

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the Review :
of the Reconciliation Rider : Case No. 20-167-EL-RDR
of Duke Energy Ohio, Inc. :

- - -

REMOTE DEPOSITION

of John Swez, taken before me, Carolyn M. Burke,
Registered Professional Reporter and a Notary Public
in and for the State of Ohio, conducted via Microsoft
Teams video conference, on Tuesday, January 5, 2021,
at 10:30 a.m.

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On behalf of Duke Energy Ohio, Inc.

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On behalf of the Residential Utility
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Public Utilities Section
By John H. Jones, Section Chief
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On behalf of the Staff of the Public
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Carpenter Lipps & Leland LLP
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On behalf of the Ohio Manufacturers'
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On behalf of The Kroger Company.

1 ALSO PRESENT:

2 Farhan Butt, Utilities Specialist, PUCO
3 Thomas Donadio, Associate, Carpenter Lipps & Leland

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1 Tuesday Morning Session,
2 January 5, 2021.

3 - - -

4 MR. FINNIGAN: Good morning, everyone.
5 Thank you for joining. I'm John Finnigan. I'm an
6 Assistant Consumers' Counsel for the Ohio Consumers'
7 Counsel. We're here today for the deposition of
8 Mr. John Swez from Duke Energy. Good morning, John
9 and Rocco. Thank you for arranging this for us.
10 Nice to see both of you gentlemen again.

11 THE WITNESS: Nice to see you.

12 MR. D'ASCENZO: Good to see you, John.

13 MR. FINNIGAN: Why don't we take a moment
14 to all enter our appearances for the record.

15 MR. D'ASCENZO: Would you like me to
16 start, John?

17 MR. FINNIGAN: That's fine.

18 MR. D'ASCENZO: Okay. On behalf of Duke
19 Energy Ohio, I am Rocco D'Ascenzo. R-O-C-C-O, D
20 apostrophe A-S-C-E-N-Z-O. Our address is 139 East
21 Fourth Street, Cincinnati, Ohio.

22 MR. LINDGREN: On behalf of the
23 Commission Staff, Thomas Lindgren and Kyle Kern from
24 the Office of Ohio Attorney General Dave Yost. Our

1 address is 30 East Broad Street, I'm not actually
2 sure what floor we're on now, it was 16, and it's
3 Columbus, Ohio 43215.

4 MR. FINNIGAN: Let's see. Butt, would
5 you like to go next?

6 MR. BUTT: Yeah. Good morning. I'm
7 Farhan Butt with the PUCO Staff and we're based out
8 of Columbus, Ohio. Our address is 180 East Broad
9 Street, Columbus, Ohio.

10 MR. FINNIGAN: Tom, would you like to go?
11 Not Tom Lindgren but Tom Donadio.

12 (No response.)

13 MR. FINNIGAN: Tom -- Tom Donadio, you're
14 on mute. Would you like to enter your appearance?

15 (No response.)

16 MR. FINNIGAN: Okay. I think while we're
17 waiting on that, how about Kyle.

18 MS. KERN: Hi. I'm Kyle Kern. And I
19 believe Tom Lindgren entered my appearance with his.
20 I'm with the Commission Staff --

21 MR. FINNIGAN: Okay. Thanks for that.

22 MS. KERN: -- with the Ohio Attorney
23 General.

24 MR. FINNIGAN: Okay. Thank you,

1 everyone.

2 And just for the record, this is the
3 deposition of Mr. John Swez in Case No. 20-167-EL-RDR
4 taken by Notice and Agreement. Why don't we go ahead
5 and get started.

6 Mr. Swez, thank you for appearing today.
7 And I've not done one of these in a Teams meeting
8 before, so I'll stay on the screen, but if this is
9 distracting to you, or you would rather I go off
10 camera, I can understand that, I look in the mirror
11 all the time. So if it's a distraction, let me know.

12 THE WITNESS: I've done a couple via
13 Teams. The only comment I'll have is, if you have
14 any trouble understanding me, sometimes it helps to
15 mute and unmute. But if everyone can hear okay, then
16 I guess we can continue. I just know the mute/unmute
17 thing does help.

18 MR. FINNIGAN: Okay. I hear you fine,
19 and I will mute when I'm not talking and ask everyone
20 to do the same as you mentioned. Okay. So, John,
21 could you please --

22 THE COURT REPORTER: Hold on. I need to
23 swear in Mr. Swez, please.

24 MR. FINNIGAN: Oh. That's a good idea.

(Witness sworn.)

