

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke Energy Ohio, Inc. for an Adjustment to Rider MGP Rates.	) ) )	Case No. 14-0375-GA-RDR
In the Matter of the Application of Duke Energy Ohio, Inc. for Tariff Approval.	) ) )	Case No. 14-0376-GA-ATA
In the Matter of the Application of Duke Energy Ohio, Inc. for an Adjustment to Rider MGP Rates.	) ) )	Case No. 15-0452-GA-RDR
In the Matter of the Application of Duke Energy Ohio, Inc. for Tariff Approval.	) ) )	Case No. 15-0453-GA-ATA
In the Matter of the Application of Duke Energy Ohio, Inc. for an Adjustment to Rider MGP Rates.	) ) )	Case No. 16-0542-GA-RDR
In the Matter of the Application of Duke Energy Ohio, Inc. for Tariff Approval.	) ) )	Case No. 16-0543-GA-ATA
In the Matter of the Application of Duke Energy Ohio, Inc. for an Adjustment to Rider MGP Rates.	) ) )	Case No. 17-0596-GA-RDR
In the Matter of the Application of Duke Energy Ohio, Inc. for Tariff Approval.	) ) )	Case No. 17-0597-GA-ATA
In the Matter of the Application of Duke Energy Ohio, Inc. for an Adjustment to Rider MGP Rates.	) ) )	Case No. 18-0283-GA-RDR
In the Matter of the Application of Duke Energy Ohio, Inc. for Tariff Approval.	) ) )	Case No. 18-0284-GA-ATA
In the Matter of the Application of Duke Energy Ohio, Inc. for Implementation of the Tax Cuts and Jobs Act of 2017.	) ) ) )	Case No. 18-1830-GA-UNC

<p>In the Matter of the Application of Duke Energy Ohio, Inc. for Approval of Tariff Amendments.</p>	<p>)))</p>	<p>Case No. 18-1831-GA-ATA</p>
<p>In the Matter of the Application of Duke Energy Ohio, Inc. for an Adjustment to Rider MGP Rates.</p>	<p>)))</p>	<p>Case No. 19-0174-GA-RDR</p>
<p>In the Matter of the Application of Duke Energy Ohio, Inc. for Tariff Approval.</p>	<p>)))</p>	<p>Case No. 19-0175-GA-ATA</p>
<p>In the Matter of the Application of Duke Energy Ohio, Inc. for Authority to Defer Environmental Investigation and Remediation Costs.</p>	<p>))))</p>	<p>Case No. 19-1085-GA-AAM</p>
<p>In the Matter of the Application of Duke Energy Ohio, Inc. for Tariff Approval.</p>	<p>)))</p>	<p>Case No. 19-1086-GA-UNC</p>
<p>In the Matter of the Application of Duke Energy Ohio, Inc. for an Adjustment to Rider MGP Rates.</p>	<p>)))</p>	<p>Case No. 20-0053-GA-RDR</p>
<p>In the Matter of the Application of Duke Energy Ohio, Inc. for Tariff Approval.</p>	<p>)))</p>	<p>Case No. 20-0054-GA-ATA</p>

**DIRECT TESTIMONY OF FRANK LACEY ON BEHALF OF
 THE RETAIL ENERGY SUPPLY ASSOCIATION
 AND
 INTERSTATE GAS SUPPLY, INC.**

1 **I. INTRODUCTION**

2 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3 A. My name is Frank Lacey. My business address is 3 Traylor Drive, West Chester, PA
4 19382.

5 **Q. ON WHOSE BEHALF ARE YOU TESTIFYING?**

6 A. I am submitting this testimony on behalf of Interstate Gas Supply, Inc. (“IGS”) and the
7 Retail Energy Supply Association (“RESA”). IGS is a competitive retail natural gas
8 service (“CRNGS”) supplier. RESA is a trade association comprised of a broad and
9 diverse group of retail energy suppliers dedicated to promoting efficient, sustainable and
10 customer-oriented competitive retail energy markets. IGS provides competitive retail
11 natural gas to residential and commercial and industrial (“C&I”) customers in Ohio,
12 including customers served by Duke Energy Ohio, Inc. (“Duke”). RESA has members
13 that also provide CRNGS to customers served by Duke. In addition to supplying natural
14 gas as a commodity, CRNGS suppliers often provide advanced energy management
15 services including innovative retail energy products, demand management, energy
16 efficiency, renewable energy, distributed energy resources, home warranty services, and
17 other products and services. For example, IGS provides a green natural gas product to its
18 customers that creates carbon offsets for each CCF of natural gas that the customer
19 consumes. CRNGS suppliers also provide other benefits to customers including rewards
20 for signing up with a supplier such as gift cards as well as smart thermostats, which
21 reduce a customer’s total energy bill by reducing energy usage.

1 **Q. PLEASE SUMMARIZE YOUR EDUCATIONAL BACKGROUND AND**
2 **PROFESSIONAL EXPERIENCE.**

3 A. As a consultant, I provide policy- and market-related consulting services to advanced
4 energy management companies and end-use customers. I have worked in the competitive
5 energy market since 2001 and in the energy industry for approximately 28 years,
6 beginning immediately after earning my graduate degree. Early in my career, I was
7 employed as a consultant to industry participants, first by Putnam, Hayes & Bartlett, Inc.
8 and then by Arthur Andersen Business Consulting. Within the competitive energy
9 industry, I have worked for Strategic Energy, a retail energy supplier, Direct Energy, a
10 retail energy supplier that acquired Strategic Energy in 2008, and most recently,
11 Comverge, Inc. and CPower, two demand response companies that shared a common
12 owner and provided demand response services to residential and to C&I customers,
13 respectively. I created Electric Advisors Consulting LLC in 2015. I hold a Bachelor of
14 Science degree in Transportation and Logistics from the University of Maryland and a
15 Master of Science in Industrial Administration with concentrations in finance and
16 environmental management from the Tepper School of Business at Carnegie Mellon
17 University. My resume is provided as Exhibit FPL-1.

18 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE ANY UTILITY**
19 **REGULATORY AGENCY INCLUDING THE PUBLIC UTILITIES**
20 **COMMISSION OF OHIO?**

21 A. Yes. I have testified before the Public Utilities Commission of Ohio (“Commission” or
22 “PUCO”). In addition to testifying before the PUCO, I have provided expert testimony
23 on competitive retail market issues before the utility commissions in New York,
24 Pennsylvania, Maryland, New Jersey, Massachusetts, Illinois, Delaware, Rhode Island,
25 Virginia, California, and on a demand response matter in Utah. I have testified twice as a

1 technical conference witness at the Federal Energy Regulatory Commission (“FERC”). I
2 have also filed expert reports in judicial proceedings in the Superior Court of New Jersey
3 in Bergen County and in the Supreme Court of the State of New York in New York
4 County. I have presented oral testimony in less formal proceedings before the utility
5 commissions in Pennsylvania, Maryland, Delaware and Texas. I have presented
6 legislative testimony in New York, Maryland, Pennsylvania, Delaware, Michigan,
7 California and Texas. I have also spoken at numerous trade shows, conferences and other
8 industry and corporate events as an expert on electricity and natural gas market issues. A
9 detailed listing of my prior testimony is contained in Exhibit FPL-2.

10 **Q. ARE YOU FAMILIAR WITH THESE PROCEEDINGS?**

11 A. Yes. I have read the materials in the case dockets that were filed with or subsequent to
12 the filing of the Joint Stipulation and Recommendation (“Stipulation”) on August 31,
13 2021. I have also reviewed some of the documents filed in the underlying proceedings.
14 The cases underlying the Stipulation were instituted by Duke to recover costs associated
15 with environmental remediation efforts at Duke’s manufactured gas plants (“MGP”) and
16 to provide customers with a rate reduction as a result of a reduction in federal taxes paid
17 by Duke emanating from the Tax Cuts and Jobs Act (“TCJA”), passed in 2017. The
18 Stipulation was filed jointly by the Signatory Parties which consist of Duke, the Staff of
19 the Public Utilities Commission of Ohio (“Staff”), the Office of the Ohio Consumers’
20 Counsel (“OCC”) and the Ohio Energy Group (“OEG”). The Stipulation states that it
21 resolves contested issues in the MGP cases and the TCJA cases. The Stipulation was not
22 opposed by the Ohio Manufacturers Association Energy Group, The Kroger Company
23 and Ohio Partners for Affordable Energy, none of which are signatory parties to the
24 Stipulation. Neither the Signatory Parties nor the non-opposing parties are adequate

1 representatives of CRNGS suppliers. Unfortunately, even though no CRNGS suppliers
2 were represented or invited to the Stipulation negotiations, the Signatory Parties saw fit to
3 include settlement terms wholly unrelated to the underlying cases. These provisions are
4 detrimental to IGS, RESA and the competitive retail natural gas market including
5 customers that have or will elect choice for their natural gas supply. The Stipulation
6 terms that impact the competitive gas market should be rejected.

7 **II. PURPOSE OF TESTIMONY**

8 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

9 A. My testimony explains how the retail market provisions in Section III.C of the Stipulation
10 will have an adverse impact on competitive natural gas markets, CRNGS suppliers and/or
11 their customers and why those provisions should be rejected. The provisions in Section
12 III.C relate to billing system changes consisting of a “Price to Compare” on residential
13 choice customer bills and the provision of select aggregate customer billing information
14 by Duke to OCC (called shadow billing). Section III.B of the Stipulation contains other
15 retail market provisions that would transition Duke to a standard service offer. While in
16 my opinion, those provisions should also be rejected, my testimony is focused on Section
17 III.C as other witnesses will explain why those provisions should be rejected. I also
18 address the three-part test that the Commission applies in determining the reasonableness
19 of a stipulation. The Stipulation does not meet the standards of any of the three parts and
20 should therefore be rejected.

1 **III. THE THREE-PRONG TEST**

2 **Q. ARE YOU FAMILIAR WITH THE THREE-PRONG TEST USED BY THE**
3 **COMMISSION IN EVALUATING THE REASONABLENESS OF A**
4 **STIPULATION?**

5 A. I am. It is my understanding that the Commission utilizes a three-prong test to determine
6 whether a stipulation is reasonable: 1) is the settlement a product of serious bargaining
7 among capable, knowledgeable parties; 2) does the settlement, as a package, benefit
8 ratepayers and the public interest; and 3) does the settlement package violate any
9 important regulatory principle or practice.

10 **Q. DO YOU BELIEVE THE STIPULATION, INCLUDING THE COMPETITIVE**
11 **RETAIL MARKET PROVISIONS, MEETS THESE THREE CRITERIA?**

12 A. As I discuss below, I do not take any position on the terms of the Stipulation related to
13 MGP cost recovery and rate changes from the TCJA. In my opinion, however, the
14 Stipulation as a package is not reasonable because it includes wholly unrelated retail
15 market provisions none of which benefit the market and exactly the opposite, will have
16 an adverse impact on the competitive gas market. The retail market provisions were not
17 the product of serious bargaining among capable, knowledgeable parties. They neither
18 benefit ratepayers, nor are they in the public interest. Additionally, they violate several
19 regulatory principles and practices. In addition to my analysis, RESA/IGS witnesses
20 James Cawley and James Crist will address other aspects of the competitive retail market
21 provisions in more detail.

22 **Q. CAN YOU PLEASE EXPLAIN WHY THE RETAIL MARKET PROVISIONS IN**
23 **THE STIPULATION WERE NOT THE PRODUCT OF SERIOUS BARGAINING**
24 **AMONG CAPABLE, KNOWLEDGEABLE PARTIES?**

25 A. There are two components to this test – the seriousness of the bargaining and the
26 knowledge and capabilities of the participants. The bargaining on the competitive market

1 issues was not serious. Significantly, the auction format and the billing changes have no
2 relationship or bearing on the underlying cases. These terms could only have been
3 included in the Stipulation because of some agenda to drive desired changes to the
4 competitive retail market. Retail suppliers, including IGS and RESA's members, are the
5 entities most impacted by these changes, yet no CRNGS supplier or RESA were made
6 aware of or invited to the settlement discussions. These issues were not part of the
7 underlying cases that the Stipulation purports to settle, so there is no justification for
8 them to be in the Stipulation.

9 The second component of this test is the knowledge and capability of the parties
10 to the negotiation. Without casting aspersions on those at the negotiating table, notably
11 absent from the table were the parties with absolute expertise in retail markets and retail
12 market design – those who actively participate in the retail markets every day. No
13 supplier or representative of suppliers was in the negotiation. Duke may have auction
14 design and billing expertise, but Duke is the incumbent monopoly from which suppliers
15 must move customers. It is not in Duke's best interest to set up an auction or a billing
16 system that would in any way "improve the market." In fact, it is in Duke's interest to do
17 just the opposite. The only parties with compelling divergent interests from Duke and
18 qualified expertise to participate in the negotiations on these contentious market issues
19 are the CRNGS suppliers including IGS and RESA's members. The parties with the
20 expertise in these areas and the parties with the most significant interest in policy
21 decisions related to these issues – the competitive gas suppliers – were not involved in
22 the negotiation of the Stipulation.

1 In my opinion, the Stipulation cannot be determined to be a product of serious
2 bargaining among capable, knowledgeable parties.

3 **Q. IN YOUR OPINION, IS THE STIPULATION AS A PACKAGE, INCLUDING**
4 **THE RETAIL MARKET PROVISIONS, IN THE PUBLIC INTEREST AND OF**
5 **BENEFIT TO RATEPAYERS?**

6 A. The provisions in the Stipulation that impact the competitive natural gas markets were
7 not part of the underlying cases yet were negotiated with and “settled” by parties that are
8 not impacted by the changes. I know of no standard by which this practice could be
9 decreed “in the public interest.” Of more significance, the specific provisions agreed to
10 with respect to Section III.C. of the Stipulation will harm customers and competitive gas
11 markets and are contrary to the public interest. I will discuss these harms throughout my
12 testimony. Implementation of a SSO framework with a price-to-compare bill message
13 for Choice customers improves nothing for customers. Duke provided testimony in
14 support of the Stipulation declaring the transition benefits customers but did not offer
15 even one example of consumer or market benefit. Just stating it does not make it true. It
16 does not benefit the market in any way, nor does it provide any value to consumers.

