

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke)
Energy Ohio, Inc., for Approval of a)
General Exemption of Certain Natural) Case No. 21-903-GA-EXM
Gas Commodity Sales Services or)
Ancillary Services.)

In the Matter of the Application of Duke)
Energy Ohio, Inc., for Tariff Approval.) Case No. 21-904-GA-ATA

In the Matter of the Application of Duke)
Energy Ohio, Inc., for Approval to) Case No. 21-905-GA-AAM
Change Accounting Methods.)

DIRECT TESTIMONY OF

C. BRADY GOULD

ON BEHALF OF

DUKE ENERGY OHIO, INC.

April 27, 2022

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Attachments:

CBG-1 - SSO Supplier Interest Form

CBG-2 - SSO Supplier Credit Application

CBG-3 - SSO Auction Registration Form

CBG-4 - NAESB – OHIO ONLY Base Contract and Special Provisions

CBG-5 - Transportation Capacity

I. INTRODUCTION

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

2 A. My name is C. Brady Gould, and my business address is 4720 Piedmont Row Drive,
3 Charlotte, NC 28210.

4 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

5 A. I am employed by Piedmont Natural Gas Company, Inc., (PNG) as Manager, Natural
6 Gas Scheduling, for Duke Energy Ohio, Inc., (Duke Energy Ohio or Company), Duke
7 Energy Kentucky, Inc., and PNG, which is a subsidiary of Duke Energy Corporation
8 (Duke Energy) and operates in Tennessee, North Carolina, and South Carolina. PNG
9 provides various administrative and other services to Duke Energy Ohio and other
10 affiliated companies of Duke Energy.

11 **Q. PLEASE BRIEFLY DESCRIBE YOUR EDUCATION AND**
12 **PROFESSIONAL EXPERIENCE.**

13 A. I earned a Bachelor's Degree from Humboldt State University in 1993. I began my
14 working career as a Rowing Coach at University of New Hampshire and then
15 Rutgers, The State University of New Jersey, before joining the United States
16 Marine Corps (USMC) in 1998. I served six years as a Captain in the USMC
17 working as an Adjutant and Officer Selection Officer. Following my service with
18 the Marines, I went to work for Hess Corporation in 2004, holding various positions
19 both in the retail gasoline and natural gas divisions, working as a Division
20 Recruiter, Marketing Representative, Natural Gas Scheduler, and then Senior
21 Natural Gas Scheduler. In May of 2013, I was hired by PNG as a Natural Gas
22 Scheduler and progressed to a Senior Natural Gas Scheduler. In October 2016,

1 Duke Energy acquired PNG. I retained my role as Senior Natural Gas Scheduler,
2 working in all the Natural Gas Business Unit (NGBU) jurisdictions of Ohio,
3 Kentucky, North Carolina, South Carolina, and Tennessee. Most recently, in
4 March of 2018, I was promoted to Manager, Natural Gas Scheduling.

5 **Q. PLEASE DESCRIBE YOUR RESPONSIBILITIES AS MANAGER,**
6 **NATURAL GAS SCHEDULING.**

7 A. As Manager, Natural Gas Scheduling, I lead the Natural Gas Scheduling and
8 Citygate Operations departments to ensure timely and accurate deliveries of over
9 387 million dekatherms (DTH) annually of gas supplied to 5 different states on 13
10 pipelines and utilizing 14 different storage facilities, in order to meet the needs of
11 over 1.5 million customers. I manage, support and provide assistance to third-party
12 marketers with their customer pools and storage accounts. I am also responsible for
13 ensuring all large volume customers', both firm and interruptible, daily usage is
14 updated and accurate across five jurisdictions.

15 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE PUBLIC**
16 **UTILITIES COMMISSION OF OHIO?**

17 A. No.

18 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THESE**
19 **PROCEEDINGS?**

20 A. On behalf of Duke Energy Ohio, I am providing testimony supporting Duke Energy
21 Ohio's Application in these proceedings (Application) to transition from the Gas
22 Cost Recovery (GCR) procurement process to a standard service offer (SSO). In
23 doing so, I will describe the Company's current commodity procurement, the SSO

1 transition proposal, Design Day forecast, changes to the Company's transportation
2 service, its banking and balancing process, and SSO Supplier participation and
3 billings. Additionally, I discuss how the SSO Auction will work, the SSO price,
4 supplier qualifications, supplier training, the supplier SSO agreement, and the SSO
5 Supplier failure to perform. I also support our Application's consistency with prior
6 Commission SSO orders. Finally, I support Attachment(s) VII to the Company's
7 Application, which includes the proposed Standard Sales Offer Service (Rate
8 SSOS), including the SSO Supplier Agreement, the Standard Sales Offer Rider
9 (Rider SSOR), the Standard Sales Offer Cost Reconciliation Rider (Rider SSOCR),
10 and the Auction Transition Cost Rider (Rider ATC).

II. DISCUSSION

A. BACKGROUND ON DUKE ENERGY OHIO'S CURRENT GAS PROCUREMENT

11 **Q. PLEASE DESCRIBE HOW DUKE ENERGY OHIO CURRENTLY**
12 **PROVIDES DEFAULT COMMODITY SERVICE.**

13 A. Presently, Duke Energy Ohio procures its natural gas customer commodity needs
14 through a traditional purchased gas adjustment, or GCR, model in which an Asset
15 Manager who is selected in a Request for Proposal process, is contracted to utilize
16 the Company's pipeline capacity to deliver the natural gas supply secured by the
17 Asset Manager and/or the Company. The Company's GCR service is available to
18 all natural gas customers within Duke Energy Ohio's service area, either by
19 customer choice or as a result of choice supplier default. In essence, Duke Energy
20 Ohio acts as a provider of last resort to ensure that natural gas supply is available
21 to all customers it serves. The costs of the supply are calculated from the cost of

1 the natural gas plus the cost to transport the natural gas from the supply source to
2 the Company's city gates. This cost, along with the transportation cost of moving
3 the natural gas from the Company's city gates to the customer's burner tip
4 (dwelling, property) is charged directly to customers who use this service. The
5 customers who receive the GCR-valued natural gas are customers who are not
6 enrolled with a competitive retail natural gas service (CRNGS) provider or who are
7 not part of a governmental aggregation program through a monthly variable charge
8 on their bills.