- - -

JOHN SWEZ

being first duly sworn, as prescribed by law, was
examined and testified as follows:

CROSS-EXAMINATION

By Mr. Finnigan:

Q. John, to get started, could you just tell
us your job title and duties.

A. Yes. John Swez. I'm Managing Director
of Trading and Dispatch. And the duties, the
functions that report to me are our trading for
Carolinas, Florida, and Midwest; our generation
dispatch in the Midwest; our natural gas procurement,
along with oil and emissions; and, finally, our
meteorology group.

Q. Okay. We issued a Notice of Deposition
for this case directed towards certain topics, and
Mr. D'Ascenzo said he would produce you to respond to
those topics. Those topics have to do with the
operation of the OVEC plants, Ohio Valley Electric
Corporation plants, in PJM. Can you tell us what
your responsibility is for those plants?

A. Well, I am a member of the OVEC operating

1 committee, and I do attend the meetings, and I do
2 monitor the plants. Our group, my group, monitors
3 the plants. We, however, don't have any direct input
4 into the offer of that plant or coal procurement or
5 things like that, but we do receive information
6 daily. We do monitor, like I mentioned, we monitor
7 the plants. We follow them as close as we can but,
8 like I said, we don't actually commit the units into
9 PJM, we don't dispatch the units, we don't operate
10 the units, but we do follow them to make sure that
11 our customers are receiving as much benefit as
12 possible.

13 Q. Now, when you say that you participate in
14 the OVEC operating committee, you do have input into
15 the commitment decisions for the plants through your
16 participation in the operating committee; would that
17 be fair?

18 A. Yeah, I think that's fair.

19 Q. Okay. Now, the OVEC plants are two coal
20 plants that participate in the PJM wholesale market,
21 correct?

22 A. Yes, that's correct.

23 Q. Are you responsible for dispatching any
24 other coal plants that participate in the PJM

1 wholesale market?

2 A. Yes, I am.

3 Q. What plants would those be and where
4 would they be located?

5 A. Specifically you said coal plants, so --
6 and you said PJM, so for my responsibilities that
7 would just be the Duke Energy Kentucky East Bend
8 Station located in Rabbit Hash, Kentucky.

9 Q. Okay. And then what we're talking about
10 today and what was discussed in the auditor's report
11 in this case is the PJM day-ahead energy market; is
12 that correct?

13 A. That's correct.

14 Q. And MISO also has a day-ahead energy
15 market, correct?

16 A. That's correct.

17 Q. And in the MISO day-ahead energy market,
18 operators are required to make the same type of
19 commitment decisions that they're required to make
20 for the PJM day-ahead energy market; that is, to
21 designate the units as either must-run, economic, or
22 some other status; is that correct?

23 A. Usually -- that's pretty much correct.
24 There's slight differences between PJM and MISO but

1 they are very similar.

2 Q. Are you responsible for making the
3 commitment decisions for any coal plants that operate
4 in the MISO day-ahead energy market?

5 A. Yes, I am.

6 Q. What plants are those?

7 A. That's the assets of Duke Energy Indiana
8 and that would include Cayuga Station, its two Units,
9 Cayuga 1 and 2; Gibson 1 through 5; Gallagher Units 2
10 and 4. Make sure I didn't forget anything.

11 Q. Okay.

12 A. I'm sorry. And Edwardsport Station.

13 Q. Okay.

14 A. It's a syngas plant but it starts with
15 coal, so.

16 Q. When you make these commitment decisions
17 in PJM and MISO, do you have to be familiar with
18 various factors related to these coal plants, like
19 the age of the plants, how efficient they operate,
20 what their costs of operations are, their shutdown
21 costs, their startup costs, factors like that that
22 may impact your decision on how to designate the
23 commitment status?

24 MR. D'ASCENZO: Objection --

1 A. Yes.

2 MR. D'ASCENZO: Objection to the form of
3 the question. I think there were several questions
4 in there.

5 Q. Okay. Well, let me rephrase that.

6 What factors relating to the plants do
7 you need to be familiar with in making your
8 commitment decisions into the day-ahead energy
9 market?

10 A. Well, there are many, so I'll just try to
11 list as many as I can here.

12 So the cost of the unit, obviously. That
13 would be comprised of the heat rate of the unit, the
14 efficiency, as well as the fuel costs, the emissions
15 costs, the startup costs, shutdown costs, variable
16 operations and maintenance costs. Just kind of go
17 through the buckets of costs first. I think I've
18 kind of laid all those out.