17 Duke witness Lawler testifies that stipulation “complies with all relevant and
18 important regulatory principles and practices.” She supports that with many statements
19 about rates that will be paid by consumers, but those statements are all related to the rate
20 impacts of settling the underlying MGP and TCJA cases. She also adds that the
21 Stipulation “will enhance competitive natural gas market [sic] in Ohio.”¹ She offers no
22 testimony on how the changes improve the competitive market for natural gas in Ohio.

¹ Lawler Direct Testimony, p. 16, lines 21-22.

1 She described the changes in her testimony, but never linked any of the changes with any
2 benefit to customers or the competitiveness of the market.

3 Duke Witness Spiller’s testimony is similar. She states that the “Stipulation
4 advances important regulatory policies including enhancing the competitive natural gas
5 market and providing more information to customers regarding their natural gas service
6 and related choices.”² Her testimony on the enhancements states that Duke will transition
7 to an SSO competitive auction but does not draw any link to any consumer or market
8 benefit from that transition. With respect to the billing changes, she states “natural gas
9 customers will be given additional information related to choice and the competitive
10 market and the Office of Ohio Consumers’ Counsel (OCC) will be provided with
11 information to enable an aggregate comparison between charges paid to suppliers and
12 under the Company’s future SSO.”³ This is not a true statement. According to the
13 Stipulation, the “Price-to-Compare message on bills for shopping customers shall
14 prominently include” the agreed upon language.⁴ It further states “The Price-to-Compare
15 message should be included on all shopping customer bills...” There is no requirement
16 in the Stipulation that “natural gas customers will be given additional information related
17 to choice and the competitive market.” It appears that the “information” stipulated will
18 be put on shopping customers’ bills only and it will be misleading, inaccurate and may
19 lead to decisions that are not in the customers’ best interests. Some customers (shopping
20 customers) will get more information, but it will be inaccurate, misleading and untimely
21 information.

² Spiller Direct Testimony, p. 23, lines 5-8.
³ Spiller Direct Testimony, p. 21, lines 6-10.
⁴ Stipulation, Para 24.a.

1 In my opinion, the Stipulation’s retail market provisions in Section III.C. related
2 to a price-to-compare message and shadow billing will neither benefit ratepayers nor are
3 the provisions in the public interest.

4 **Q. DOES THE STIPULATION VIOLATE ANY IMPORTANT REGULATORY**
5 **PRINCIPLE OR PRACTICE?**

6 A. In my opinion and experience, a stipulation that includes wholly unrelated retail market
7 provisions, was negotiated by Duke, OCC, OEG and Staff without one supplier at the
8 bargaining table and seeks to impose a fundamental shift to Duke’s default service (SSO)
9 along with other provisions that clearly were included by OCC violates at a minimum
10 important regulatory principles and practices. Most notably, the Stipulation language is
11 in direct contrast with the current requirements of the Ohio Administrative Code, which
12 prescribes a billing message as follows:

13 When shopping for a natural gas supplier, it may be useful to compare
14 supplier offers with the standard choice offer (SCO) rate [or, if applicable,
15 the gas cost recovery (GCR) rate] available to eligible customers, which
16 varies monthly based on the market price of natural gas. Price represents
17 one feature of any offer; there may be other features which you consider
18 of value. More information about the SCO [or GCR, if applicable] and
19 other suppliers offers is available at energychoice.ohio.gov or by
20 contacting the PUCO.⁵

21 Of significant note, this statement was incorporated by the Commission at the
22 conclusion of a proceeding to review gas service standards. Price-to-compare language
23 proposed by Staff and supported by OCC that is similar to what is being proposed in the
24 Stipulation was explicitly rejected by the Commission in the gas standards proceeding.⁶

⁵ Ohio Administrative Code 4901:1-13-11(B)(13).

⁶ *In the Matter of the Commission’s Review of the Minimum Gas Service Standards in Chapter 4901:1-13 of the Ohio Administrative Code*, Case No. 19-1429-GA-ORD, Finding and Order, , February 24, 2021, para 69.

1 The specific language currently required was articulated in the order entered by the
2 Commission in that proceeding. The Commission stated:

3 Following careful consideration of the comments, the Commission finds
4 that Staff’s proposal to include a price-to-compare statement on customer
5 bills, which is supported by OCC, should be adopted at this time, with
6 certain modifications. Although we certainly acknowledge that customers
7 may choose a supplier for various reasons, there is no doubt that many
8 customers base their decision on whether they will experience savings on
9 their monthly energy bills. As some of the commenters have noted, the
10 Commission’s Energy Choice Ohio website provides information intended
11 to facilitate a comparison of rates that will enable customers to make
12 informed decisions about their choice of supplier.⁷

13 The Commission reaffirmed their position when denying rehearing requests on
14 the billing issues two months after this order was entered. A very short six months and
15 seven days after that order was issued by the Commission (and only four months after the
16 Commission’s affirmation in the rehearing order), Duke, OCC, Staff and the other
17 signatories acted in direct contrast to the order and ignoring the Commission’s reasoned
18 conclusions, the parties “settled” on alternative bill messaging. “Settling” an issue in
19 contrast to what the Commission ordered just six months prior, and affirmed four months
20 prior, seems to violate important regulatory practices.

21 The gas standards review is not the only docket in which the issues of shadow
22 billing and price-to-compare messages on customers’ bills has been litigated. This issue
23 dates back to at least 2013 and has been addressed in at least three other dockets. These
24 include a 2013 review of the minimum gas standards, a 2015 review of purchased gas
25 adjustment clauses and other issues, and a 2018 review of purchased gas adjustment

⁷ *Id.*

1 clauses and other issues.⁸ In all those proceedings, the Commission rejected the price-to-
2 compare messages sought by certain stakeholders.

3 **IV. DISCUSSION OF STIPULATION TERMS**

4 ***MGP AND TAX ISSUES***

5 **Q. DO YOU SUPPORT THE STIPULATION TERMS OUTLINED IN SECTION**
6 **III.A, RESOLUTION OF MANUFACTURED GAS PLANT AND NATURAL GAS**
7 **TAX CUTS AND JOBS ACT PROCEEDINGS?**

8 A. I take no position on the reasonableness of the terms outlined in Section III.A of the
9 Stipulation. Taking no position should not be interpreted as any type of endorsement,
10 opposition, or non-opposition to those terms. The underlying cases addressed by the
11 Stipulation have long histories, have been pending for many years and had no contested
12 issues that should have impacted the competitive retail natural gas market in Ohio. While
13 I am not taking a position on the specific terms in Section III.A, I have reviewed the
14 entire Stipulation and nothing in Section III.A of the Stipulation would be impacted by
15 taking the competitive retail market provisions (both Section III.B and Section III.C) out
16 of the Stipulation. That is because the competitive retail market provisions in Sections
17 III.B and III.C are wholly unrelated to the rest of the Stipulation and the subject matter of
18 the underlying cases.

⁸ See Case Nos. 13-2225-GA-ORD, 15-218-GA-GCR, *et al.*, and 18-218-GA-GCR, *et al.*

1 **BILLING SYSTEM CHANGES**

2 **Q. DO YOU SUPPORT THE TERMS OF STIPULATION SECTION III.C, BILLING**
3 **SYSTEM CHANGES?**

4 A. I strongly oppose the provisions of Section III.C. of the Stipulation.

5 **Q. WHY DO YOU OPPOSE THE BILLING SYSTEM CHANGES PROPOSED IN**
6 **THE STIPULATION?**

7 A. The billing system changes can be broken down into two components. The first is the
8 inclusion of a so-called “price to compare” on each choice customer’s invoice with
9 language about customer savings.⁹ The Stipulation calls for the price-to-compare
10 message to be included on customers’ bills “the second billing month that a customer is
11 billed based upon the SSO.”¹⁰ The second change is that Duke will provide OCC with
12 aggregate billing data comparing aggregate shopping customer costs to what those
13 customers would have paid had they been served on Duke’s proposed SSO service.¹¹
14 Section III.C of the Stipulation also required Duke to provide OCC with the past two-
15 years of aggregate billing data upon execution of the Stipulation. Neither a price-to-
16 compare message nor the provision of aggregate billing data (shadow billing data) will
17 provide a benefit to Duke, the CRNGS suppliers or the CRNGS suppliers’ customers.

18 **Q. WHAT ARE YOUR CONCERNS WITH PROVIDING A PRICE-TO-COMPARE**
19 **ON EACH CHOICE CUSTOMERS’ INVOICE?**

20 A. I have several concerns. A price-to-compare is an archaic concept and is one that
21 hampers development of alternative goods and services. The price-to-compare might
22 have been rational at one time, when the market initially opened, and retail prices were

⁹ Stipulation, para 24.

¹⁰ *Id.*

¹¹ *Id.*, para 25.

1 compared to retail prices. But that is not the case any longer. Duke does not offer a retail
2 service that is comparable to the retail service provided by CRNGS suppliers. Duke's
3 current GCR and the SSO proposed in the Stipulation are essentially no-value wholesale
4 cost pass-through products. Retail products have different attributes such as carbon
5 offsets, efficiency products or services, long-terms and potentially other features. So, a
6 price-to-compare as envisioned in this Stipulation will be a comparison of prices of two
7 different products. Because the products are different, the price-to-compare information
8 will serve no purpose other than to create confusion among CRNGS suppliers'
9 customers.

10 Moreover, the SSO, if adopted, would be a monthly variable rate. It will always
11 be a "backward looking" price, reflecting actions that the utility took in the past to
12 procure gas resources to meet an expected demand in the future. The price reflected in
13 the price-to-compare message is not a price that is available to the customer. By contrast,
14 a competitive supply price, when contrasted, is a forward-looking price that incorporates
15 market expectations at the time the customer agreement is signed. Ignoring all other
16 factors, just the differing contract dates render the comparison invalid. By comparison,
17 consider a commodity product – gasoline out of a retail pump. It is meaningless to
18 compare the price of gasoline paid today to the price paid three months ago. The
19 argument for a price-to-compare on a natural gas bill is similar to comparing prices of
20 gasoline purchased three or more months ago and gasoline purchased today. In gasoline
21 markets, the products are virtually identical, but prices move in relation to market forces
22 on a daily basis. In competitive energy markets, in addition to the timing differences, the
23 competitive supply products are vastly different from standard offer products and

1 comparisons of the two on price should be avoided. Because of timing differences and
2 product differences, the Commission should reject the inclusion of a price-to-compare on
3 choice customers' bills just as the Commission has done repeatedly – most recently, just
4 a few months before the Stipulation was executed.¹²

5 **Q. DO YOU HAVE OTHER CONCERNS WITH THE STIPULATION'S**
6 **PROPOSED PRICE-TO-COMPARE?**

7 A. Yes. The language proposed to be used on the invoices is inaccurate and will be
8 misleading to retail choice customers. According to the Stipulation, the price-to-
9 compare language on shopping customers' bills will say "In order for you to save money,
10 a natural gas supplier must offer you a price lower than \$x.xx per CCF for the same usage
11 that appears on this bill." The primary implication is that monthly cost is the only
12 attribute that matters when procuring energy. Duke's GCR rate changes every month as
13 will its proposed SSO program.¹³ The monthly price volatility of the GCR rate is just one
14 of the reasons that the Commission has previously acknowledged for rejecting such
15 language on customers' bills. In September 2021, Duke's GCR rate was \$0.6644 per
16 CCF. In October, it increased to \$0.713 per CCF.¹⁴ If a choice customer had a fixed
17 CRNGS term price of \$0.6887 (exactly halfway between the two rates) per CCF, the
18 customer would not have realized dollar savings versus the GCR in September but would

¹² *In the Matter of the Commission's Review of the Minimum Gas Service Standards in Chapter 4901:1-13 of the Ohio Administrative Code*, Case No. 19-1429-GA-ORD, Entry on Rehearing, ("We noted that the Commission has previously rejected, on several occasions, similar shadow-billing recommendations; that customers have other existing resources for comparing pricing and available offers; and that OCC's proposal would require significant billing system or other programming changes, as the natural gas companies noted in their reply comments."), April 21, 2021, para 20.

¹³ Standard Sales Offer Service, Duke Energy presentation to stakeholders, September 14, 2021, p. 4.

¹⁴ See:
<http://energychoice.ohio.gov/ApplesToApplesComparison.aspx?Category=NaturalGas&TerritoryId=10&RateCode=1>. Website reviewed on October 25, 2021.

1 have in October on a per unit basis. It is likely that the customer will consume more gas
2 units in October than in September just because of the cooler weather driving demand for
3 heating. If overall usage is considered, that customer would be saving money over the
4 two months analyzed. However, that customer would be getting a bill from the utility
5 saying “in order for you to save money” the supply rate has to be lower than what the
6 utility charges. By this very simple example, the statement on the bill is inaccurate and
7 misleading, and would be providing customers with information that could persuade them
8 to make decisions that are detrimental to their financial well-being. This example applies
9 equally to the proposed SSO model, under which the delivered price also will change
10 monthly.

11 That is not my only other concern. For many customers, price certainty is more
12 important than getting the lowest price. This is demonstrated in many ways in different
13 markets. For example, the mortgage industry and the cell phone industry both
14 demonstrate this phenomenon. In 2021, less than 5% of mortgages signed in the US
15 included adjustable-rate provisions¹⁵ yet interest rates on adjustable-rate mortgages are
16 almost always lower than conventional 30-year fixed rate mortgages.¹⁶ In the cellular
17 industry, a recent survey of 1,000 cell phone users determined that 83% of the customers
18 are on unlimited or capped data plans. The survey found that the average customer on
19 capped data plans purchases almost \$200 per year in unused data. In other words, they

¹⁵ See Mortgage Bankers Association weekly press releases on mortgage activity, found at:
<https://www.mba.org/news-research-and-resources/newsroom/all-press-releases?start=200&rows=50>.