9 The Asset Manager is selected based on whether they provide the best value
10 for the customer. To determine the best value, the potential Asset Managers submit
11 a proposal detailing their proposed cost of natural gas and payment value to be the
12 Company's Asset Manager for a length of time (typically one or two years). The
13 Company contracts with only one Asset Manager to service the term of the contract.
14 That contract outlines how the Asset Manager will supply the Company's supply
15 needs at the Company's city gates. In addition, the contract clarifies the structure
16 of payment the Company receives from the Asset Manager for this service. The
17 Asset Manager receives the Company's applicable pipeline and storage contracts
18 to meet the Company's supply needs. The Asset Manager is also responsible for
19 using these assets to keep the Company in balance with the pipelines as directed by
20 the Company.

1 **Q. HOW DOES DUKE ENERGY OHIO PROCURE NATURAL GAS**
2 **COMMODITY FOR ITS GCR SERVICE CURRENTLY?**

3 A. As I previously stated, the Company uses a portfolio of capacity and natural gas
4 supply resources to meet the natural gas requirements for its customers, which
5 portfolio is released to our Asset Manager. These resources include:

- 6 • Transportation Service: Providing pipeline capacity to move natural gas
7 supplies on behalf of a customer, or shipper, from a point of receipt (source
8 of supply) to a point of delivery (the Company's city gate). A receipt point
9 is the location at which natural gas enters the pipelines' transmission
10 facilities, typically in a production region, but can also include an
11 interconnection with another interstate pipeline or a pipeline storage
12 facility. Delivery points include Duke Energy Ohio's citygate or a pipeline
13 storage facility.
- 14 • No-Notice Service: A firm delivery transportation service that permits the
15 Company to utilize certain storage supply volumes in addition to nominated
16 quantities without penalty. The No-Notice Service is used to accommodate
17 variability in daily forecasted demands and balancing of the choice
18 suppliers. Any differences between nominations and actual consumption
19 are either injected into or withdrawn from storage.
- 20 • Storage Service: Provides both a peak day and winter season gas supply
21 resource, as well as seasonal and daily load management capabilities.
22 Seasonal load management capabilities include the ability to store gas
23 purchased during the summer when gas is typically less expensive and

1 withdraw it in the winter when gas is traditionally more expensive. Daily
2 load management is the ability to handle daily differences between the
3 forecasted demand and the actual demand of all customers.

- 4 • Gas Supply Procurement: Supply of gas is typically at a specific receipt
5 point on an interstate pipeline. The Asset Manager usually provides this
6 supply as part of their contractual agreement with the Company.
- 7 • Peaking Service: A gas supply procurement that provides for the delivery
8 of gas supplies directly at Duke Energy Ohio's citygate during periods of
9 extreme demands to assist in facilitating meeting our design day forecasted
10 demands.

11 Gas supply is typically delivered to Duke Energy Ohio from the Asset Manager
12 utilizing the released firm transportation contracts from multiple pipeline
13 companies and from a variety of supply locations to ensure diversity of supply. A
14 portion of the gas procured by the Company is used to satisfy current customer
15 requirements at the time the gas is purchased. Duke Energy Ohio does not own or
16 operate on-system gas supply storage facilities other than its soon-to-be retired
17 propane facilities.

18 Duke Energy Ohio currently operates under an Asset Management
19 Agreement (AMA) that provides for the assignment of the Company's interstate
20 pipeline transportation and storage capacity contracts to the Asset Manager to
21 administer the Company's capacity contracts. This Asset Manager supplies the
22 natural gas supply for the Company. The Company makes its own natural gas
23 purchases as part of its design day demand forecasting needs and from a supply

1 source within its service territory.

2 **Q. PLEASE FURTHER EXPLAIN HOW THE ASSET MANAGEMENT**
3 **AGREEMENTS WORK.**

4 A. Under the terms of the AMA, Duke Energy Ohio determines the daily quantity of
5 gas that it will need to meet its forecasted demand. The gas is procured from the
6 Asset Manager and delivered on interstate pipeline transportation paths along with
7 utilizing the Company's storage assets as if the Company managed the released
8 capacity and purchased its own supply. The Asset Manager is entitled to utilize the
9 Company's transportation capacity contracts to meet Duke Energy Ohio's daily gas
10 supply requirements or use other capacity resources the Asset Manager has
11 available. When the pipeline transportation capacity contracts assigned to the Asset
12 Manager are not needed to meet Duke Energy Ohio's gas supply needs, the Asset
13 Manager is able to use those contracts for its own business interests. The Asset
14 Manager pays Duke Energy Ohio a monthly management fee under the AMA, of
15 which 80% is credited to customers through the GCR.

16 **Q. WHAT ARE THE RELEVANT RATE SCHEDULES FOR THE**
17 **COMPANY'S GCR SERVICE?**

18 A. The current rate schedules that utilize the GCR cost of gas are Rate RS, Residential;
19 Rate GS-S, General Service – Small; Rate RSLI, Residential Service Low Income;
20 and Rate GS-L, General Service – Large. The GCR service is described in Rider
21 GCR, Gas Cost Recovery and Rider GCRR, Gas Cost Recovery Rate.