19 Now you have what I call non-cost
20 factors, the physical factors. So you've got the
21 cycle time. How long does it start to turn on a unit
22 or to turn off a unit. Can a unit cycle if it -- how
23 long can it run; that's the minimum uptime. If you
24 shut it down, how long must it remain offline; that's

1 the minimum downtime. Ramp rate; how quickly does it
2 move up and down. Is there any required maintenance
3 that needs to occur. Is there required testing that
4 needs to occur. Those are -- those are really the
5 factors around the plant itself.

6 And then there's other factors that you
7 want to understand. For instance, what's the risk
8 around cycling it off. You know, what do you have to
9 gain or lose by cycling the plants. What additional
10 value is there by leaving the plant online when the
11 unit could respond to higher prices that are
12 anticipated.

13 So those are really kind of the, I guess,
14 the different buckets I see.

15 Q. Do you have those factors written down
16 anywhere in a sort of scorecard?

17 A. Yes. We -- most entities have -- really
18 you start with the building blocks. I would call the
19 building blocks being the cost of the unit, that's
20 kind of where you start, and typically that's in a
21 document that we have, it's called our energy cost
22 manual, but that's the building blocks you start
23 with.

24 Q. Is there some report that pulls together

1 all these factors you described?

2 A. Not all the factors but the ones
3 especially the cost factors, yes. So we have --
4 every day what we do, and this is not for just the
5 OVEC units, we do this for all of our units, we take
6 those factors, the cost factors, and we apply those
7 into a simulated dispatch of that unit into that
8 unit's respective market. That dispatch then looks
9 at the expected revenues, the expected variable cost
10 to operate the unit, and it gives you a building
11 block, a starting point with which to understand the
12 commitment of that asset.

13 Q. Those reports are prepared how often?

14 A. Every business day.

15 Q. Do you retain copies of those reports?

16 A. We do. They go back a couple years but
17 at some point they're -- they go away but we do have
18 them for a couple -- I believe a couple years.

19 Q. Are those reports prepared on a daily
20 basis?

21 A. You kind of cut out, but I think you
22 asked if they're produced on a daily basis?

23 Q. Yes, that was my question.

24 A. They're produced each business day.

1 Q. And these reports you use to decide what
2 commitment status to designate the plants in the
3 day-ahead market.

4 A. We use them as an input to the decision
5 and I'm specifically talking about the non-OVEC
6 plants. So for the plants that we submit offers for,
7 we use those as an input to the decision. However,
8 there are more things. Like I mentioned, that's a
9 starting point, it's a building block. There are
10 more things that must be considered. It's not purely
11 a financial analysis.

12 Q. And as regards to the OVEC plants, did
13 you share those reports with other members of the
14 OVEC operating committee?

15 A. Are you referring to the non-OVEC -- so
16 on the operating committee there are OVEC employees
17 and there are other sponsor companies like, you know,
18 AEP and Dayton and others. Are you referring to the
19 AEP and Dayton or are you referring to the OVEC?

20 Q. Either one.

21 A. So in the operating committee meetings
22 we'll have discussions about unit commitment. I
23 don't recall sharing the reports to all the members
24 of the operating committee. I have discussed

1 this, you know, verbally. I don't recall giving them
2 the reports, although I don't remember.

3 Q. Okay. I want to switch gears a little
4 bit and talk about the FirstEnergy Solutions
5 ownership interest in the OVEC plants and this is a
6 topic that came up in the Audit Report. Now, did you
7 -- were you one of the persons interviewed for the
8 Audit Report in this case?

9 A. I submitted a lot of data responses. I
10 thought about this the other day. I actually can't
11 remember if I was interviewed or not. It's been a
12 while. It's funny enough I can't remember, but I
13 definitely submitted a lot of data responses.

14 Q. Have you had occasion to review the Audit
15 Report?

16 A. I have, yes.

17 Q. And what was -- was it to prepare for
18 this deposition or in some other context?

19 A. No. I mean, when the Audit Report came
20 out, I wanted to see, you know, what the auditor
21 said, so I read it once it came out, I think October
22 or approximately.

23 Q. Okay. So, when it came out, it was filed
24 in the Public Utilities Commission of Ohio docket.

1 Did you see it before it was actually publicly filed?

2 A. I believe we did have a chance to go
3 through, before it was filed, to look for mistakes or
4 corrections and things like that.

5 Q. Did you find any mistakes that you
6 supplied to the auditor?

7 A. I don't remember, but we also did a
8 review to make sure that we identified any
9 confidential information that needed to be redacted
10 from the public report.

11 Q. Since that time when you reviewed the
12 report for errors, have you had a chance to review
13 it, after it was publicly filed, to determine whether
14 there still exists any errors in the report?