¹⁶ See <http://www.freddiemac.com/pmms/>.

1 pay more than necessary, but have budget certainty. The survey also found that 56% of
2 unlimited data customers use less than 10 GB of data monthly and could save \$268
3 annually by switching payment plans.¹⁷

4 In contrast to offering a fixed price, an SSO rate as envisioned by Duke will vary
5 monthly. Duke's current GCR rate also varies monthly, and inclusive of Gross Receipts
6 Tax, for October 2021 (\$0.7479 per CCF) is more than double what it was in October
7 2020 (\$0.3505 per CCF).¹⁸ It is not difficult to envision a customer who signed a long-
8 term fixed-price contract last year who is extremely satisfied with that decision today
9 given that the GCR has doubled over that same period. The bill message, if presented
10 last year prior to the GCR increasing, would have been patently wrong and may have
11 persuaded the customer into an action not in the customer's financial best interest,
12 including terminating the customer's choice contract and transitioning to the GCR.

13 Choice contract durations can vary and be long-term. A review of the PUCO's
14 energychoice apples-to-apples shopping website shows that customers can choose from
15 more than 3 dozen fixed-price gas product alternatives in the Duke territory with contract
16 durations of one year or longer, including up to five years in duration, which provides
17 price stability for 60 times the duration of stability provided by the SSO.¹⁹ The utility
18 model, whether GCR or the proposed SSO, does not provide that certainty to customers.
19 For the customers who desire a fixed-price, longer-term product, a message about a price-

17 See <https://www.itsworthmore.com/blog/post/how-much-data-do-you-need>.

18 <https://www.duke-energy.com/home/natural-gas/monthly-gas-cost-changes>.

19 <http://energychoice.ohio.gov/ApplesToApplesComparision.aspx?Category=NaturalGas&TerritoryId=10&RateCode=1>, website reviewed on November 11, 2021.

1 to-compare and prices needed to save money are meaningless, confusing and might
2 persuade a customer to take an action that is not in the customer's best financial interest,
3 such as reverting to the varying utility price (whether GCR or SSO).

4 Suppliers also offer different attributes on natural gas, such as carbon offsets. If a
5 customer chooses carbon offset natural gas, they might be paying a premium for that
6 product. While they entered into that product knowingly, they should not be inundated
7 with a monthly message that in order to save money, they need to pay less than what the
8 utility will charge through the SSO. In this example, as in the others, the product is
9 different from what the utility is offering. In the absence of making adjustments for
10 product differentiation, the bill message will be inaccurate, misleading and might
11 potentially persuade consumers to take action that is not in their best interest.

12 Another product example might be a gas contract that provides a learning
13 thermostat as part of the contract. For that product, the gas supplier might charge a
14 premium rate, but it might be a very beneficial product for customers because the product
15 includes the learning thermostat. Studies have shown learning thermostats reduce
16 consumption of both electricity and natural gas in the range of 10% to up to 25%
17 annually.²⁰ In this scenario, the rate might be 10% higher than that month's GCR or
18 SSO, but the customer's usage might be down 15% from the prior year as a result of the
19 thermostat, providing the customer with a net savings in gas costs. In addition, that
20 customer could be saving on its cooling bills as well. The customer would be benefiting,
21 saving money, but the utility will be sending a message that says otherwise.

²⁰ See, for example: <https://storage.googleapis.com/nest-public-downloads/press/documents/energy-savings-white-paper.pdf>.

1 Finally, from an economic perspective, differing prices will drive differing levels
2 of consumption. For example, if a customer entered into a supply contract six months
3 ago at a fixed price that is lower than what GCR or SSO would provide this coming
4 winter, that customer might be incentivized to over-consume heating, knowing that the
5 price for gas is well below the current market price. Conversely, if pricing expectations
6 for this winter hold, pass-through consumers will likely reduce gas consumption, turning
7 to fireplaces and sweaters to offset some heating costs. In this scenario, it is impossible
8 to determine which customer “saved” and which did not. It is also not possible to
9 determine which customer paid less for the month – the one who over-consumed but paid
10 less per unit, or the one who conserved but paid a higher unit cost. It is virtually
11 impossible to make a valid savings statement by comparing a SSO (or GCR) rate to a
12 supplier-contracted rate on a monthly invoice.

13 For the many reasons described above, a price-to-compare message should not be
14 included on a shopping customer’s bill. In most, if not all circumstances, the statement
15 will be inaccurate, misleading and may induce a customer into taking actions that are
16 contrary to its financial interest.

17 **Q. COULD YOU DESCRIBE A DECISION THAT A CUSTOMER MIGHT MAKE**
18 **THAT IS CONTRARY TO ITS FINANCIAL INTEREST AS A RESULT OF**
19 **SEEING A PRICE-TO-COMPARE MESSAGE.**

20 A. Certainly. At the most basic level, the price-to-compare message is sending a message
21 every month that customers should attempt to save money on their gas supply. This
22 message may persuade customers to terminate their relationship with a supplier which
23 could lead to an early termination fee. Even in the absence of an early termination fee, it
24 might convince a customer to terminate a long-term contract with a fixed price and move
25 to the utility’s default service, which is a variable-rate product. Coming into this winter,

1 that could be a costly mistake. The reverse pricing scenario could be true also. In a
2 period of sustained high prices as is expected this winter, a price-to-compare message
3 could convince a customer to sign a long-term supply contract. That might work against
4 the customer because natural gas prices are at levels that have not been sustained in more
5 than a decade and they could come back down.

6 **Q. IS THE PROPOSED PRICE-TO-COMPARE MESSAGE DISCRIMINATORY?**

7 A. It is. The price-to-compare message as described in the Stipulation is discriminatory as it
8 is only applied to shopping customers' bills.²¹ While I do not support including the
9 default service price on the bill, there are equitable and educational messages that Duke
10 should put on customer bills. Such messages are usually best addressed in Commission
11 rulemakings, rather than through stipulations on an ad hoc basis for each utility. For
12 example, the Commission could explore informing customers that “[Your utility’s default
13 service] does not provide a fixed-price gas product. To avoid exposure to fluctuating gas
14 prices, you should contract with a natural gas supplier, each of which has been approved
15 and licensed by the Public Utilities Commission of Ohio. The process to switch to a
16 licensed supplier can be found at:

17 <http://energychoice.ohio.gov/Pages/Steps%20to%20Switching-NG.aspx>.” Alternatively,

18 the Duke gas bill could provide an environmental message such as: “Duke Energy’s
19 natural gas service does not provide any environmental attributes. If you are interested in
20 offsetting the carbon from your gas use, you should contract with a natural gas supplier,
21 each of which has been approved and licensed by the Public Utilities Commission of

²¹ Stipulation, para 24.a.

1 Ohio.” These messages should be placed on all customers’ bills, not just shopping
2 customers’ bills. While I see these types of messages as potential improvements, the
3 appropriate place to evaluate their merit is a rulemaking; not in these proceedings which
4 are completely unrelated to the competitive retail natural gas market.

5 **Q. IF THE PROPOSED PRICE-TO-COMPARE PROVISION IN THE**
6 **STIPULATION IS ADOPTED BY THE COMMISSION, WILL IT HAVE**
7 **NEGATIVE IMPACTS ON OHIO’S COMPETITIVE RETAIL NATURAL GAS**
8 **MARKET?**

9 A. Undoubtedly, yes. I have described some of the negative impacts above. First, it
10 provides a message implying that all products are the same and price is the only attribute
11 that matters. This stifles consumer interest and hampers innovation. The requirement
12 will also result in consumers receiving delayed and inappropriate price signals that can
13 lead to poor consumer decisions such as breaking contracts, entering contracts at
14 inopportune times, or staying out of the market altogether and suffering the fate of gas
15 price volatility. It will create confusion in the market because the statements might be
16 completely untrue at the time the customer reads them or can react to them. Overall,
17 including the default service price on customer bills would be bad policy. I can think of
18 no consumer benefits of providing a backward-looking price comparison of
19 fundamentally different consumer products.

20 **Q. HAS DUKE ARGUED AGAINST THE IMPLEMENTATION OF A PRICE-TO-**
21 **COMPARE MESSAGE ON THE BILLS IN OTHER DOCKETS?**

22 A. It has on at least a few occasions of which I am aware. As recently as 2020, in Reply
23 Comments in Case No. 19-1429-GA-ORD, Duke discussed a multi-year history of
24 multiple dockets dating back to 2015 on the issue of putting shadow billing prices on
25 customers’ bills. In this pleading, arguing against bill format change being advocated by

1 OCC, Duke argued that “such information is not shown to be a full or reliable means of
2 determining the value, or lack thereof, of any particular competitive offer.”²²

3 In 2019, in a post-hearing brief defending a stipulation filed with the Commission
4 that would settle three different cases, Duke argued against bill message concepts. In that
5 matter, OCC was opposing the stipulation in part because it did not include shadow
6 billing requirements (then understood to be the bill message requirement). Here, Duke
7 again cited to the long history of the shadow billing arguments put forth by OCC in
8 different proceedings. Duke stated then that “the Company does not compare the GCR to
9 the choice program on a regular basis. To do so would require extensive revisions to the
10 Company’s current billing systems, or the dedication of numerous hours to manually
11 gather the data.”²³ Later in this same case, Duke’s reply brief argued more stridently
12 against OCC’s request to include shadow billing. Duke directly argued against putting a
13 price-to-compare message on customers’ bills stating, “the data needed to make the
14 comparison [OCC] seeks to make is simply not available.”²⁴ Duke also argued:

²² Reply Comments of Duke Energy, *In the Matter of the Commission’s Review of the Minimum Gas Service Standards in Chapter 4901:1-13 of the Ohio Administrative Code*, Case No. 19-1429-GA-ORD, January 31, 2020, p. 2.

²³ Post Hearing Brief of Duke Energy Ohio, Inc., *In the Matter of the Regulation of the Purchased Gas Adjustment Clauses Contained within the Rates Schedules of Duke Energy Ohio, Inc. and Related Matters*, Case No. 18-218-GA-GCR, *In the Matter of the Audit of the Uncollectible Expense Rider of Duke Energy Ohio, Inc., and Related Matters*, Case no. 18-318-GA-UEx, and *In the Matter of the Application of Duke Energy Ohio, Inc., for Approval of an Adjustment to its Interim and Temporary Percentage of Income Payment Plan Rider Case*, Case No. 18-418-GA-PIP, October 14, 2019, p. 6.

²⁴ Reply Brief of Duke Energy Ohio, Inc., *In the Matter of the Regulation of the Purchased Gas Adjustment Clauses Contained within the Rates Schedules of Duke Energy Ohio, Inc. and Related Matters*, Case No. 18-218-GA-GCR, *In the Matter of the Audit of the Uncollectible Expense Rider of Duke Energy Ohio, Inc., and Related Matters*, Case no. 18-318-GA-UEx, and *In the Matter of the Application of Duke Energy Ohio, Inc., for Approval of an Adjustment to its Interim and*

1 Moreover, as [OCC witness] admitted, when customers make a
2 comparison, there are other terms and conditions that must be considered,
3 such as how long a contract term might be, whether the contract includes
4 an early termination fee, whether the rate is variable, etc. So simply
5 providing a single number on a customer's bill is an inadequate and
6 potentially misleading way to determine whether a customer should
7 choose to exercise his/her option to shop. Shadow billing is potentially
8 unfair to customers and an administrative burden on the Company so
9 should be rejected.²⁵

10 **Q. HAS DUKE PRESENTED ANY TESTIMONY OR OTHER DOCUMENTATION**
11 **THAT WOULD JUSTIFY ITS APPARENT CHANGE OF HEART ON**
12 **INCLUDING A PRICE-TO-COMPARE MESSAGE ON A CUSTOMER'S BILL?**

13 A. No. Duke has not presented any testimony or other evidence that would explain why it
14 has reversed its position on providing a price-to-compare message on customers' bills.

15 **Q. HAS THE COMMISSION COMPELLED A PRICE-TO-COMPARE MESSAGE**
16 **ON ELECTRIC BILLS?**

17 A. I am aware that Commission Rule 4901:1-10-22 requires electric utilities to include on
18 residential bills for non-shopping customers a price-to-compare notice and a notice that
19 such customers can obtain a written explanation of the price-to-compare from their
20 electric utility. I am also aware that Commission Rule 4901:1-10-33 requires an electric
21 utility that issues a consolidated electric bill for both utility and competitive retail electric
22 service provider charges must include, for the electric portion of the bill, a price-to-
23 compare for residential bills and a notice that such customers can obtain a written
24 explanation of the price-to-compare from their electric utility.

Temporary Percentage of Income Payment Plan Rider Case, Case No. 18-418-GA-PIP, October 29, 2019, p. 5.

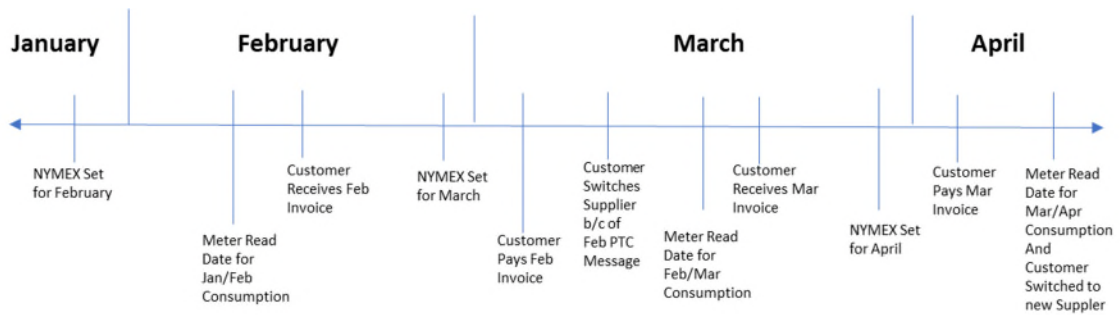
²⁵ Reply Brief of Duke Energy Ohio, Inc., *In the Matter of the Regulation of the Purchased Gas Adjustment Clauses Contained within the Rates Schedules of Duke Energy Ohio, Inc. and Related Matters*, Case No. 18-218-GA-GCR, *In the Matter of the Audit of the Uncollectible Expense Rider of Duke Energy Ohio, Inc., and Related Matters*, Case no. 18-318-GA-UEx, and *In the Matter of the Application of Duke Energy Ohio, Inc., for Approval of an Adjustment to its Interim and Temporary Percentage of Income Payment Plan Rider Case*, Case No. 18-418-GA-PIP, October 29, 2019, p. 5.