1 **Q. WHY IS THE COMPANY TRANSITIONING TO AN SSO**
2 **PROCUREMENT STRATEGY?**

3 A. Duke Energy Ohio agreed to file this Application for the Commission's
4 consideration as part of a comprehensive settlement in Case No. 14-0375-GA-
5 RDR, *et al.* Presently, Duke Energy Ohio is the only large investor-owned local
6 natural gas distribution company (LDC) under the Commission's jurisdiction that
7 still operates under the GCR. As part of that settlement, the Company agreed that
8 it would exercise its right under Ohio law to file this application for the Commission
9 to consider, which, if approved, would transition the Company to a SSO for the
10 procurement of natural gas through a competitively bid, wholesale natural gas
11 auction.

12 **Q. WHAT ARE THE BENEFITS OF THE SSO TRANSITION?**

13 A. The benefits of this transition for customers are many. First, this transition will
14 provide consistency for the Company's customers and the Commission. As I
15 previously mentioned, Duke Energy Ohio is the only LDC still operating under the
16 GCR. If approved, this transition will mean that the Commission and its staff (Staff)
17 will no longer have to audit the Company's GCR calculations annually and its
18 management of the GCR every three years. The transition to an auction-based SSO
19 will provide consistency for how the Commission regulates the large LDCs
20 operating in Ohio.

21 Second, the SSO structure provides consistency for the Company's
22 combination customers. As this Commission is aware, Duke Energy Ohio is the
23 only remaining combination natural gas and electric distribution public utility

1 operating in Ohio. Duke Energy Ohio has procured its electric commodity via a
2 competitively bid auction for many years. The Company and its customers are thus
3 familiar with this process. The SSO auction process proposed in these proceedings
4 is similar to what the Company has had in place for its electric commodity. In this
5 regard, and as I explain in more detail below, the Company is proposing to conduct
6 the natural gas SSO auction through a third-party auction administrator, with
7 Commission oversight and approval, and is proposing to recover and reconcile its
8 costs through separate riders that will be adjusted quarterly. The Commission will
9 be able to monitor the auction and will have the authority to approve (or reject) the
10 auction-determined price before it goes into effect. In contrast, under the current
11 GCR model, the Commission must conduct an after-the-fact review of prudence
12 through the GCR audits.

13 Another customer benefit is the transparency of commodity prices as a
14 result of the auction-based process. The SSO auction will result in a market-based
15 price for customers that is determined through a competitive bidding process with
16 multiple participants. As I explained above, the current GCR process is managed
17 through an AMA. If the Application is approved, the AMA will be replaced with
18 agreements directly with third-party suppliers who will ultimately be responsible
19 for supplying portions of the Company's natural gas load. This new process creates
20 a wholesale natural gas market in the Company's southwestern Ohio territory
21 through a competitively bid auction process for third-party suppliers that is not
22 currently available.

1 **Q. HOW DID THE COMPANY DEVELOP ITS SSO APPLICATION AND**
2 **PROPOSED SSO STRUCTURE?**

3 A. Duke Energy Ohio reviewed SSO applications and processes from other Ohio
4 LDCs that have already transitioned away from their GCRs and implemented an
5 SSO structure. The Company also discussed the SSO process with some of those
6 LDCs, as well as with Company personnel familiar with the Company's electric
7 SSO auction process. In addition, the Company utilized a consultant familiar with
8 the SSO process and auction procedures. The Company reached out to a third-party
9 auction provider and two suppliers that currently participate in Ohio natural gas
10 auction procurement processes held by the other large Ohio LDCs.

11 In September 2020, Duke Energy Ohio initiated a stakeholder working
12 collaborative to discuss the Company's proposed transition and to receive feedback
13 from interested parties. This stakeholder group was made up of a cross section of
14 customers, potential SSO suppliers, current CRNGS providers in the Company's
15 natural gas territory, and the Commission Staff.

B. DUKE ENERGY OHIO'S SSO PROPOSAL

16 **Q. PLEASE SUMMARIZE THE PROPOSED SSO AUCTION AND HOW IT**
17 **RELATES TO THE TYPE OF GAS PROCUREMENT THAT EXISTS FOR**
18 **DUKE ENERGY OHIO TODAY.**

19 A. Duke Energy Ohio's Application proposes a SSO service that has an auction
20 process to set a gas supply price for Duke Energy Ohio's retail gas customers who
21 choose not to switch to a CRNGS provider, customers not served under the
22 percentage of income payment plan (PIPP), and customers who do not participate

1 in a governmental aggregation program. This SSO service and new pricing
2 mechanism will replace the GCR process. As with the GCR, the SSO process will
3 involve Duke Energy Ohio purchasing natural gas delivered at the city gate based
4 on a set price for retail non-shopping natural gas customers. In this respect, the SSO
5 will serve the same purpose as the GCR. The differences between the two
6 approaches are in the process to set the price and the way the cost of natural gas
7 will be passed to customers.

8 **Q. PLEASE DESCRIBE DUKE ENERGY OHIO'S SSO PROPOSAL.**

9 A. Under Duke Energy Ohio's SSO proposal, the Company will conduct an auction,
10 through a third-party provider, to determine a Retail Price Adjustment (RPA) to
11 pay for the natural gas procured for all the remaining customers who are not taking
12 service from a CRNGS provider and who are not included in PIPP and who do not
13 participate in a governmental aggregation program. Interested suppliers will bid on
14 supplying the commodity of natural gas for individual demand tranches of the
15 Company's unswitched load. The auction will include a bidding process to
16 determine the fixed RPA to the monthly NYMEX settlement price for the
17 applicable SSO term. The proposed plan is that the first SSO term of the SSO
18 auction is to be 17 months in length, beginning on November 1, 2022, and going
19 through March 31, 2024. The RPA will be stated in dollars per dekatherm (DTH)
20 and will establish a single price for all SSO Suppliers to be added to the monthly
21 NYMEX settlement price.