15 A. I've reviewed it in preparation for this
16 deposition.

17 Q. During that review, did you notice any
18 errors in the report?

19 A. I'm not sure if I would call them errors
20 but there are definitely areas in the report that
21 maybe could have been worded differently to be more
22 clear.

23 Q. What would those areas be?

24 A. For one, the instances where they

1 describe the allocation of the Duke Energy share --
2 excuse me, the FirstEnergy share of energy and
3 capacity and how it was allocated to the other
4 sponsors. I believe it uses the word "purchased" or
5 "buy." I would have chosen to use the word
6 "allocation."

7 Q. Why would you have chosen that word?

8 A. Because we didn't buy. When it says
9 "FirstEnergy's share," it implies that we purchased
10 the entire FirstEnergy share. In reality it was
11 simply an allocation of energy and capacity, not a
12 purchase.

13 Q. Okay. Did Duke have a choice whether to
14 accept that allocation from the FirstEnergy shares
15 after FirstEnergy Solutions repudiated it?

16 A. I'm not sure what the word "repudiate"
17 means. I guess that means turned down?

18 Q. Turned down, right. In other words, what
19 I'm getting at is, my understanding of events is that
20 once FirstEnergy Solutions filed bankruptcy in 2018,
21 at some point after that they refused to accept their
22 share of the output from the OVEC plants; is that
23 your understanding?

24 A. That's correct. And to further elaborate

1 your last question and I think it kind of ran into
2 this question, there's two halves, there's the energy
3 and capacity. And you asked the question, if it's --
4 if we are able to turn that down. On the energy
5 side, the answer is really no, because we have to
6 remember that, at the end of the day, these are 11
7 physical generating units, right, they're all
8 approximately 200 megawatts apiece and so the roughly
9 4.85 percent of 200 is let's say 10 megawatts.
10 There's no way to magically take a 200-megawatt power
11 plant and just pretend it's a 190-megawatt power
12 plant. So essentially what I'm saying is PJM is
13 going to dispatch the unit to its capability. We
14 couldn't have said let's just act like there's 10
15 less megawatts that would be withholding from the
16 market. So really from an energy side, I would have
17 to answer no, there's really no way to, you know, to
18 say, pretend the units are smaller. There's just no
19 way to do that. Ultimately PJM is going to dispatch
20 the units to full load if they're in the money.

21 From the capacity side, yes, we could
22 have -- I believe we could have turned down that
23 allocation of capacity, but I would argue that that
24 would not be in the best interest of our customers

1 because at the time we knew we were going to receive
2 allocation of the capacity but we were not going to
3 receive an additional allocation of the fixed costs,
4 so we knew that would be a benefit for our customers.

5 Q. How did customers benefit by being
6 allocated capacity from the FirstEnergy Solutions
7 share?

8 A. During 2019, I believe this is -- this is
9 capacity and energy combined, there was a revenue of
10 approximately 1 point -- excuse me, \$2.1 million,
11 there were costs of \$1.4 million, for a net benefit
12 to our customers of approximately \$700,000. The
13 break up between capacity and energy of that value is
14 roughly half and half. I do believe there's a data
15 response that gives the exact amounts, but just for
16 rough figures, the energy value and the capacity
17 value are roughly half of that \$700,000 value.

18 Q. Now, did you bring a copy of the Audit
19 Report with you to this deposition that you can refer
20 to?

21 A. I do.

22 Q. Could you please take a look at page 26
23 of the report.

24 A. Yeah, I'm on page 26.

1 Q. Do you see -- do you see a table at the
2 top of the page with a number of figures there
3 relating to the Duke Energy share of OVEC?

4 A. Yeah. Can you tell me what -- I'm
5 concerned my page numbers aren't exactly the same.
6 Are you talking about Figure 7 or Figure 8?

7 Q. Okay. Let me take a look at my version.
8 It's Figure 8.

9 A. Okay. Yeah, that's page 27 for me.

10 Q. Okay. And then do you see Column G there
11 where it says "FES Transactions"?

12 A. I do.

13 Q. Now, at the bottom of that column it has
14 a figure of about \$700,000; is that correct?

15 A. Yes. That's the figure I mentioned
16 earlier.

17 Q. Okay. So that was what you were
18 referring to in the cost of the energy and capacity
19 that Duke Energy received through the allocation of
20 the FirstEnergy Solutions share, correct?

21 A. No, that's not the cost. That's the
22 value. \$700,000 in value.

23 Q. The \$700,000 in the Audit Report is a
24 negative number though, isn't it?

1 A. It is a negative number. However, you
2 know, sign conventions, I can't -- I can't speak for
3 the auditor, I'm not sure what they're intending by
4 expressing that as a negative. I can guarantee you,
5 though, that that is a benefit to the customer.