1 **Q. IS THERE A POLICY DIFFERENCE BETWEEN HAVING A PRICE-TO-**
2 **COMPARE FOR ELECTRIC SUPPLY VERSUS NATURAL GAS SUPPLY?**

3 A. First of all, I disagree with including the default service price on the electricity bills of
4 shopping customers for many of the same reasons articulated previously in my testimony.
5 Notwithstanding that disagreement, there are differences between the gas and electric
6 commodity services. Primarily, electric service SSO rates are fixed for at least a few
7 months at a time. While the SSO electricity products are still different from competitive
8 supply products, the customer is at least getting a message that might reflect a short-term
9 actionable price. By contrast, SSO gas prices will change every month. By the time the
10 pricing information is delivered to the customer, it is not actionable. As described above,
11 the price-to-compare message will be untrue, misleading, confusing and will potentially
12 lead to decision-making that is not in the best financial interest of the customer.

13 **Q. WHAT DO YOU MEAN WHEN YOU SAY THAT THE PRICE SIGNAL IS NOT**
14 **ACTIONABLE?**

15 A. There are inherent lags in the gas choice market in Ohio. Under the price-to-compare
16 proposal, a customer will receive a data point that was true for one day at the end of the
17 month, in a prior month. That data point cannot be used as a true representation of a gas
18 price that will be offered by Duke at any time in the foreseeable future. Also, by the time
19 a customer sees it and can take action on it, it is possible that several months will have
20 transpired because customers switch suppliers on meter reading dates throughout the
21 month. The timeline below shows that the price-to-compare information is significantly
22 out of date, so therefore meaningless, by the time a customer can act on the price signal.
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In this example, the price-to-compare is based on a NYMEX natural gas price set on a specific date in late January, usually the third to last day of the month, which is the last day to purchase gas for the following month.²⁶ Assuming the customer has a mid-month meter read date, the customer receives the pricing information in the invoice sometime in mid-February, a few days after the meter read. The customer might not open the invoice to pay it until early March. When the customer opens the bill, the price-to-compare message will indicate a price that is different from the price the customer will actually be billed. In this example, the customer reacts to the price signal the day after the bill is paid in March. Unfortunately for the customer, that decision and transaction fell within twelve days of the next meter read date, so the customer's directive to move suppliers based on a January price signal cannot be implemented until the customer's April meter read date. According to Duke's gas supplier tariff, if that switch request is made within 12 calendar days of the customer's March meter read date, the customer will not be switched to the new supplier until its April meter read date.²⁷ In this example, this

²⁶ <https://www.cmegroup.com/markets/energy/natural-gas/natural-gas.calendar.html>.

²⁷ See: Duke Supplier Tariff, PUCO Gas No. 18, Sheet No. 44.13, pages 3 and 11 of 24, Effective October 1, 2020.

1 customer took an action in March, based on a January data point and was not able to
2 make a change in response to the January price signal until April. In April (and in
3 February and March), the January data is meaningless to a customer as it has no bearing
4 on what options are available to the customer. The combination of delayed billing,
5 delays in bill processing, future bill payment deadlines, and utility data processing delays
6 means that it can take up to four months between the time the price signal is set and the
7 time a customer can execute a change in supplier. And it will be five months before the
8 new price signal is realized by the customer, after the first bill with the new supplier is
9 delivered. This is what I mean when I say that the price-to-compare is not an actionable
10 price. It is outdated by the time the customer sees it.

11 **Q. DO YOU HAVE ANY OTHER CONCERNS ABOUT THE BILLING SYSTEM**
12 **CHANGES IN THE STIPULATION?**

13 A. Yes. In addition to making a faulty comparison of products on the customers' bills, the
14 Stipulation compounds that error by providing "shadow billing" information, upon
15 request, to the OCC. The shadow billing information will include "calculations of
16 historic twenty-four months of data comparing aggregate shopping customer costs to
17 what those customers would have paid had they been served on Duke Energy Ohio's
18 GCR or SSO...[.]"²⁸

19 **Q. WILL THE SHADOW BILLING PROCESS OUTLINED IN THE STIPULATION**
20 **LEAD TO GOOD POLICY OUTCOMES?**

21 A. No. It can only lead to bad policy outcomes.

²⁸ Stipulation, Para 25.

1 **Q. CAN YOU PLEASE EXPLAIN WHY THAT IS?**

2 A. The shadow billing concept seeks to calculate cumulative savings by customers who are
3 taking competitive gas supply service. This concept is flawed from the outset for many
4 reasons. First, both the GCR and SSO are nothing more than default services. Each
5 would be one of many products available to customers, but in no sense is a “better”
6 product or a “benchmark” product. Default service products come with no price certainty
7 and the price risk of Duke’s hedging errors is placed on customers. To my knowledge,
8 there is no equally deficient product offered in the market. Therefore, there is no
9 justification to use Duke’s gas rate as any type of baseline by which to compare other
10 products. It is also important to note that the policy of the state is one of customer choice.
11 State policies do not provide any preference to the GCR, SSO or any other type of default
12 service.

13 Further, as discussed in detail above, the economics of supplier products are
14 substantially different from the economics of GCR and SSO. And GCR and SSO pricing
15 would likely be different in the absence of competitive supply options. The shadow
16 billing initiative makes no effort to adjust for the many differences in products and
17 economic outcomes as a result of the products.

18 Above, this testimony discusses two customers who took different paths – one
19 with a low-price contract and one on default service as we head into this coming winter.
20 This example relied on the premise that lower costs will lead to higher consumption,
21 which is a universally held principle in economics. The reverse is also true. Higher costs
22 will lead to decreased consumption. Coming into this winter, with higher prices
23 expected, customers may be incentivized to enter into longer term contracts to capture
24 some off-peak pricing benefits and to minimize costs this winter. These customers,

1 armed with appropriate pricing information, will be able to make financial decisions to
2 benefit themselves. If wholesale costs decline over the course of the contract, this
3 woefully misleading shadow billing calculation will not account for a customer's
4 decision to save money in the short term, nor will it account for future conservation that
5 the customer will engage in to offset the higher price. The only result this shadow billing
6 calculation will show with respect to this hypothetical customer is that this customer paid
7 more for competitive supply than it would have paid on utility service. That faulty
8 analysis cannot possibly yield positive policy outcomes.

9 In addition to the factors discussed already, a valid market-wide comparison
10 would need to adjust Duke's GCR (or SSO) price for purchases it did not have to make
11 because another supplier has already made the purchase. Gas markets are dynamic and
12 pricing is partially a function of real-time supply and demand. In the absence of
13 suppliers, Duke would be purchasing larger amounts of gas in the wholesale market. The
14 market will react to that demand signal in a different manner than it would react to one
15 signaling a lower demand. I am not suggesting that seasonal demand is different because
16 of retail choice (although it might be), but different suppliers have different hedging
17 strategies, make purchases on different days, and use different wholesale suppliers.
18 Unless Duke's procurement practices mirrored those of the market perfectly, it would be
19 sending a different market signal, driving a different market result. The price comparison
20 would need to include this "but for" scenario.

1 **Q. DOES THE DATA THAT DUKE WOULD PROVIDE TO OCC UNDER THE**
2 **TERMS OF THIS STIPULATION REPRESENT A COMPLETE COMPARISON**
3 **OF PRICING AND SAVINGS?**

4 A. It does not. Specifically, it excludes volumes consumed and prices for all choice
5 customers not billed by Duke under their consolidated billing platform.²⁹

6 **Q. IS IT POSSIBLE TO PERFORM A CUSTOMER SAVINGS ANALYSIS**
7 **WITHOUT INFORMATION FROM ALL CUSTOMERS?**

8 A. It is not possible to perform a complete analysis with partial information.

9 **Q. WHAT IS EXHIBIT FPL-4 TO YOUR TESTIMONY?**

10 A. That is a chart produced by Duke in discovery to RESA. Duke also produced the
11 electronic spreadsheet file for that chart to RESA through discovery. This is the material
12 that Duke provided to OCC pursuant to the Stipulation term stating “Duke Energy Ohio
13 shall provide OCC with the shadow billing for the historic twenty-four months of data
14 upon the signing of the Stipulation.”³⁰

15 **Q. DO YOU HAVE A PROFESSIONAL REACTION TO THAT SPREADSHEET?**

16 A. Yes. It is lacking on many fronts. First, it lacks any support whatsoever. The source(s)
17 of information is (are) not listed. It is nothing more than a list of numbers. There are no
18 calculations, no presentation of average rates charged by suppliers, no presentation of
19 average rates charged by Duke, no explanation of how mid-cycle price changes are
20 accounted for, no explanation of how adjustments for billing cycles of differing lengths
21 are accounted for, no explanation of adjustments for taxes or riders, or any other
22 supporting or explanatory data. Next, it details customer savings in June and July of
23 2021, but adds a note that excuses the high costs because of the February weather in

²⁹ See Exhibit FPL-3 (Duke Response to RESA-RFA-01-009 and RESA-RFA-01-010).
³⁰ Stipulation, Para. 25.

1 Texas, as if that is not a risk that GCR customers face. My professional reaction is that if
2 this spreadsheet was provided to me, I would have many questions underlying the data.
3 As presented, it is poor support for any analysis, recommendations, or conclusions.

4 Finally, even if this comparison could be relied on and had any validity to it
5 whatsoever, the concept and the form of this data falls drastically short of what would be
6 required to calculate consumer savings. This spreadsheet utilizes an elementary school-
7 level math approach to what would be an extraordinarily complex, PhD level economic
8 challenge.

9 **Q. WHAT CHANGES WOULD NEED TO BE MADE TO MAKE THIS A VALID**
10 **COMPARISON?**

11 A. It is not possible to make a truly valid comparison because the adjustments would require
12 many assumptions. However, if the effort were conducted properly, the analysis would
13 need to recognize that the GCR (and SSO as currently described) rate is undervalued.
14 The retail (non-commodity) costs of operating the gas supply business, the so-called
15 “costs to serve,” are subsidized by the distribution business, and not reflected in the GCR
16 or SSO price. Further, customer savings cannot be measured in a vacuum. It is a very
17 dynamic calculation. The calculation must consider all of the factors discussed above and
18 likely others. These factors include: attributes of supplier products; efficiency value of
19 products or other value-added services; other fuel savings from purchase; weather-related
20 usage patterns; customer preference for cost certainty; value of providing long-term
21 hedges; consumption adjustments due to price changes; and macro-level supply and
22 demand changes because of competitive offerings.

23 The examples presented throughout this testimony show why the shadow billing
24 outlined in the Stipulation will yield meaningless results. If any policy actions are taken

1 in response to those meaningless results, they will almost certainly be bad policy actions.
2 The market is dynamic and in order for the OCC or the Commission to get an accurate
3 economic valuation of the retail gas practices, a customer-by-customer analysis would
4 need to occur, and each customer will need to be queried individually. For the foregoing
5 reasons, the shadow billing concept should be rejected by the Commission.

6 **Q. HAS DUKE OPPOSED SHADOW BILLING IN PRIOR DOCKETS?**

7 A. It has. In the dockets discussed above where Duke opposed a price-to-compare message,
8 it also opposed shadow billing or aggregate calculations for generally the same policy
9 reasons. In addition, going all the way back to dockets dating from 2015, OCC was
10 arguing that Duke should provide annual savings data to OCC. In its reply brief in those
11 dockets, again settled by stipulation, Duke countered that “[T]he comparison that [the
12 OCC witness] is recommending would be less comprehensive and redundant to that
13 which is already included in the Commission’s “Apples to Apples” supplier comparison
14 chart.”³¹

15 **Q. HAS DUKE PRESENTED ANY TESTIMONY OR OTHER DOCUMENTATION**
16 **THAT WOULD JUSTIFY ITS APPARENT CHANGE OF HEART ON**
17 **PROVIDING SHADOW PRICING AGGREGATE DATA TO THE OCC?**

18 A. No. Duke has not presented any testimony or other evidence that would explain why it
19 has reversed its position on providing shadow pricing aggregate data to the OCC.

³¹ Reply brief of Duke Energy Ohio, Inc., *In the Matter of the Regulation of the Purchased Gas Adjustment Clauses Contained with the Rate Schedules of Duke Energy Ohio, Inc. and Related Matters*, Case No. 15-218-GA-GCR; *In the Matter of the Audit of the Uncollectible Expense Rider of Duke Energy Ohio, Inc., and Related Matters*, Case No. 15-318-GA-UEx; and *In the Matter of the Application of Duke Energy Ohio, Inc. for Approval of an Adjustment to its Interim and Temporary Percentage of Income Payment Plan Rider Case*, Case No. 15-418-GA-PIP, June 10, 2016, p. 4.