1 **Q. WHEN DOES DUKE ENERGY OHIO PROPOSE TO IMPLEMENT ITS**
2 **FIRST SSO AUCTION?**

3 A. Initially the Company had hoped to conduct its first auction in January 2022. The
4 Company recognizes that is no longer possible. Nonetheless, the Company does
5 propose to conduct the auction with sufficient time to commence delivery by
6 November 1, 2022. The Company's existing contracts under its AMA expire on
7 November 1, 2022. The Company needs approximately ninety days between the
8 first auction and the delivery period to ensure there is a smooth transition for
9 customers. Accordingly, the Company seeks to conduct its first auction no later
10 than July 2022 for delivery November 1, 2022.

11 **Q. PLEASE EXPLAIN HOW THE AUCTION WILL WORK AND WHAT**
12 **AUCTION PARTICIPANTS WILL BE BIDDING FOR?**

13 A. The anticipated auction will be a descending clock auction, where multiple rounds
14 will occur with the price decreasing until the number of tranches bid on is less than
15 six. At this point in the auction, the bidding suppliers remaining at the price
16 immediately before the number of tranches decreased to less than six will enter a
17 sealed bid where each bidder may submit a bid at that price or lower. The lowest
18 six tranche bidders will be awarded a tranche at the highest price of the six.

19 Each bidder, if approved via Duke Energy Ohio's SSO creditworthiness
20 requirements described further in my testimony, can bid on up to two tranches and
21 therefore the number of suppliers will be no more than six and no less than three
22 different suppliers. Each tranche awarded to a winning bidder will have the same
23 delivery requirement as every other tranche that is awarded. The SSO suppliers will

1 be required to deliver, to Duke Energy Ohio at the city gates, the specified quantity
2 of natural gas determined daily from the forecasted SSO demand (Adjusted Target
3 Supply Quantity – ATSQ). This ATSQ will be calculated for the SSO suppliers by
4 Duke Energy Ohio in a manner equivalent to the current manner used to provide
5 ATSQ for the Duke Energy Ohio CRNGS providers.

6 **Q. PLEASE DESCRIBE THE RULES FOR THE AUCTION.**

7 A. Each supplier will have a defined amount of time to bid on a tranche(s) at the then
8 current auction price. If the bidder fails to bid on at least one tranche within the
9 open bid window, the bidder will not be allowed to bid on any following rounds
10 unless the number of tranches bid on during the last bid window resulted in less
11 than six tranches. The sealed bid window will be open to allow remaining bidders
12 to enter an RPA price and the number of tranches to the Auction Manager without
13 being disclosed to the other remaining bidders. During the sealed bid process, all
14 the remaining bidders plus those bidders who dropped in the previous auction round
15 will have the opportunity to submit a final bid price and number of tranches to the
16 Auction Manager. If a bidder fails to submit their sealed bid before the allocated
17 time, they will no longer be considered in the bidding process. All bidders must
18 pre-qualify by the published deadline by receiving a positive validation from Duke
19 Energy Ohio regarding the bidder's credit review and providing the required
20 financial security for the auction. All deadlines will be published and provided to
21 the SSO bidders once the SSO service is approved by the Commission.

22 **Q. WHAT CUSTOMERS WILL BE SERVED UNDER THIS SSO AUCTION?**

23 A. The auction will serve customers who have not enrolled with an CRNGS provider,

1 who are not served under PIPP, and who are not participating in a governmental
2 aggregation program and therefore are being served by the following rate
3 schedules: Residential (Rate RS); General Service-Small (Rate GS-S), General
4 Service-Large (Rate GS-L), and Residential Service Low-Income (Rate RSLI).
5 Eligible customers who are currently participating in the Company's Choice
6 Program (Choice) will remain free to continue to migrate to and from transportation
7 rates, in accordance with the Company's tariffs.

8 **Q. WILL PIPP CUSTOMERS BE SERVED UNDER THE PROPOSED SSO?**

9 A. There will be no change in how the PIPP program works today, meaning zero
10 percent of the PIPP will be served by the SSO.

11 **Q. WILL THERE BE ANY LIMITATION ON THE MINIMUM NUMBER OF**
12 **AUCTION PARTICIPANTS OR THE NUMBER OF TRANCHES A**
13 **SINGLE SUPPLIER CAN WIN?**

14 A. Yes. To assure diversity in supply and promote reliability, a minimum of three (3)
15 or a maximum of six (6) bidders will be awarded a tranche and a maximum of two
16 (2) tranches will be awarded to any individual bidder.

17 **Q. WILL THE SIZE OF THE TRANCHE REMAIN FIXED THROUGHOUT**
18 **THE SSO PERIOD?**

19 A. No. It will not remain fixed. The tranche size is subject to change each day during
20 the SSO period in order to adjust for changes in Duke Energy Ohio's non-shopping
21 load. For example, as customers contract into or elect out of the Choice Program,
22 the size of the tranche will be adjusted daily. This review and adjustment will occur
23 each day in connection with the demand forecast for the SSO suppliers. A tranche

1 will always be one sixth of the total non-shopping load and not directly affixed to
2 a number of customers or specific customers.

3 **Q. WILL THE POTENTIAL CHANGES TO THE TRANCHE SIZE RESULT**
4 **IN ANY CHANGE TO THE SSO PRICE PAID TO SUPPLIERS?**

5 A. No. The SSO price will remain the same, regardless of demand required of each
6 tranche.

C. PARTICIPATION IN THE SSO AUCTION

7 **Q. HOW WILL THE PRODUCT DEFINITIONS AND CONTRACT TERMS**
8 **ENCOURAGE PARTICIPATION?**

9 A. The products and contract terms are familiar to market participants and prospective
10 bidders. They are standardized and yet provide flexibility through staggered
11 contract delivery periods that allow participants to bid their preferred supply profile
12 over time. The tranche size also encourages participation and competition from a
13 range of potential suppliers, where each tranche is a specified, fixed percentage of
14 the SSO load.