6 Q. If you -- how is that a benefit to the
7 customer given the fact that it's expressed in this
8 report as a negative number?

9 A. I don't know why it's expressed as a
10 negative. I know that we received \$2.1 million in
11 revenue and we had \$1.4 million in costs, so I know
12 from the allocation there was a \$700,000 benefit.

13 You know, a lot of times in these, and
14 I'm not an accountant so I don't -- I can't get into
15 the rates and why one thing is a positive, one thing
16 is a negative. Like I see, you know, Columns H and
17 I, have the same number, one's positive, one's
18 negative.

19 I can't explain why it's negative. I
20 don't understand what the meaning of negative versus
21 positive is here. I just can tell you that was a
22 benefit to the customer. It reduced the customers'
23 cost by \$700,000.

24 Q. Now, you mentioned in your earlier answer

1 that, through the allocation of the FES share, Duke
2 received \$2.1 million in revenue, had \$1.4 million in
3 cost, for a net benefit of about \$700,000; is that
4 correct?

5 A. That's correct.

6 Q. And the item that we're talking about in
7 Column G in Figure 8 of the Audit Report where it's
8 got that negative \$700,000 number, does that fall
9 into the revenue bucket or the cost bucket of your
10 calculation?

11 A. Neither. That's the amount of -- that
12 number, again, expressed as -- you know, if you said
13 it's a negative or a positive, I don't -- I just know
14 there's \$700,000 in reduced customer costs due to the
15 FES allocation.

16 I can't really get into the rate side of
17 it. I just, I know that we were very careful during
18 the allocation period, 2000-whatever, I'm sorry, I
19 can't remember the exact start of the period but May
20 of '18, I'm sorry, September of '18 through May of
21 '20, but we kept the -- we kept track of the revenues
22 and costs from the allocation of FirstEnergy's share
23 of energy and capacity separately.

24 So we, accounting-wise, we kept those in

1 a separate, I'm not sure what it's called, but in a
2 separate account. And I know when I reviewed that
3 account every month and we had the expectation that
4 we were going to receive more revenues than costs and
5 we did. We knew that -- we knew that because it was
6 the right thing for our customers. So the whole time
7 we kept track of it separately, we followed it, we
8 knew it was going to be a benefit to our customers
9 and it was. I can't explain why it's expressed as a
10 negative here.

11 Q. I'm just trying to understand your
12 earlier answer where you said that the OVEC
13 allocation of the FirstEnergy share resulted in
14 2.1 million in revenue, 1.4 million in cost. I'm
15 just trying to figure out if this particular item,
16 this \$700,000 shown in the Audit Report, was a
17 revenue item or a cost item; and is your answer that
18 you can't explain that?

19 A. Again, that's kind of getting into
20 billing and customer bills and things that I'm not an
21 expert on. I just, I know the number was \$700,033
22 and that's exactly the number in Column G, and I know
23 that was a benefit to the customer. So I don't know
24 the customer billing impact of it. I just know this

1 reduced our customers' costs.

2 Q. Okay. And I believe you referred to Duke
3 records of how Duke was impacted through the
4 allocation of the FirstEnergy Solutions share. Are
5 there any records that Duke maintains on that point
6 that you could provide?

7 A. I mean, I -- again, you're kind of
8 getting into the accounting aspect. I do believe
9 that was a -- there was a data response that I think
10 had the individual monthly revenues and costs. I
11 don't know what data response it was. And I'm not
12 familiar with if you're able to see the data
13 responses from the audit or not, but that was a data
14 -- a question in the audit.

15 Q. Well, let me ask that after this
16 deposition, if you review your records to determine
17 if the company has any records about the financial
18 impact from the allocation of the FirstEnergy
19 Solutions share and, if so, if you can provide those
20 so that we can compare those to what's in the Audit
21 Report and try to get a better understanding of what
22 the cost impact was to customers.

23 MR. D'ASCENZO: I'm going to object
24 insofar as, you know, we provided all -- OCC with all

**This foregoing document was electronically filed with the Public Utilities
Commission of Ohio Docketing Information System on
12/29/2021 1:36:35 PM**

in

Case No(s). 18-1759-EL-RDR, 18-1004-EL-RDR

Summary: Text Attachment JIF-9 to the Direct Testimony of Jeremy I. Fisher Part 1
electronically filed by Mr. Robert Dove on behalf of Natural Resources Defense
Council