1 **Q. DO YOU KNOW IF OCC USED SHADOW BILLING INFORMATION IN PUCO**
2 **PROCEEDINGS?**

3 A. Yes. Just recently OCC claimed in a PUCO rule proceeding that Ohio natural gas
4 consumers have paid more in the aggregate for natural gas from CRNGS suppliers than
5 they would if they were on the GCR. OCC submitted the document attached to my
6 testimony as Exhibit FPL-4 as well as a document claiming to be savings/losses from
7 Columbia Gas choice customers. OCC's use of inaccurate data at the PUCO could easily
8 lead to bad policy decisions by the PUCO. Even more troubling is if OCC provides this
9 inaccurate information to members of the Ohio legislature in an attempt to influence Ohio
10 legislative policy. That alone shows that the shadow billing provided for in the
11 Stipulation could easily have an adverse impact on the competitive retail natural gas
12 market in Ohio.

13 **Q. DO YOU HAVE AN OPINION ON HOW THE COMMISSION SHOULD RULE**
14 **ON THE STIPULATION?**

15 A. Yes. Because the retail market provisions in both Sections III.B. and III.C. are wholly
16 unrelated to these proceedings (the MGP and TCJA), I recommend the Commission take
17 a practical approach by modifying the Stipulation to remove the retail market provisions
18 leaving intact the other provisions of the Stipulation. Alternatively, the Commission
19 should reject the Stipulation in its entirety and require the Signatory Parties to present a
20 new stipulation for consideration that does not include retail market provisions.

21 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

22 A. Yes, but I reserve the right to modify my testimony.

CERTIFICATE OF SERVICE

The Public Utilities Commission of Ohio's e-filing system will electronically serve notice of the filing of this document on the parties referenced on the service list of the docket card who have electronically subscribed to the case. In addition, the undersigned certifies that a courtesy copy of the foregoing document is also being sent (via electronic mail) on the 12th day of November 2021 on all persons/entities listed below:

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/s/ Michael J. Settineri

Michael J. Settineri

Summary

Recognized energy industry executive and leader known for implementing innovative regulatory and business strategies empowering clients to benefit from emerging policies. Successful in achieving business growth and value through regulatory strategy.

Experience

Board of Directors

Advanced Energy Management Alliance (Founding member and Chairman); Atmospheric G2 (regulatory chair); Kennett Square Golf and Country Club (membership chair); Formerly served: Smart Electric Power Alliance (finance committee); Association for Demand Response and Smart Grid (finance chair); Electric Power Supply Association (finance committee); ERCOT (finance committee); Retail Energy Supply Association.

Electric Advisors Consulting, LLC

2015- Present

Founder and President

Advise senior leadership on the implications of various legislative, regulatory and market rule changes in the energy industry. Also advise and assist entities on facilitating federal and state-level legislative and regulatory changes to accommodate evolving business strategies and technologies. Active participation in FERC dockets and state-level initiatives focused on correcting biases embedded in restructured energy markets.

Comverge, Inc./CPower Corporation

2011- 2015

Senior Vice President, Regulatory and Market Strategy

Develop and implement corporate legislative and regulatory strategy, including new market entry plans for a \$150 million company performing demand response services in the electricity markets. Identified growth opportunities through regulatory channels. Developed FERC-accepted credit and risk management policies. Developed M&A opportunities including acquisition of CPower, integration with Enerwise and ultimate spin-off of CPower.

Direct Energy

2006 - 2011

Director, Products and Complex Transactions (2008-2011)

For a multi-billion dollar retail electric and gas company, managed Complex Transaction team consisting of four direct reports and eight functional leaders, facilitating development of over \$50 million in incremental gross margin sold. Goal of group was team building to deliver quality customer service and communications to executive team about incremental business commitments.

Director, Government and Regulatory Affairs (2006-2008)

Managed legislative and regulatory strategy and regulatory risk in Mid-Atlantic region of US, participating in multiple rate proceedings and regulatory initiatives, securing approximately \$100 million in value from regulatory developments.

Starlight Energy

2004 - 2006

President

Led the development of business plan and pro formas for venture seeking \$20 million in equity financing and other financial relationships. Successes included securing \$100 million credit relationship and working capital financing to enable launch of retail Electricity Company and FERC approval for market-based rate authority.

Strategic Energy 2001- 2004
Director, Regulatory Affairs,

Served on the company's Leadership team, managing a regulatory group of 15 people, leading the development of regulatory strategy, the oversight of regulatory risk and the attainment of desired regulatory results, advocating across 15 states and at FERC.

Arthur Andersen 1998 - 2001
Senior Manager

Responsibility for development and growth of Andersen's transmission restructuring business in Eastern half of US market. Achieved consulting sales in excess of \$2 million annually. Projects included complete restructuring and development of new transmission entities such as ATC and ITC.

Putnam, Hayes and Bartlett, Inc 1995 - 1998
Associate Consultant

Associate consultant in firm's energy practice with expertise in environmental asset (SO₂, CO₂ and NO_x credits) valuation.

Education

Carnegie Mellon University, Tepper School of Business

MSIA (MBA) with concentrations in finance, entrepreneurship, and environmental management

Self-designed major with supplemental coursework taken in Public Policy and Engineering Schools.

- Entrepreneur of the Year Award, Don Jones Center for Entrepreneurship.
- Thomas M. Kerr Ethics in Business Award.

University of Maryland

B.S. in Transportation and Logistics

Programs for Life

Certified Leadership Development Trainer

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Prepared Direct Testimony of Frank Lacey On Behalf of Strategic Energy, LLC, before the Public Utilities Commission of the State of California in the matter of the Order Instituting Rulemaking Regarding the Implementation of the Suspension of Direct Access Pursuant to Assembly Bill 1X and Decision 01-09-060. Docket No. R. 02-01-011. June 6, 2002.

Prepared Rebuttal Testimony of Frank Lacey On Behalf of Strategic Energy, LLC before the Public Utilities Commission of the State of California in the matter of the Order Instituting Rulemaking Regarding the Implementation of the Suspension of Direct Access Pursuant to Assembly Bill 1X and Decision 01-09-060. Docket No. R. 02-01-011. June 20, 2002

Cross Examination testimony of On Behalf of Strategic Energy, LLC before the Public Utilities Commission of the State of California in the matter of the Order Instituting Rulemaking Regarding the Implementation of the Suspension of Direct Access Pursuant to Assembly Bill 1X and Decision 01-09-060. Docket No. R. 02-01-011. July 2002.

Prepared Testimony of Frank Lacey on the subject of truing up the CERS Fee On Behalf of Strategic Energy, LLC before the Public Utilities Commission Of the State Of California in the matter of the Order Instituting Rulemaking Regarding the Implementation of the Suspension of Direct Access Pursuant to Assembly Bill 1X and Decision 01-09-060. Docket No. R. 02-01-011. March 19, 2003

Prepared Direct Testimony of Frank Lacey on behalf of Strategic Energy L.L.C. before the Pennsylvania Public Utility Commission in the matter Pennsylvania Public Utility Commission, et al. v. Duquesne Light Company, Docket Nos. R-00038092, R-00038092C0001 and R-00038092C0002. January 2003.

Prepared Rebuttal Testimony of Frank Lacey on behalf of Strategic Energy L.L. C. Before the Pennsylvania Public Utility Commission in the matter Pennsylvania Public Utility Commission, et al. v. Duquesne Light Company Docket Nos. R-00038092, R-00038092C0001 and R-00038092C0002. February 2003.

Prepared Supplemental Testimony of Frank Lacey on behalf of Strategic Energy L.L.C. before the Pennsylvania Public Utility Commission in the matter Pennsylvania Public Utility Commission, et al. v. Duquesne Light Company Docket Nos. R-00038092, R-00038092C0001, R-00038092C0002. November 2003

Cross Examination testimony of Frank Lacey on behalf of Strategic Energy L.L.C. before the Pennsylvania Public Utility Commission in the matter Pennsylvania Public Utility Commission, et al. v. Duquesne Light Company Docket Nos. R-00038092, R-00038092C0001, R-00038092C0002. July 1, 2003.

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Prepared Direct Testimony of Frank Lacey submitted on behalf of Strategic Energy L.L.C. and Dominion Retail, Inc. before the Public Utilities Commission of Ohio in the matters of the *Continuation of the Rate Freeze and Extension of the Market Development Period for The Dayton Power and Light Company* Case No. 02-2779-EL-ATA and the *Application of The Dayton Power and Light Company for Certain Accounting Authority Pursuant to Section 4905.13, Ohio Revised Code* Case No. 02-2879-EL-AAM. May 19, 2003.

Prepared Supplemental Testimony of Frank Lacey submitted on behalf of Strategic Energy L.L.C. and Dominion Retail, Inc. before the Public Utilities Commission of Ohio in the matters of the *Continuation of the Rate Freeze and Extension of the Market Development Period for The Dayton Power and Light Company* Case No. 02-2779-EL-ATA and the *Application of The Dayton Power and Light Company for Certain Accounting Authority Pursuant to Section 4905.13, Ohio Revised Code* Case No. 02-2879-EL-AAM. June 12, 2003.

Deposition Testimony of Frank Lacey submitted on behalf of Strategic Energy L.L.C. and Dominion Retail, Inc. before the Public Utilities Commission of Ohio in the matters of the *Continuation of the Rate Freeze and Extension of the Market Development Period for The Dayton Power and Light Company* Case No. 02-2779-EL-ATA and the *Application of The Dayton Power and Light Company for Certain Accounting Authority Pursuant to Section 4905.13, Ohio Revised Code* Case No. 02-2879-EL-AAM. May 2003 and June 2003.

Cross Examination testimony of Frank Lacey on behalf of Strategic Energy L.L.C. and Dominion Retail, Inc. before the Public Utilities Commission of Ohio in the matters of the *Continuation of the Rate Freeze and Extension of the Market Development Period for The Dayton Power and Light Company* Case No. 02-2779-EL-ATA and the *Application of The Dayton Power and Light Company for Certain Accounting Authority Pursuant to Section 4905.13, Ohio Revised Code* Case No. 02-2879-EL-AAM. June 2003.

Oral Testimony of Frank Lacey before the Standing Committee on Energy of the New York State Assembly on the issue of Ensuring a Reliable Supply of Electricity to the People of New York, Chairman Paul D Tonko, presiding. March 6, 2003

Prepared Direct Testimony of Frank Lacey on behalf of Strategic Energy, L.L.C. before the Pennsylvania Public Utility Commission in the matter of the *Petition of Duquesne Light Company for Approval of Plan for Post-Transition Period Provider of Last Resort Service.* Docket No. P-00032071. February 2004.

Prepared Rebuttal Testimony of Frank Lacey on behalf of Strategic Energy, L.L.C. before the Pennsylvania Public Utility Commission in the matter of the *Petition of Duquesne Light Company for Approval of Plan for Post-Transition Period Provider of Last Resort Service.* Docket No. P-00032071. February 2004.

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Cross Examination testimony of Frank Lacey on behalf of Strategic Energy, L.L.C. before the Pennsylvania Public Utility Commission in the matter of the *Petition of Duquesne Light Company for Approval of Plan for Post-Transition Period Provider of Last Resort Service.* Docket No. P-00032071. April 1, 2004.

Oral Testimony of Frank Lacey at the *POLR Roundtable* before the Pennsylvania Public Utility Commission re: Optimal Future POLR Design models. May 3, 2004.

Prepared Direct Testimony of Frank Lacey on behalf of Strategic Energy, L.L.C. and Mid-American Energy Company before the Public Utilities Commission of Ohio in the matters of *The Application of the Cincinnati Gas & Electric Company to Modify its Non-Residential Generation Rates to Provide for Market-Based Standard Service Offer Pricing and to Establish a Pilot Alternative Competitively-Bid Service Rate Option Subsequent to Market Development Period,* Case No. 03-93-EL-ATA, *The Application of the Cincinnati Gas & Electric Company for Authority to Modify Current Accounting Procedures for Certain Costs Associated with the Midwest ISO,* Case No. 03-2079-EL-AAM, and *The Application of the Cincinnati Gas & Electric Company for Authority to Modify Current Accounting Procedures for Capital investment in its Electric Transmission and Distribution System and to Establish a Capital Investment Reliability Rider to be Effective After the Market Development Period,* Case Nos. 03-2080-EL-AAM and 03-2080-EL-ATA. May 6, 2003.

Deposition of Frank Lacey in the matters of *The Application of the Cincinnati Gas & Electric Company to Modify its Non-Residential Generation Rates to Provide for Market-Based Standard Service Offer Pricing and to Establish a Pilot Alternative Competitively-Bid Service Rate Option Subsequent to Market Development Period,* Case No. 03-93-EL-ATA, *The Application of the Cincinnati Gas & Electric Company for Authority to Modify Current Accounting Procedures for Certain Costs Associated with the Midwest ISO,* Case No. 03-2079-EL-AAM, and *The Application of the Cincinnati Gas & Electric Company for Authority to Modify Current Accounting Procedures for Capital investment in its Electric Transmission and Distribution System and to Establish a Capital Investment Reliability Rider to be Effective After the Market Development Period,* Case Nos. 03-2080-EL-AAM and 03-2080-EL-ATA. May 2003.

Cross Examination Testimony of Frank Lacey on behalf of Strategic Energy, L.L.C. and Mid-American Energy Company before the Public Utilities Commission of Ohio in the matters of *The Application of the Cincinnati Gas & Electric Company to Modify its Non-Residential Generation Rates to Provide for Market-Based Standard Service Offer Pricing and to Establish a Pilot Alternative Competitively-Bid Service Rate Option Subsequent to Market Development Period,* Case No. 03-93-EL-ATA, *The Application of the Cincinnati Gas & Electric Company for Authority to Modify Current Accounting Procedures for Certain Costs Associated with the Midwest ISO,* Case

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No. 03-2079-EL-AAM, and *The Application of the Cincinnati Gas & Electric Company for Authority to Modify Current Accounting Procedures for Capital Investment in its Electric Transmission and Distribution System and to Establish a Capital Investment Reliability Rider to be Effective After the Market Development Period*, Case Nos. 03-2080-EL-AAM and 03-2080-EL-ATA. May 18, 2003.

Oral Testimony of Frank Lacey before the Michigan Senate Committee on Technology and Energy on the subject of revision to Public Act 141, the Michigan Electricity Choice and Restructuring Act, Chairman Bruce Patterson, Presiding. May 19, 2004.