15 **Q. HOW WILL THE WINNING BIDDERS BE DETERMINED IN THE SSO**
16 **AUCTION PROCESS?**

17 A. The conclusion of the SSO auction will occur once all remaining bidders who are
18 eligible to participate in the sealed bid round submit a sealed bid. The six tranches
19 will be awarded to the six lowest prices with all six tranches being awarded the
20 highest RPA price of the six. Once the winners and RPA are settled and approved
21 by the Commission, the winning bidders will be notified.

1 **Q. WHAT WILL POTENTIAL SSO SUPPLIERS NEED TO DO TO**
2 **PARTICIPATE IN THE AUCTION?**

3 A. Potential SSO Suppliers will need to complete an SSO Supplier Interest Form,
4 similar to what is attached as Attachment CBG-1. Once Duke Energy Ohio receives
5 the SSO Supplier Interest Form, they will be sent the SSO Supplier Credit
6 Application form similar to what is attached as Attachment CBG-2. Potential SSO
7 Suppliers will also be given access to a secure website to submit their completed
8 SSO Supplier Credit Application and required documents. Once Duke Energy Ohio
9 has reviewed the SSO Suppliers creditworthiness, the Company will respond to the
10 potential SSO Supplier with the number of tranches they are authorized to bid on,
11 along with the financial security they would need to post for each tranche awarded.
12 The potential SSO Supplier would then decide on whether to participate in the SSO
13 auction. If they decide to participate, then they would submit the Auction
14 Registration Form, included as Attachment CBG-3, pay the Credit Application Fee,
15 and provide the SSO Supplier financial security in the form of a Letter of Credit or
16 cash.

17 Once an SSO Supplier is awarded a tranche, the SSO Supplier will need to
18 do the following: 1) sign the SSO Supplier Agreement, included as part of Sheet
19 No 43 Rate SSOS tariff, Exhibit VIII to the Application; 2) execute the Company's
20 North American Energy Standards Board (NAESB) base contract; 3) post the
21 financial security collateral related to a potential SSO Supplier Default; 4) post the
22 Duke Energy Ohio's financial security collateral requirements; and 5) attend an
23 SSO Supplier training event.

1 **Q. PLEASE DESCRIBE THE SSO SUPPLIER AGREEMENT, ITS PURPOSE,**
2 **AND THE SIGNIFICANT TERMS.**

3 A. The purpose of the SSO Supplier Agreement is to provide a legal contract with the
4 winning bidder outlining what is required of the SSO Supplier during the SSO
5 period and what the SSO Supplier can expect from Duke Energy Ohio. The
6 completed agreement outlines the same rules that are in the tariff, with the SSO
7 Supplier signing the document to fully acknowledge they understand and agree to
8 follow those rules.

9 **Q. PLEASE DESCRIBE THE SSO CREDITWORTHINESS REQUIRE-**
10 **MENTS.**

11 A. The financial evaluation will be based upon Duke Energy's credit review processes,
12 including a review of third-party credit ratings, if available, as well as an assessment
13 of financial strength based on standard credit metrics calculated based on the SSO
14 supplier's audited financial statements. SSO suppliers will have their
15 creditworthiness assessed against exposure that includes one hundred and fifty
16 percent of the tranches that they express intent to bid on. SSO suppliers not meeting
17 the creditworthiness requirement or not providing sufficient financial information
18 to perform an evaluation will be required to provide additional security in a form
19 and format specified by Duke Energy Ohio to be approved by Duke Energy Ohio
20 prior to participation in the auction. To protect customers and the Company, Duke
21 Energy Ohio reserves the right to re-evaluate an SSO supplier's financial standing
22 periodically and to amend required financial security.

23 In addition, each SSO supplier will be required to provide Duke Energy

1 Ohio an irrevocable Letter of Credit in the amount of \$0.35/DTH multiplied by the
2 initial estimated annual delivery requirements for the SSO Period of the tranches
3 won by that SSO Supplier. This Letter of Credit will be made to Duke Energy Ohio
4 and made effective no later than the first month prior to the start of the SSO Period.

5 **Q. WHY ARE SSO SUPPLIERS ASSESSED AGAINST EXPOSURE OF 150%?**

6 A. Since there could be as few as three SSO Suppliers supplying the six tranches, if
7 one of the SSO Suppliers were to default it would leave only two SSO Supplier
8 supplying three tranches each. As a result, Duke Energy Ohio believes that in order
9 to adequately manage the credit risk, each SSO supplier should be evaluated at 2
10 tranches (100%) plus 1 tranche (50%) in case of default by an SSO Supplier.

D. SUPPLIER DEFAULT AND AUCTION REJECTION

11 **Q. WHAT WILL HAPPEN IF THE AUCTION FAILS TO AWARD THE**
12 **REQUIRED NUMBER OF BIDDABLE TRANCHES?**

13 A. If the auction fails to award the required number of biddable tranches, the Company
14 will conduct a second auction to award all biddable tranches. The Company will
15 evaluate the prior auction to determine what, if any, variables of the auction should
16 be amended to increase the likelihood of a successful subsequent auction.

17 **Q. WHAT WILL HAPPEN IF AN SSO SUPPLIER FAILS TO PERFORM OR**
18 **COMPLY?**

19 A. If an SSO supplier fails to deliver natural gas in accordance with the Company's
20 tariff, Duke Energy Ohio will take necessary actions to supply natural gas
21 temporarily to meet the customer needs for the defaulted SSO supplier until the
22 defaulting SSO supplier's tranche demand volume requirement is reassigned to the

1 non-defaulting SSO suppliers.

2 If an SSO supplier fails to deliver natural gas in accordance with the full-
3 service requirements of the SSO Supplier Agreement, or otherwise fails to comply
4 with the provisions of the Company's tariff, including those specified in the
5 Obligations to Duke Energy Ohio section, Duke Energy Ohio shall have the
6 discretion to initiate a process to terminate such SSO supplier's participation and
7 to recover damages related to the default using the bidder's secured financial credit.

