter would then be addressed in the Commission's approval of the comprehensive settlement that, among other things, establishes the Company's fourth ESP.

CONCLUSION

Duke Energy Ohio respectfully requests that the Commission reconsider the Entry, grant rehearing, and take action to clarify the Entry, as discussed herein. Specifically, the Entry should be clarified to reflect that Duke Energy Ohio is authorized to continue the provisions, terms, and conditions of its current ESP, including Rider DCI, until another standard service offer is implemented, thereby allowing the Company to maintain essential electric service and continue proactive investment in the electric grid. With regard to the $35 million cap for 2018, the

Commission's Entry should be clarified to indicate that such cap was only intended to apply during the term of the current ESP and should be viewed as an average monthly cap of $7 million. The Entry should be clarified, further, that, during the extension period of the current ESP, the Company may continue its quarterly adjustment filings, still under a cap of an average of $7 million per month. The Company notes that, as a result, the Rider DCI rate will not be any higher than was allowed under the existing cap.

Respectfully submitted,

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Duke Energy Ohio
Revenue Requirement for Rider DCI
Case No. 17-2088

Line	Description	March 31, 2012	December 31, 2017	Reference
1	Gross Distribution Plant	$1,878,034,210	$2,392,263,292	Pages 2 & 3
2	Accumulated Depreciation on Distribution Plant	646,781,562	720,722,557	Pages 4 & 5
3	Net Distribution Plant in Service	$1,231,252,648	$1,671,540,735	
4	Accum Def Income Taxes on Distr Plant	($249,112,366)	($439,605,419)	Pages 6 & 7
5	Distribution Rate Base for Rider DCI	$982,140,282	$1,231,935,316	Line (3) + Line (4)
6	Return on Rate Base (Pre-Tax %) (1)	10.68%	9.22%	
7	Return on Rate Base (Pre-Tax)	$104,892,582	$113,584,436	Line (5) * Line (6)
8	Depreciation Expense	$49,047,161	$62,852,707	Page 8
9	Property Tax Expense (Excludes M&S)	$65,218,326	$95,684,852	Page 9
10	Revenue Requirement Before CAT	$219,158,069	$272,121,995	Line (7) + Line (8) +Line (9)
11	Change in Revenue Requirement		$52,963,926	Line $(10)_{current}$ - Line $(10)_{base}$
12	Incremental Commercial Activities Tax		$138,065	(1/(1-CAT) * Line (11))
13	Total Rider DCI Revenue Requirement (2)		$53,101,991	Line (11) + Line (12)
14	Annual Base Distribution Revenue (3)		$404,401,058	
15	DEO Percentage of Base Distribution Revenue		13.131%	Line (16) ÷ Line (17)

Notes: (1) Return on Rate Base (Pre-Tax %) set per Stipulation in Case No. 12-1682-EL-AIR. Upon the *Tax Cut and Jobs Act of 2017* becoming law the Return on Rate Base (Pre-Tax %) has been adjusted to reflect a reduction of the Corporate tax rate from 35% to 21%.

(2) See Revenue schedule for amount collected year to date 2017. The Company will be under the 2017 $67million cap as ordered in Case No. 14-841-EL-SSO.

(3) From Stipulation Attachment 1 as filed and approved in Case No. 12-1682-EL-AIR, et al. This number represents total retail distribution revenue excluding transmission customers and miscellaneous revenues.

Duke Energy Ohio
Impact of Rider DCI on After-Tax ROE

	Components of Rider DCI in Effect for Q3 2018, Case No. 17-2088-EL-RDR	Distribution Rate Base As of: 3/31/12	3/31/2018	Rider DCI Rev Req for Q3 2018	
1	Rider DCI Rate Base	$982,140,282	$1,231,935,316	$249,795,034	Increase in Distribution Rate Base Since 3/31/12
2	Pre-Tax Return	$51,562,365	$64,676,604	$13,114,239	Weighted After-Tax ROE * Rate Base
3	Interest Exp	24,357,079	30,551,996	6,194,917	Weighted After-Tax Debt Rate * Rate Base
4	Income Taxes				
5	Change in Rate Base	28,973,138	36,342,092	7,368,953	After Tax ROE * Change in Plant
6	Change in FIT		(17,986,256)	(17,986,256)	Change in FIT * Current Rate Base
7	Total Income Taxes	28,973,138	18,355,836	(10,617,302)	
8	Property taxes	65,218,326	95,684,852	30,466,526	Incremental Property Taxes
9	Depr Expe	49,047,161	62,852,707	13,805,546	Incremental Depreciation Expense
10	Total	$219,158,069	$272,121,995	$52,963,926	Lines 2, 3, 7, 8, and 9
	If Rider DCI goes to $0				
11	Distribution Revenue			$219,158,069	Revenue would be ONLY at the Current Base Rates
	Distribution Capital Costs				
12	Total Interest Expense			30,551,996	Line 3 at Current
13	Total Property Taxes			95,684,852	Line 8 at Current
14	Total Depreciation Expense			62,852,707	Line 9 at Current
15	Total Pre-Tax Return at Current			30,068,514	Line 11 - (Sum Lines 13-15)
16	Income Taxes on Current Operating Income			$6,647,194	Line 11 minus Line 17
17	Net Income Available for Common			$23,421,321	Composite Income Tax * Line 15
18	After Tax ROE on Distribution Rate Base (Percent)			1.90%	(Line 17 ÷ Current Rate Base)/(Equity Ratio)
19	Allowed ROE			9.84%	Approved in Case No. 12-1682-EL-AIR

Data:		
After Tax Debt Rate	2.480%	From Case No. 12-1682-EL-AIR, as approved.
After Tax Equity Rate	5.250%	
After Tax Wtd Avg Cost of Capital	7.730%	
Composite Income Tax Rate	22.11%	
Equity Ratio	53.300%	

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was delivered by U.S. mail (postage prepaid), personal, or electronic mail, on this 7th day of June, 2018, to the parties listed below.

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