Oral Testimony of Frank Lacey on behalf of Direct Energy Services, LLC before the Maryland Senate Finance Committee on Senate Bill 561 on the subject of communications between electric companies and suppliers to enhance the development of competitive electric markets, Chairman Thomas Middleton, Presiding. March 7, 2006.

Oral Testimony of Frank Lacey on behalf of Direct Energy Services, LLC before the Maryland Senate Finance Committee on Senate Bills 814, 1048, 1051 and 1078 on the subject of retail electricity market design, Chairman Thomas Middleton, Presiding. March 14, 2006.

Oral Testimony of Frank Lacey on behalf of Direct Energy Services, LLC before the Maryland House of Delegates Economic Matters Committee on House Bills 1334, 1654 and 1712 on the subject of retail electricity market design, Chairman Dereck Davis, Presiding. March 14, 2006.

Oral Testimony of Frank Lacey on behalf of Direct Energy Services, LLC before the Pennsylvania Public Utility Commission in the Matter of *Petition of Direct Energy Services, LLC for Emergency Order*, Docket No. P-00062205, April 11, 2006.

Oral Testimony of Frank Lacey on behalf of Direct Energy Services, LLC before the Pennsylvania Public Utility Commission in the Matter of *Policies to Mitigate Potential Electricity Price Increases*, Docket No. M-00061957, June 22, 2006.

Prepared Direct Testimony of Frank Lacey on behalf of Direct Energy Services, LLC before the Pennsylvania Public Utilities Commission in the Matter of *Duquesne Light Company Base Rate Case*, Docket No. R-00061346, July 7, 2006. (Case Settled)

Prepared Rebuttal Testimony of Frank Lacey on behalf of Direct Energy Services, LLC before the Pennsylvania Public Utilities Commission in the Matter of *Duquesne Light Company Base Rate Case*, Docket No. R-00061346, August 2, 2006. (Case Settled)

Prepared Surrebuttal Testimony of Frank Lacey on behalf of Direct Energy Services, LLC before the Pennsylvania Public Utilities Commission in the Matter of *Duquesne Light Company Base Rate Case*, Docket No. R-00061346, August 16, 2006. (Case Settled)

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Prepared Direct Testimony of Frank Lacey on behalf of Direct Energy Services, LLC before the Pennsylvania Public Utilities Commission in the Matter of *Petition of PPL Electric Utilities Corporation for Approval of Competitive Bridge Plan*, Docket No. P-00062227, November 15, 2006.

Prepared Rebuttal Testimony of Frank Lacey on behalf of Direct Energy Services, LLC before the Pennsylvania Public Utilities Commission in the Matter of *Petition of PPL Electric Utilities Corporation for Approval of Competitive Bridge Plan*, Docket No. P-00062227, December 6, 2006.

Prepared Surrebuttal Testimony of Frank Lacey on behalf of Direct Energy Services, LLC before the Pennsylvania Public Utilities Commission in the Matter of *Petition of PPL Electric Utilities Corporation for Approval of Competitive Bridge Plan*, Docket No. P-00062227, December 15, 2006.

Oral Rejoinder Testimony and Cross-examination of Frank Lacey on behalf of Direct Energy Services, LLC before the Pennsylvania Public Utilities Commission in the Matter of *Petition of PPL Electric Utilities Corporation for Approval of Competitive Bridge Plan*, Docket No. P-00062227, December 15, 2006.

Oral Testimony of Frank Lacey on behalf of Direct Energy Services, LLC before the Pennsylvania House of Representatives, Consumer Affairs Committee, Honorable Joseph Preston Jr., Chairman, March 15, 2007.

Prepared Direct Testimony of Frank Lacey on behalf of Direct Energy Services, LLC and the Retail Energy Supply Association before the Pennsylvania Public Utilities Commission in the Matter of *Petition of Duquesne Light Company for Approval of Default Service Plan for the Period January 1, 2008 through December 31, 2010*, Docket No. P-00072247, March 29, 2007. (case settled)

Prepared Rebuttal Testimony of Frank Lacey on behalf of Direct Energy Services, LLC and the Retail Energy Supply Association before the Pennsylvania Public Utilities Commission in the Matter of *Petition of Duquesne Light Company for Approval of Default Service Plan for the Period January 1, 2008 through December 31, 2010*, Docket No. P-00072247, April 12, 2007. (case settled)

Prepared Surrebuttal Testimony of Frank Lacey on behalf of Direct Energy Services, LLC and the Retail Energy Supply Association before the Pennsylvania Public Utilities Commission in the Matter of *Petition of Duquesne Light Company for Approval of Default Service Plan for the Period January 1, 2008 through December 31, 2010*, Docket No. P-00072247, April 20, 2007. (case settled)

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Prepared Direct Testimony of Frank Lacey on behalf of Direct Energy Services, LLC before the Pennsylvania Public Utilities Commission in the Matter of *Petition of Pike County Light & Power Company for Expedited Approval of its Default Service Implementation Plan, Docket No. P-00072245*, March 28, 2007.

Prepared Rebuttal Testimony of Frank Lacey on behalf of Direct Energy Services, LLC before the Pennsylvania Public Utilities Commission in the Matter of *Petition of Pike County Light & Power Company for Expedited Approval of its Default Service Implementation Plan, Docket No. P-00072245*, April 11, 2007.

Oral Surrebuttal Testimony and Cross-examination Testimony of Frank Lacey on behalf of Direct Energy Services, LLC before the Pennsylvania Public Utilities Commission in the Matter of *Petition of Pike County Light & Power Company for Expedited Approval of its Default Service Implementation Plan, Docket No. P-00072245*, April 19, 2007.

Prepared Direct Testimony of Frank Lacey on behalf of Direct Energy Services, LLC, before the Maryland Public Service Commission *In the Matter of the Commission's Investigation of Investor-owned Electric Companies' Standard Offer Service for Residential and Small Commercial Customers in Maryland*, Case No. 9117, September 14, 2007.

Prepared Reply Testimony of Frank Lacey on behalf of Direct Energy Services, LLC, before the Maryland Public Service Commission *In the Matter of the Commission's Investigation of Investor-owned Electric Companies' Standard Offer Service for Residential and Small Commercial Customers in Maryland*, Case No. 9117, September 28, 2007.

Oral Testimony of Frank Lacey on behalf of Direct Energy Services, LLC, before the Maryland Public Service Commission *In the Matter of the Commission's Investigation of Investor-owned Electric Companies' Standard Offer Service for Residential and Small Commercial Customers in Maryland*, Case No. 9117, October 2007.

Oral Testimony of Frank Lacey on behalf of Direct Energy Services, LLC before the Pennsylvania House of Representatives Republican Policy Committee, Honorable Michael Turzai, Chairman, March 17, 2008.

Prepared Direct Testimony of Frank Lacey on behalf of Direct Energy Services, LLC and the Retail Energy Supply Association before the Pennsylvania Public Utilities Commission in the Matter of *Petition of West Penn Power Company dba Allegheny Power for Approval of its Retail Electric Default Service Program and Competitive Procurement Plan for Service at the Conclusion of the Restructuring Transition Period, Docket No. P-00072342*, February 12, 2008.

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Prepared Rebuttal Testimony of Frank Lacey on behalf of Direct Energy Services, LLC and the Retail Energy Supply Association before the Pennsylvania Public Utilities Commission in the Matter of *Petition of West Penn Power Company dba Allegheny Power for Approval of its Retail Electric Default Service Program and Competitive Procurement Plan for Service at the Conclusion of the Restructuring Transition Period, Docket No. P-00072342, March 11, 2008.*

Prepared Surrebuttal Testimony of Frank Lacey on behalf of Direct Energy Services, LLC and the Retail Energy Supply Association before the Pennsylvania Public Utilities Commission in the Matter of *Petition of West Penn Power Company dba Allegheny Power for Approval of its Retail Electric Default Service Program and Competitive Procurement Plan for Service at the Conclusion of the Restructuring Transition Period, Docket No. P-00072342, March 25, 2008.*

Oral Cross-examination Testimony of Frank Lacey on behalf of Direct Energy Services, LLC and the Retail Energy Supply Association before the Pennsylvania Public Utilities Commission in the Matter of *Petition of West Penn Power Company dba Allegheny Power for Approval of its Retail Electric Default Service Program and Competitive Procurement Plan for Service at the Conclusion of the Restructuring Transition Period, Docket No. P-00072342, April 2, 2008.*

Prepared Direct Testimony of Frank Lacey on behalf of Direct Energy Services, LLC, before the Pennsylvania Public Utility Commission in the matter of the *Joint Application of West Penn Power Company d/b/a Allegheny Power, Trans-Allegheny Interstate Line Company and FirstEnergy Corp. for a Certificate of Public Convenience under Section 1102(a)(3) of the Public Utility Code approving a change of control of West Penn Power Company And Trans-Allegheny Interstate Line Company, Docket Nos. A-2010-2176520 and A-2010-2176732, August 17, 2010*

Prepared Sur-Rebuttal Testimony of Frank Lacey on behalf of Direct Energy Services, LLC, before the Pennsylvania Public Utility Commission in the matter of the *Joint Application of West Penn Power Company d/b/a Allegheny Power, Trans-Allegheny Interstate Line Company and FirstEnergy Corp. for a Certificate of Public Convenience under Section 1102(a)(3) of the Public Utility Code approving a change of control of West Penn Power Company And Trans-Allegheny Interstate Line Company, Docket Nos. A-2010-2176520 and A-2010-2176732, October 1, 2010.*

Oral Cross-examination Testimony of Frank Lacey on behalf of Direct Energy Services, LLC, before the Pennsylvania Public Utility Commission in the matter of the *Joint Application of West Penn Power Company d/b/a Allegheny Power, Trans-Allegheny Interstate Line Company and FirstEnergy Corp. for a Certificate of Public Convenience under Section 1102(a)(3) of the Public Utility Code*

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approving a change of control of West Penn Power Company And Trans-Allegheny Interstate Line Company, Docket Nos. A-2010-2176520 and A-2010-2176732, October 5, 2010.

Oral Testimony of Frank Lacey on behalf of Comverge, Inc. at FERC Technical Conference in the Matter of PJM Interconnection, L.L.C., Docket No. ER11-3322-000, July 29, 2011, discussing the topic of appropriate methodologies to estimate load reductions during a demand response curtailment event.

Prepared Direct Testimony of Frank Lacey on behalf of Comverge, Inc., before the Illinois Commerce Commission in the matter of Commonwealth Edison Company Petition for Statutory Approval of Smart Grid Advanced Metering Infrastructure Deployment Plan Pursuant to Section 16-108.6 of the Public Utilities Act, Docket No. 12-0298, May 11, 2012.

Oral Cross-examination Testimony of Frank Lacey on behalf of Comverge, Inc., before the Illinois Commerce Commission in the matter of Commonwealth Edison Company Petition for Statutory Approval of Smart Grid Advanced Metering Infrastructure Deployment Plan Pursuant to Section 16-108.6 of the Public Utilities Act, Docket No. 12-0298, May 23, 2012.

Prepared Direct Testimony of Frank Lacey On Behalf of Comverge, Inc., before the Illinois Commerce Commission in the matter of Ameren Illinois Company Petition for Statutory Approval of a Smart Grid Advanced Metering Infrastructure Deployment Plan Pursuant to Section 16-108.6 of the Public Utilities Act, Docket No. 12-0244 on rehearing, August 24, 2012.

Oral Cross-examination Testimony of Frank Lacey On Behalf of Comverge, Inc., before the Illinois Commerce Commission in the matter of Ameren Illinois Company Petition for Statutory Approval of a Smart Grid Advanced Metering Infrastructure Deployment Plan Pursuant to Section 16-108.6 of the Public Utilities Act, Docket No. 12-0244 on rehearing, September 20, 2012.

Prepared Direct Testimony of Frank Lacey on Behalf of Comverge, Inc., before the Illinois Commerce Commission in the matter of Commonwealth Edison Company's Petition for Approval of Tariffs Implementing ComEd's Proposed Peak Time Rebate Program, Docket No. 12-0484, October 25, 2012.

Oral Cross-examination Testimony of Frank Lacey on Behalf of Comverge, Inc., before the Illinois Commerce Commission in the matter of Commonwealth Edison Company's Petition for Approval of Tariffs Implementing ComEd's Proposed Peak Time Rebate Program, Docket No. 12-0484, December 7, 2012.

Prepared Direct Testimony of Frank Lacey on Behalf of Comverge, Inc., before the Maryland Public Service Commission in the matter of The Investigation of the Process and Criteria for Use in Development

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of Requests for Proposal by the Maryland Investor-Owned Utilities for New Generation to Alleviate Potential Short-Term Reliability Problems in the State of Maryland, Case No. 9149, January 31, 2013.

Prepared Supplemental Direct Testimony of Frank Lacey on Behalf of Comverge, Inc., before the Maryland Public Service Commission in the matter of The Investigation of the Process and Criteria for Use in Development of Requests for Proposal by the Maryland Investor-Owned Utilities for New Generation to Alleviate Potential Short-Term Reliability Problems in the State of Maryland, Case No. 9149, February 25, 2013.

Prepared Direct Testimony of Frank Lacey on Behalf of Comverge, Inc., before the Illinois Interstate Commerce Commission in the matter of Ameren Illinois Company, d/b/a Ameren Illinois, Peak Time Rebate Program, Docket No. 13-0105, May 30, 2013.

Oral Testimony of Frank Lacey on behalf of Comverge, Inc. at FERC Technical Conference in the Matter of PJM Interconnection, L.L.C., Docket No. ER13-2108-000, October 11, 2013, discussing the appropriate information requirements for demand response offers made three years prior to a delivery year.

Oral Testimony and Cross Examination of Frank Lacey on behalf of Comverge, Inc, before the Utah Public Service Commission, In the Matter of Rocky Mountain Power for Approval to Cancel Schedule 194, Docket No. 13-035-136, September 12, 2013.