8 **Q. THE COMPANY'S APPLICATION STATES THAT THE WINNING BID**
9 **PRICE WILL BE SUBJECT TO APPROVAL BY THE COMMISSION**
10 **FOLLOWING THE CONCLUSION OF EACH AUCTION. PLEASE**
11 **EXPLAIN.**

12 A. The Commission will be invited to the auction to observe the process and selection
13 of the winning bids. That process and the final RPA price will be finalized by Duke
14 Energy Ohio submitting the RPA to the Commission for confirmation and approval
15 that the RPA was correctly determined per the Duke Energy Ohio's tariff.

16 **Q. WHAT WILL HAPPEN IF THE COMMISSION DOES NOT APPROVE**
17 **THE WINNING SSO PRICE?**

18 A. If the Commission does not approve the winning SSO price, the Company
19 anticipates it will then conduct a second auction. The Company will evaluate the
20 prior auction and apply any feedback from the Commission's non-approval in order
21 to determine what, if any, variables of the auction will need to be amended to
22 increase the likelihood of a successful subsequent auction.

E. TRANSPORTATION CAPACITY

1 **Q. PLEASE DESCRIBE DUKE ENERGY OHIO’S INTERSTATE CAPACITY**
2 **PORTFOLIO.**

3 A. As shown on Attachment CBG-4, the Company’s interstate capacity currently
4 consists of transportation capacity from six interstate pipelines and storage capacity
5 from two interstate pipelines to serve the Duke Energy Ohio system load at various
6 city gates and with diversity of supply.

7 **Q. HOW WILL TRANSPORTATION CAPACITY BE MANAGED UNDER**
8 **THE SSO AUCTION?**

9 A. Duke Energy Ohio will release to each SSO supplier, on a seasonal basis (April 1st
10 and November 1st), with recall rights, a proportional quantity for each awarded
11 tranche of Duke Energy Ohio’s remaining non-storage-related firm transportation
12 capacity after the Upstream Capacity Requirements (as described in the P.U.C.O.
13 No. 18, Sheet No. 44.13, Rate FRAS, Full Requirements Aggregation Service, pp.
14 16-18) have been allocated. The SSO supplier will not be permitted to change any
15 primary points of receipt or delivery associated with released pipeline
16 transportation capacity. SSO suppliers will be released capacity at the applicable
17 pipeline’s maximum tariff rate unless a discounted rate on the released capacity
18 exists. The costs of the released transportation capacity will be invoiced by the
19 pipelines and paid directly to the pipelines by the SSO supplier. The released
20 transportation capacity is subject to recall if the SSO supplier: 1) does not perform
21 in accordance with the SSO Supplier Agreement; 2) fails to pay the pipeline charges
22 for the transportation capacity; and/or 3) fails to comply with other relevant

1 provisions set forth in Duke Energy Ohio's tariff.

2 The SSO supplier may re-release on a recallable basis any assigned
3 transportation capacity; provided that: 1) the SSO supplier will continue to be
4 responsible to the pipeline for all charges associated with the assigned capacity and
5 will hold Duke Energy Ohio harmless in the event charges are not paid; 2) any re-
6 release of such capacity remains subject to the requirements and restrictions
7 identified in Duke Energy Ohio's tariff and discount requirements; and 3) re-release
8 does not remove the SSO supplier's obligation in delivering the required daily
9 volumes.

10 SSO suppliers will be required to deliver volumes daily that could exceed
11 the pipeline transportation capacity released as part of the SSO Service. SSO
12 suppliers will be required to secure additional city gate firm gas supply
13 arrangements such that, when combined with their assigned pipeline transportation
14 capacity, they are sufficient to meet a minimum of 100% of their daily Adjusted
15 Targeted Supply Quantity (ATSQ) even if the ATSQ is greater than the Maximum
16 Design Quantity (MDQ).

17 Duke Energy Ohio will allow a physical supply call for any Duke Energy
18 Ohio city gate location (with prior approval from the Company) to cover an SSO
19 supplier ATSQ. An SSO supplier may request the ability to deliver natural gas to
20 city gates that are not part of the capacity release portfolio for limited deliverable
21 quantities. The request must be made using the Nomination Request form located
22 on Duke Energy Ohio's Electronic Bulletin Board (EBB) and be submitted no later
23 than 1:00 PM (Eastern Prevailing Time) on the third Friday of the prior month. The

allowable quantities will be allocated monthly based on the maximum operational volumes allowed per SSO supplier and CRNGS provider based on the their calculated monthly MDQ. Duke Energy Ohio will respond to the written request with the allowed monthly allocated quantities per city gate. The SSO supplier will be required to demonstrate supply arrangements to match the MDQ for Duke Energy Ohio's Design Day demand. For each awarded tranche, the SSO Supplier will submit their supply arrangements no later than the 25th of the month prior to the start of each month during the winter season (November through March). Plan and proof of firm supply deliverability must be equivalent to the MDQ.

F. DESIGN DAY FORECAST, NOMINATIONS AND IMBALANCES

Q. WHAT IS DUKE ENERGY OHIO'S DESIGN DAY FORECAST?

A. The Design Day forecast is the Company's estimate of the maximum gas demand requirement in a 24-hour period, based on actual historical peak weather conditions. It is used for planning transportation and storage capacity and physical supply requirements. The Design Day forecast is updated annually in advance of the upcoming winter period and estimates the Design Day demand for the upcoming winter and subsequent winter periods. Within the forecast, Duke Energy Ohio segregates estimated Design Day demand by service type (Sales, Choice, and Transportation Service) and geographic/zonal area(s).