Prepared Direct Testimony of Frank Lacey on behalf of Direct Energy before the Massachusetts Department of Public Utilities in the Investigation as to the Propriety of Proposed Tariff Change in response to the Petition of Massachusetts Electric Company and Nantucket Electric Company each d/b/a National Grid, Docket Number DPU 15-155, March 18, 2016.

Prepared Rebuttal Testimony of Frank Lacey on behalf of Direct Energy before the Massachusetts Department of Public Utilities in the Investigation as to the Propriety of Proposed Tariff Change in response to the Petition of Massachusetts Electric Company and Nantucket Electric Company each d/b/a National Grid, Docket Number DPU 15-155, April 28, 2016.

Oral Cross-examination Testimony of Frank Lacey on behalf of Direct Energy before the Massachusetts Department of Public Utilities in the Investigation as to the Propriety of Proposed Tariff Change in response to the Petition of Massachusetts Electric Company and Nantucket Electric Company each d/b/a National Grid, Docket Number DPU 15-155, May 18, 2016.

Expert Rebuttal Report and Damage Summary of Frank Lacey, Response to the Review Submitted by Nathan Katzenstein, prepared on behalf of Astral Energy in the matter of Treetop Development, et

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al. v. Astral Energy, et al., Docket #: BER-L-9414-13, Superior Court of New Jersey, Bergen County, December 9, 2016.

Expert Reply (Sur-rebuttal) of Frank Lacey, Reply to the Response Submitted by Nathan Katzenstein, prepared on behalf of Astral Energy in the matter of *Treetop Development, et al. v. Astral Energy, et al.*, Docket #: BER-L-9414-13, Superior Court of New Jersey, Bergen County, April 28, 2017.

Deposition of Frank Lacey on the topic of his Expert Rebuttal Report and Damage Summary prepared on behalf of Astral Energy in the matter of *Treetop Development, et al. v. Astral Energy, et al.*, Docket #: BER-L-9414-13, Superior Court of New Jersey, Bergen County, May 17, 2017.

Oral Testimony and Cross-examination Testimony on behalf of Astral Energy in the matter of *Treetop Development, et al. v. Astral Energy, et al.*, Docket #: BER-L-9414-13, Superior Court of New Jersey, Bergen County, June 5, 2017.

Prepared Rebuttal Testimony of Frank Lacey on behalf of Clearview Energy before the Pennsylvania Public Utilities Commission in *Pennsylvania PUC v. Clearview Electric, Inc.*, Docket No. C-2016-2543592, January 9, 2017.

Prepared Direct Testimony of Frank Lacey on behalf of the Cape Light Compact before the Massachusetts Department of Public Utilities in the *Petition of NSTAR Electric Company and Western Massachusetts Electric Company d/b/a Eversource Energy for Approval of their Grid Modernization Plans*, Docket No. D.P.U. 15-122/123, March 10, 2017.

Oral Cross-examination Testimony of Frank Lacey (as part of the Cape Light Compact Panel of Witnesses) before the Massachusetts Department of Public Utilities in the *Petition of NSTAR Electric Company and Western Massachusetts Electric Company d/b/a Eversource Energy for Approval of their Grid Modernization Plans*, Docket No. D.P.U. 15-122/123, May 31, 2017.

Prepared Direct Testimony of Frank Lacey on behalf of the Retail Energy Supply Association before the Massachusetts Department of Public Utilities in the *Petition of NSTAR Electric Company and Western Massachusetts Electric Company each d/b/a Eversource Energy for Approval of an Increase in Base Distribution Rates for Electric Service Pursuant to G.L. C. 164, § 94 and 220 C.M.R. § 5.00*, Docket No. D.P.U. 17-05, April 28, 2017.

Oral Cross-examination Testimony of Frank Lacey on behalf of the Retail Energy Supply Association before the Massachusetts Department of Public Utilities in the *Petition of NSTAR Electric Company and Western Massachusetts Electric Company each d/b/a Eversource Energy for Approval of an Increase in Base Distribution*

Rates for Electric Service Pursuant to G.L. C. 164, § 94 and 220 C.M.R. § 5.00, Docket No. D.P.U. 17-05, June 27, 2017.

Prepared Direct Testimony of Frank Lacey on behalf of the Retail Energy Supply Association before the New York Public Service Commission in the Matter of Eligibility Criteria for Energy Service Companies, Case No. 15-M-0127, in the Proceeding on the Motion of the Commission to Assess Certain Aspects of the Residential and Small Non-Residential Retail Energy Markets in New York State, Case No. 12-M-0476, and in the Matter of Retail Access Business Rules, Case No. 98-M-1343, September 15, 2017.

Prepared Rebuttal Testimony of Frank Lacey on behalf of the Retail Energy Supply Association before the New York Public Service Commission in the Matter of Eligibility Criteria for Energy Service Companies, Case No. 15-M-0127, in the Proceeding on the Motion of the Commission to Assess Certain Aspects of the Residential and Small Non-Residential Retail Energy Markets in New York State, Case No. 12-M-0476, and in the Matter of Retail Access Business Rules, Case No. 98-M-1343, October 27, 2017.

Oral Cross-examination Testimony of Frank Lacey on behalf of the Retail Energy Supply Association before the New York Public Service Commission in the Matter of Eligibility Criteria for Energy Service Companies, Case No. 15-M-0127, in the Proceeding on the Motion of the Commission to Assess Certain Aspects of the Residential and Small Non-Residential Retail Energy Markets in New York State, Case No. 12-M-0476, and in the Matter of Retail Access Business Rules, Case No. 98-M-1343, November, 2017.

Prepared Direct Testimony of Frank Lacey on behalf of Direct Energy Services and its Affiliates before the Virginia State Commerce Commission in the Application of Virginia Electric and Power Company for Approval of 100% Renewable Energy Tariffs Pursuant to Subsection 56-577 A 5 and 56-234 of the Code of Virginia, Docket No. PUR-2017-00060, August 23, 2017.

Oral Surrebuttal and Cross-examination Testimony of Frank Lacey on behalf of Direct Energy Services and its Affiliates before the Virginia State Commerce Commission in the Application of Virginia Electric and Power Company for Approval of 100% Renewable Energy Tariffs Pursuant to Subsection 56-577 A 5 and 56-234 of the Code of Virginia, Docket No. PUR-2017-00060, December 4, 2017.

Prepared Direct Testimony of Frank Lacey on behalf of Direct Energy and its affiliates before the Commonwealth of Virginia State Corporate Commission in the Application of Virginia Electric and Power Company for Approval of 100 Percent Renewable Energy Tariffs for Residential and Non-residential Customers Pursuant to SS 56-577 A 5 and 56-234 of the Code of Virginia, Case No. PUR-2017-00157, April 17, 2018

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Oral Direct and Cross-examination Testimony of Frank Lacey on behalf of the Retail Energy Supply Association before the Public Service Commission of the State of Delaware, *In the Matter of the Review of Customer Choice in the State of Delaware*, Docket No. 15-1693, April 19, 2018.

Prepared Direct Testimony of Frank Lacey on behalf of Direct Energy and Direct Energy Solar before the Rhode Island Public Utilities Commission in the matter of *The Narragansett Electric Co. d/b/a National Grid's Proposed Power Sector Transformation (PST) Vision and Implementation Plan*, Docket No. 4780, April 25, 2018, (Case Settled).

Oral Testimony on behalf of the Advanced Energy Management Alliance before the Pennsylvania Public Utilities Commission *En Banc Hearing for Supplier Consolidated Billing*, Docket No. M-2018-2645254, June 14, 2018.

Prepared Supplemental Direct Testimony of Frank Lacey on behalf of Direct Energy and its affiliates before the Commonwealth of Virginia State Corporate Commission in the *Application of Virginia Electric and Power Company for Approval of 100 Percent Renewable Energy Tariffs for Residential and Non-residential Customers Pursuant to SS 56-577 A 5 and 56-234 of the Code of Virginia*, Case No. PUR-2017-00157, June 19, 2018.

Prepared Direct Testimony of Frank Lacey on behalf of Direct Energy and its affiliates before the New Jersey Board of Public Utilities, *In the Matter of the Petition of Public Service Electric and Gas Company for Approval of an Increase in Electric and Gas Rates and for Changes in the Tariffs for Electric and Gas Service, B.P.U.N.J. No. 16 Electric and B.P.U.N.J. No. 16 Gas, and for Changes in Depreciation Rates, Pursuant to N.J.S.A. 48:2-18, N.J.S.A. 48:2-21 and N.J.S.A. 48:2-21.1, and for Other Appropriate Relief*, BPU Docket Nos. ER18010029 and GR18010030, OAL Docket No. PUC 01151-18, August 6, 2018, (Case Settled).

Oral Testimony and Cross Examination of Frank Lacey (as part of Direct Energy Panel) before the Rhode Island Public Utilities Commission in the matter of *The Narragansett Electric Co. d/b/a National Grid's 2018 Standard Offer Service (SOS) Procurement Plan and 2018 Renewable Energy Standard (RES) Procurement Plan*, Docket No. 4692, August 27, 2018.

Oral surrebuttal testimony and cross examination of Frank Lacey on behalf of Direct Energy and its affiliates before the Commonwealth of Virginia State Corporate Commission in the *Application of Virginia Electric and Power Company for Approval of 100 Percent Renewable Energy Tariffs for Residential and Non-residential Customers Pursuant to SS 56-577 A 5 and 56-234 of the Code of Virginia*, Case No. PUR-2017-00157, September 18, 2018.

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Prepared Direct Testimony of Frank Lacey on behalf of Direct Energy *In the Matter of the Long-Term Forecast Report of Ohio Power Company and Related Matters; In the Matter of the Application Seeking Approval of Ohio Power Company's Proposal to Enter Into Renewable Energy Purchase Agreements for Inclusion in the Renewable Generation Rider; In the Matter of the Application of Ohio Power Company to Amend its Tariffs*, Case Nos. 18-501-EL-FOR; 18-1392-EL-RDR and 18-1393-EL-ATA, January 2, 2019.

Oral rebuttal testimony and cross-examination of Frank Lacey on behalf of Direct Energy *In the Matter of the Long-Term Forecast Report of Ohio Power Company and Related Matters; In the Matter of the Application Seeking Approval of Ohio Power Company's Proposal to Enter Into Renewable Energy Purchase Agreements for Inclusion in the Renewable Generation Rider; In the Matter of the Application of Ohio Power Company to Amend its Tariffs*, Case Nos. 18-501-EL-FOR; 18-1392-EL-RDR and 18-1393-EL-ATA, January 23, 2019.

Oral Testimony of Frank Lacey On behalf of Direct Energy and its Affiliate Companies in Opposition to Senate Bill 716, Before the Maryland Senate Finance Committee, Honorable Delores Kelley, Chair, March 5, 2019.

Prepared Direct Testimony of Frank Lacey on behalf of Direct Energy Services and Direct Energy Business before the Virginia State Corporation Commission in the *Application of Virginia Electric and Power Company for Approval to Establish Rate Schedule, Designated Rate Schedule MBR, Pursuant to §§ 56-234 A of the Code of Virginia*, Case No. PUR-2018-00192, June 13, 2019.

Oral surrebuttal testimony and cross examination of Frank Lacey on behalf of Direct Energy Services and Direct Energy Business before the Virginia State Corporation Commission in the *Application of Virginia Electric and Power Company for Approval to Establish Rate Schedule, Designated Rate Schedule MBR, Pursuant to §§ 56-234 A of the Code of Virginia*, Case No. PUR-2018-00192, July 26, 2019.

Oral direct testimony and cross examination of Frank Lacey on behalf of Direct Energy Business before the Virginia State Corporation Commission on the *Motion of Direct Energy Business for Temporary Injunctive Relief and Request for Expedited Action*, Case No. PUR-2019-00117, August 7, 2019.

Oral direct testimony and cross examination of Frank Lacey on behalf of Direct Energy Business before the Virginia State Corporation Commission in the joint hearing in the *Petition of Virginia Electric and Power Company for a Declaratory Judgement* against Direct Energy and the *Petition of Virginia Electric and Power Company for a Declaratory Judgement* against Calpine Energy Solutions, Case Nos. PUR-2019-00117 and PUR-2019-00118, August 20, 2019.

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Prepared Direct Testimony of Frank Lacey on behalf of the Energy Supplier Coalition before the Maryland Public Service Commission in the *Application of Baltimore Gas & Electric Company to Adjust Electric and Gas Base Rates*, Case No. 9610, September 10, 2019.

Prepared Rebuttal Testimony of Frank Lacey on behalf of the Energy Supplier Coalition before the Maryland Public Service Commission in the *Application of Baltimore Gas & Electric Company to Adjust Electric and Gas Base Rates*, Case No. 9610, October 4, 2019.

Prepared Direct Testimony of Frank Lacey on behalf of Direct Energy before the Virginia State Corporate Commission in *the Application of Virginia Electric and Power Company For Approval of a 100 Percent Renewable Energy Tariff, Designated Rider TRG, Pursuant to 56-577 A 5 and 56-234 of the Code of Virginia*, Case No. PUR-2019-00094, October 17, 2019.

Prepared Surrebuttal Testimony of Frank Lacey on behalf of the Energy Supplier Coalition before the Maryland Public Service Commission in the *Application of Baltimore Gas & Electric Company to Adjust Electric and Gas Base Rates*, Case No. 9610, October 22, 2019.

Prepared Rejoinder Testimony of Frank Lacey on behalf of the Energy Supplier Coalition before the Maryland Public Service Commission in the *Application of Baltimore Gas & Electric Company to Adjust Electric and Gas Base Rates*, Case No. 9610, November 8, 2019.

Oral testimony and cross-examination of Frank Lacey on behalf of the Energy Supplier Coalition before the Maryland Public Service Commission in the *Application of Baltimore Gas & Electric Company to Adjust Electric and Gas Base Rates*, Case No. 9610, November 14, 2019.

Oral Rebuttal Testimony of Frank Lacey on behalf of Direct Energy before the Virginia State Corporate Commission in *the Application of Virginia Electric and Power Company For Approval of a 100 Percent Renewable Energy Tariff, Designated Rider TRG, Pursuant to 56-577 A 5 and 56-234 of the Code of Virginia*, Case No. PUR-2019-00094, November 21, 2019.

Affidavit of Frank Lacey in opposition to Plaintiffs' Motion for Class Certification before the Supreme Court of New York, County of New York, IAS Part 17, in *BLT Steak, LLC and BLT Fish LLC v. Liberty Power Corp., LLC, d/b/a Liberty Power New York and Liberty Power Holdings LLC*, Index No 151293/2013 (S Hagler, J.S.C.) Mot. Seq. 11, February 20, 2020.

Prepared Direct Testimony of Frank Lacey on behalf of Direct Energy before the Virginia State Corporation Commission in *Commonwealth of Virginia, ex rel. State Corporation Commission Ex Parte: Allocating RPS costs to Certain Customers of Virginia Electric and*

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Power Company, Case No. PUR-2020-0164 (Rider CE), February 19, 2021.

Prepared Direct Testimony of Frank Lacey on behalf of Direct Energy before the Virginia State Corporation Commission in Commonwealth of Virginia, ex rel. State Corporation Commission Ex Parte: Allocating RPS costs to Certain Customers of Virginia Electric and Power Company, Case No. PUR-2020-0164 (Rider NBC), February 19, 2021.

Oral Surrebuttal Testimony and Cross-examination of Frank Lacey on behalf of Direct Energy before the Virginia State Corporation Commission in Commonwealth of Virginia, ex rel. State Corporation Commission Ex Parte: Allocating RPS costs to Certain Customers of Virginia Electric and Power Company, Case No. PUR-2020-0164 (Rider NBC), March 29, 2021.

Oral Testimony of Frank Lacey on Behalf of NRG Energy, Inc, in Opposition to RB 6526, before the Connecticut General Assembly Energy and Technology Committee, Honorable Norman Needleman and Honorable David Arconti, Co-Chairmen, March 4, 2021.

Prepared Rebuttal Testimony of Frank Lacey on behalf of Direct Energy Services, LLC before the Maryland Public Service Commission, In the Matter of the Complaint filed by Staff of the Public Service Commission against Direct Energy Services, LLC, Case No. 9614, March 19, 2021.

Prepared Surrebuttal Testimony of Frank Lacey on behalf of Direct Energy Services, LLC before the Maryland Public Service Commission, In the Matter of the Complaint filed by Staff of the Public Service Commission against Direct Energy Services, LLC, Case No. 9614, April 9, 2021.

Prepared Testimony in Support of Settlement of Frank Lacey on behalf of Direct Energy Services, LLC before the Maryland Public Service Commission, In the Matter of the Complaint filed by Staff of the Public Service Commission against Direct Energy Services, LLC, Case No. 9614, May 5, 2021.

Prepared Direct Testimony of Frank Lacey on behalf of EnergyMark LLC, Vineyard Oil and Gas Company, Mid American Natural Resources LLC, and Total Energy Resources LLC ("Gas Supplier Companies") before the Pennsylvania Public Utility Commission in EnergyMark LLC, Vineyard Oil and Gas Company, Mid American Natural Resources LLC, and Total Energy Resources LLC v. National Fuel Gas Distribution, Docket No. C-2020-3019621, March 5, 2021.

Prepared Surrebuttal Testimony of Frank Lacey on behalf of EnergyMark LLC, Vineyard Oil and Gas Company, Mid American Natural Resources LLC, and Total Energy Resources LLC ("Gas Supplier Companies") before the Pennsylvania Public Utility Commission in EnergyMark LLC, Vineyard Oil and Gas Company, Mid

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American Natural Resources LLC, and Total Energy Resources LLC v. National Fuel Gas Distribution, Docket No. C-2020-3019621, April 16, 2021.

Oral Testimony and Cross-examination of Frank Lacey on behalf of EnergyMark LLC, Vineyard Oil and Gas Company, Mid American Natural Resources LLC, and Total Energy Resources LLC ("Gas Supplier Companies") before the Pennsylvania Public Utility Commission in EnergyMark LLC, Vineyard Oil and Gas Company, Mid American Natural Resources LLC, and Total Energy Resources LLC v. National Fuel Gas Distribution, Docket No. C-2020-3019621, April 29, 2021.

Prepared Direct Testimony of Frank Lacey on behalf of IGS Energy Corporation and Direct Energy, LLC before the Public Utilities Commission of Ohio In the Matter of the Application of Ohio Power Company for an Increase in Electric Distribution Rates, For Tariff Approval and For Approval to Change Accounting Methods, Case Nos. 20-0585-EL-AIR, 20-0586-EL-ATA and 20-0587-EL-AAM, April 20, 2021.

Oral Testimony and Cross-examination of Frank Lacey on behalf of IGS Energy Corporation and Direct Energy, LLC before the Public Utilities Commission of Ohio In the Matter of the Application of Ohio Power Company for an Increase in Electric Distribution Rates, For Tariff Approval and For Approval to Change Accounting Methods, Case Nos. 20-0585-EL-AIR, 20-0586-EL-ATA and 20-0587-EL-AAM, May 18, 2021.

Panel Discussion, Aggregation and Perspective on Demand Response, Missouri Public Service Commission Informational Workshop on FERC Order No. 2222, Docket No. EW-2021-0267, June 29, 2021.

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Panel Discussion, The State of Demand Response in Organized Markets – The uncertainty created by EPSA v. FERC, Energy Bar Association, Northeast Chapter Annual Meeting, Newark, NJ, June 11, 2015.

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Lacey, Frank, *Update: Electric Storage Participation in Markets Operated by Regional Transmission Organizations and Independent System Operators* Solar Power Northeast, February 5, 2018.

Lacey, Frank, *The Extermination of BUGS from the US Electricity Markets*, em – The Magazine for Environmental Managers, published by the Air and Waste Management Association, March 2016.

Lacey, Frank, *Default Service Pricing has been Wrong All Along*, Pubic Utilities Fortnightly, January 2019.

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Lacey, Frank and Rob Gramlich, *Who's the Buyer? Retail Electric Market Structure Reforms in Support of Resource Adequacy and Clean Energy Deployment*, Prepared for the Wind Solar Alliance, March 2020.

Webinar Participant/Panelist, *The Future of Demand Response*, hosted by Power Markets Today, October 17, 2017.

Webinar Participant/Panelist, *Rethinking Demand Response – The Evolution from Simple to Sophisticated*, Hosted by Smart Electric Power Alliance, December 14, 2017.

Lacey, Frank and Taff Tschamler, *Implementing Principles of Default Service: A Roadmap for Competitive Retail Power Markets*, Paper released at PA POLR Roundtable, May 2004.

Building a for-profit Transmission Operation; Key Business Parameters, Presentation to the EEI Transmission Planning Task Force, Kansas City, MO.

Dozens of industry and client-specific presentations on the topics of industry transformation in the areas of transmission restructuring, retail restructuring, demand response, rate design, cost allocation and the energy industry ramifications of FERC Order 745 and FERC jurisdiction over demand response.

**Duke Energy Ohio
Case No. 20-53-GA-RDR
RESA First Set of Request for Admissions
Date Received: October 22, 2021
RESA-RFA-01-009**

REQUEST:

Admit that shadow billing as proposed in the stipulation would not account for dollars paid by choice customers billed directly by the CRNG supplier for the supply of natural gas.

RESPONSE:

Admit. The shadow billing calculation is a financial calculation that compares the commodity charged by CRNGS Suppliers for those customers who are billed by Duke Energy Ohio to the charges that customers would have received if they purchased gas through the GCR, with appropriate adjustments for sales tax and riders.

PERSON RESPONSIBLE: Legal

**Duke Energy Ohio
Case No. 20-53-GA-RDR
RESA First Set of Request for Admissions
Date Received: October 22, 2021
RESA-RFA-01-010**

REQUEST:

Admit that shadow billing as proposed in the stipulation would only take into account volumes of gas purchased by choice customers billed on a consolidated billing basis by Duke Energy.

RESPONSE:

Admit. The shadow billing calculation is a financial calculation that compares the commodity charged by CRNGS Suppliers for those customers who are billed by Duke Energy Ohio to the charges that customers would have received if they purchased gas through the GCR, with appropriate adjustments for sales tax and riders.

PERSON RESPONSIBLE: Legal

DUKE ENERGY OHIO

GAS SHOPPING SAVINGS (TRANSPORTATION RATES) VS DEO GCR

NOTE: PIPP ACCOUNTS ARE NOT ALLOWED TO SHOP

NOTE: SUPPLIER CHARGES INCLUDE OH SALES TAX @6.5%, RIDER CCCR, AND RIDER GSR CREDIT

NOTE: GCR, GSR, AND CCCR INCLUDE 4.89% EXCISE TAX

Month	Res. Savings	Com. Savings	Ind. Savings	OPA Savings	Total Monthly Choice Savings	Cumulative Savings
Jan-19	-\$2,562,959	-\$937,166	-\$90,779	-\$41,183	-\$3,632,087	-\$3,632,087
Feb-19	-\$4,867,614	-\$1,712,828	-\$180,006	-\$86,159	-\$6,846,607	-\$10,478,694
Mar-19	-\$3,561,223	-\$1,218,817	-\$127,991	-\$62,708	-\$4,970,739	-\$15,449,433
Apr-19	-\$2,227,261	-\$852,191	-\$86,908	-\$35,171	-\$3,201,531	-\$18,650,965
May-19	-\$953,337	-\$406,296	-\$42,252	-\$15,082	-\$1,416,967	-\$20,067,931
Jun-19	-\$447,239	-\$184,489	-\$20,795	-\$3,802	-\$656,325	-\$20,724,256
Jul-19	-\$405,354	-\$191,263	-\$22,242	-\$4,775	-\$623,634	-\$21,347,890
Aug-19	-\$342,987	-\$156,394	-\$19,792	-\$3,235	-\$522,408	-\$21,870,298
Sep-19	-\$455,105	-\$246,022	-\$32,621	-\$6,581	-\$740,329	-\$22,610,627
Oct-19	-\$484,039	-\$225,535	-\$19,126	-\$8,382	-\$737,082	-\$23,347,709
Nov-19	-\$1,744,751	-\$628,085	-\$47,810	-\$37,844	-\$2,458,490	-\$25,806,199
Dec-19	-\$2,325,124	-\$660,626	-\$38,150	-\$23,526	-\$3,047,426	-\$28,853,625
Jan-20	-\$2,575,508	-\$698,792	-\$40,745	-\$26,528	-\$3,341,573	-\$32,195,198
Feb-20	-\$3,257,193	-\$937,393	-\$69,682	-\$46,962	-\$4,311,230	-\$36,506,428
Mar-20	-\$3,721,454	-\$1,200,967	-\$97,394	-\$62,941	-\$5,082,756	-\$41,589,184
Apr-20	-\$2,701,875	-\$978,349	-\$101,932	-\$62,175	-\$3,844,331	-\$45,433,515
May-20	-\$2,122,775	-\$739,334	-\$75,248	-\$42,833	-\$2,980,190	-\$48,413,705
Jun-20	-\$799,752	-\$297,740	-\$36,408	-\$13,983	-\$1,147,883	-\$49,561,588
Jul-20	-\$526,358	-\$237,527	-\$31,575	-\$9,838	-\$805,298	-\$50,366,886
Aug-20	-\$447,188	-\$202,360	-\$28,347	-\$8,903	-\$686,798	-\$51,053,684
Sep-20	-\$385,521	-\$140,813	-\$12,652	-\$5,698	-\$544,684	-\$51,598,368
Oct-20	-\$510,103	-\$159,041	-\$10,070	-\$8,553	-\$687,767	-\$52,286,135
Nov-20	-\$1,168,797	-\$356,106	-\$26,736	-\$21,015	-\$1,572,654	-\$53,858,789
Dec-20	-\$2,502,154	-\$756,777	-\$60,692	-\$44,151	-\$3,363,774	-\$57,222,563
Jan-21	-\$3,943,376	-\$1,232,228	-\$116,451	-\$76,257	-\$5,368,312	-\$62,590,875
Feb-21	-\$4,170,774	-\$1,296,475	-\$129,376	-\$83,631	-\$5,680,256	-\$68,271,131
Mar-21	-\$1,635,838	-\$348,527	-\$7,162	-\$8,214	-\$1,999,741	-\$70,270,872
Apr-21	-\$775,427	-\$140,506	\$10,578	-\$336	-\$905,691	-\$71,176,563
May-21	-\$667,456	-\$179,172	-\$16,645	-\$8,148	-\$871,421	-\$72,047,984
Jun-21	\$262,371	\$313,662	\$84,275	\$22,716	\$683,024	-\$71,364,960 Note 1
Jul-21	\$206,031	\$314,884	\$77,523	\$19,840	\$618,278	-\$70,746,681 Note 1

Note 1: GCR temporary increase related to February 2021 Texas weather event.

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**Case No(s). 14-0375-GA-RDR, 14-0376-GA-ATA, 15-0452-GA-RDR, 15-0453-
GA-ATA, 16-0542-GA-RDR, 16-0543-GA-ATA, 17-0596-GA-RDR, 17-0597-GA-
ATA, 18-0283-GA-RDR, 18-0284-GA-ATA, 18-1830-GA-UNC, 18-1831-GA-ATA,
19-0174-GA-RDR, 19-0175-GA-ATA, 19-1085-GA-AAM, 19-1086-GA-UNC, 20-
0053-GA-RDR, 20-0054-GA-ATA**

Summary: Testimony Direct Testimony of Frank Lacey electronically filed by Mr. Michael J. Settineri on behalf of Retail Energy Supply Association and Interstate Gas Supply, Inc.