Q. WHAT IS THE PURPOSE OF THE DESIGN DAY FORECAST?

A. It is primarily used for planning purposes to determine if the Company's existing transportation capacity and storage capacity meets the Design Day forecasted demand and whether any contractual city gate delivered supply arrangements

1 should be made in advance of the winter period in order to ensure reliability of
2 delivery of supply during Design Day weather conditions.

3 **Q. PLEASE EXPLAIN THE DESIGN DAY'S ROLE IN THE COMPANY'S**
4 **PROPOSED AUCTION.**

5 A. The Design Day forecast will be used as the basis for determining the amount of
6 contracted pipeline capacity to allocate to CRNGS providers and SSO suppliers.
7 The Design Day forecast will also approximate the maximum daily delivered
8 quantity to provide a planned maximum volume for the SSO Suppliers. Lastly, the
9 Design Day forecast will also be used to help calculate the allocation of capacity
10 released to the SSO Suppliers from the Company's pipeline transportation capacity.

11 **Q. PLEASE EXPLAIN THE DAILY NOMINATION PROCESS UNDER THE**
12 **SSO.**

13 A. Daily, the SSO supplier will be provided an ATSQ, which will be the sum of the
14 total firm forecasted demand minus the total CRNGS providers demand plus
15 forecasted interruptible demand minus the interruptible deliveries. If needed, Duke
16 Energy Ohio may adjust the ATSQ to respond to operational requirements in order
17 to address excessive daily and/or monthly system imbalances or the Company's
18 storage balances or the Company's forecasted daily storage withdrawals or
19 injections. SSO suppliers will be required to assist in Duke Energy Ohio's
20 management of storage and balancing by delivering the ATSQ that includes
21 adjustments to facilitate daily injections or daily withdrawals. Duke Energy Ohio
22 will provide an ATSQ that must be delivered to each city gate or zone. For planning
23 purposes, the Company will provide a projected ATSQ at least three calendar days

1 in advance. For example, for flow on November 1, 2022, the Company will provide
2 a forecasted ATSQ on October 29, 2022. The required ATSQ may be updated daily,
3 to include current day. All updates will be made in the Company's EBB prior to
4 10:00 AM Eastern Prevailing Time.

5 No later than one hour prior to the NAESB deadline for the timely
6 nomination cycle, the SSO Supplier will be required to submit valid nominations
7 through Duke Energy Ohio's EBB of its total city gate quantities of gas scheduled
8 for the following gas day, allocated by city gate as directed by Duke Energy Ohio.
9 The Company's required nomination components will be provided during SSO
10 supplier's required training conducted by the Company with the awarded SSO
11 suppliers. The SSO supplier will have the opportunity to make intraday changes in
12 order to ensure the ATSQ volume is scheduled. Duke Energy Ohio will have no
13 obligation to accommodate retroactive nominations, or changes thereto, that are
14 made after the NAESB deadline for the intraday 3 nomination cycle.

15 Except on those days when Operational Flow Orders have been issued, if
16 an SSO supplier fails to deliver the daily ATSQ within a tolerance of plus or minus
17 1%, the SSO Supplier will be subjected to a daily penalty based on one of the
18 following:

19 The per DTH difference greater than the tolerance between the scheduled
20 quantity (SQ) and the ATSQ multiplied by the higher of:

- 21 1) \$15/DTH;
- 22 2) Three times (3x) Platts' Gas Daily TCO-App + TCO SST fuel and
23 transportation commodity variables; or

1 3) Three times (3x) Platts' Gas Daily Texas Gas Zone 1 + Texas Gas STF
2 fuel and transportation commodity variables.

3 For example:

4 1): ATSQ = 15,000 DTH; SQ = 14,900 DTH; Allowable 1% Tolerance =
5 +/- 150 DTH; No Penalty incurred.

6 2): ATSQ = 15,000 DTH; SQ = 14,800 DTH; Allowable 1% Tolerance =
7 +/- 150 DTH; Penalty based on 50 DTH.

8 **Q. PLEASE EXPLAIN HOW DUKE ENERGY OHIO INTENDS TO**
9 **MAINTAIN A BALANCED NATURAL GAS DELIVERY SYSTEM UNDER**
10 **THE SSO?**

11 A. The differences between the actual deliveries through the Duke Energy Ohio city
12 gate meters and the total nominations to those meters will be managed by Duke
13 Energy Ohio as follows:

14 • KO Transmission & Columbia Gas – meter 13-10 – Cincinnati Gas &
15 Electric-10: Imbalances will be handled via swing of storage with Duke
16 Energy Ohio's Columbia Gas Transmission Firm Storage Service (FSS) and
17 utilizing Duke Energy Ohio's Columbia Gas Transmission Storage Service
18 Transportation (SST) and KO transmission transportation capacity. Any
19 excess injection and excess withdrawal charges for imbalances greater than
20 those allowed with the FSS service will be shared by all Suppliers on a pro-
21 rata basis on the scheduled quantity volumes from all Suppliers. There will
22 be no pipeline imbalances to be cashed out.

- 1 • Columbia Gas – meters 13-11 & 14 – Duke Ohio-11, Duke Ohio-6:
2 Imbalances will be handled via swing of storage with Duke Energy Ohio's
3 Columbia Gas Transmission FSS and utilizing Duke Energy Ohio's
4 Columbia Gas Transmission SST. Any excess injection and excess
5 withdrawal charges for imbalances greater than those allowed with the FSS
6 service will be shared on a pro-rata basis on the scheduled quantity volumes
7 from all Suppliers. There will be no pipeline imbalances to be cashed out.
- 8 • Texas Gas – meter 1229 – Duke Shipper Point: Imbalances will be handled
9 via the Duke Energy Ohio Texas Gas Transmission No Notice Storage
10 (NNS) service. Any excess injection and excess withdrawal charges for
11 imbalances greater than those allowed with the NNS service will be shared
12 on a pro-rata basis on the scheduled quantity volumes from all Suppliers.
13 There will be no pipeline imbalance to be cashed out.
- 14 • Rockies Express – meter 60478 - Dicks Creek: Duke Energy Ohio has an
15 Operation Balancing Agreement (OBA) in place. Pipeline imbalances will
16 be managed by Duke Energy Ohio to ensure minimal daily imbalance
17 quantities. Any pipeline operational flow order penalties as a result an SSO
18 Supplier not delivering supply as directed will be shared on a pro-rata basis.
19 Any pipeline imbalances less than or equal to 6,000 DTH will roll month-
20 to-month. Any pipeline imbalances greater than 6,000 DTH will be cashed
21 out by the pipeline.
- 22 • Texas Eastern – meters 72908 & 70521 – Springboro & Dicks Creek Points:
23 Duke Energy Ohio has an OBA in place. Pipeline imbalances will be

1 managed by Duke Energy Ohio to ensure minimal daily imbalance
2 quantities. Any pipeline operational flow order penalties as a result of an
3 SSO supplier not delivering supply as directed will be shared among
4 suppliers on a pro-rata basis. The OBA month-end pipeline imbalance will
5 roll from month to month. Pipeline imbalances will not be cashed out.

- 6 • ANR – meter 22986 - Springboro Point: Duke has an OBA in place.
7 Pipeline imbalances will be managed by Duke Energy Ohio to ensure
8 minimal daily imbalance quantities. Any pipeline operational flow order
9 penalties as a result of an SSO Supplier not delivering supply as directed
10 will be shared on a pro-rata basis. The OBA month-end pipeline imbalance
11 will roll from month to month. Pipeline imbalances will not be cashed out.

G. OPERATIONAL FLOW ORDERS

12 **Q. PLEASE DESCRIBE HOW OPERATIONAL FLOW ORDERS WILL BE**
13 **ADDRESSED UNDER THE SSO.**

14 A. Duke Energy Ohio reserves the right to issue an Operational Flow Order (OFO), at
15 its discretion, as specified in the Tariff, upon determination that an action is
16 required to do any of the following:

- 17 1) Protect the integrity of Duke Energy Ohio's gas system;
- 18 2) Assure deliveries or gas supplies to all firm customers;
- 19 3) Maintain adequate storage inventory balances; or
- 20 4) Adhere to the various interstate pipeline companies' balancing and
21 operational requirements, as stated in their FERC-approved gas tariffs
22 under which Duke Energy Ohio is served.

1 Duke Energy Ohio will post the OFO notice via the Company's EBB. An
2 OFO may be issued to any one or multiple Brokers and Suppliers or all Suppliers
3 and Brokers delivering gas to Duke Energy Ohio's city-gates, on a system-wide
4 basis when necessary. OFOs could occur in the instance of either over-delivery or
5 under-delivery. The Company will make every effort to give a minimum of 24
6 hours' notice of an OFO. If the risk of a potential future critical issue is identified,
7 Duke Energy Ohio will attempt to post an OFO Alert notice in Duke Energy Ohio's
8 EBB in advance.

9 **Q. WHAT IS AN UNDER-DELIVERY OFO?**

10 A. An under-delivery OFO is an OFO that requires SSO Suppliers, when necessary,
11 to schedule quantities at a level equal to or greater than the ATSQ. Typically, this
12 type of OFO is seen in the winter.

13 **Q. WHAT IS AN OVER-DELIVERY OFO?**

14 A. An over-deliveries OFO is an OFO that will require SSO Suppliers to schedule
15 quantities at a level equal to or less than the ATSQ. Typically, this type of OFO is
16 seen in the summer.

17 **Q. WHAT HAPPENS IF THE SSO SUPPLIER FAILS TO COMPLY WITH AN**
18 **OFO?**

19 A. On days when an OFO is in effect, if an SSO Supplier fails to deliver in accordance
20 with the OFO, the SSO Supplier will be subjected to a daily penalty based on the
21 per Dekatherm difference between the scheduled quantity (SQ) and the ATSQ
22 multiplied by the higher of one of the following:

- 23 1) \$50/DTH; or

- 1 2) Three times (3x) Platts' Gas Daily TCO-App + TCO SST fuel and
2 transportation commodity variables; or
3 3) Three times (3x) Platts' Gas Daily Texas Gas Zone 1 + Texas Gas STF
4 fuel and transportation commodity variables.

5 For example:

- 6 1): For an under-delivery OFO; ATSQ = 15,000 DTH; SQ = 14,900 DTH;
7 Imbalance = -100 DTH; Penalty occurs due to SQ being less than the
8 ATSQ on the entire 100 DTH multiplied by the highest penalty rate.
9 2): For a over-delivery OFO; ATSQ = 15,000 DTH; SQ = 14,900 DTH;
10 Imbalance = -100 DTH; No Penalty as the SQ is less than the ATSQ .

H. SUPPLIER AND CUSTOMER BILLINGS UNDER THE SSO

11 **Q. PLEASE DESCRIBE HOW SUPPLIER BILLING WILL BE HANDLED**
12 **UNDER THE SSO.**

13 A. Duke Energy Ohio will pay the winning SSO suppliers the Retail Price Adjustment
14 plus the monthly NYMEX Price for the scheduled quantities received at Duke
15 Energy Ohio's city gates. On a monthly basis, Duke Energy Ohio will generate an
16 invoice:

- 17 • If the SSO supplier owes Duke Energy Ohio, the invoice will be paid within
18 10 calendar days of receipt.
19 • If Duke Energy Ohio owes the SSO supplier, the invoice will be paid by the
20 20th calendar day of the following month via wire or ACH.

21 If the payment date falls on a weekend or holiday, payment will be made the next
22 business day.

III. CONSISTENCY WITH PRIOR COMMISSION-APPROVED SSO APPLICATIONS

1 **Q. HAVE YOU REVIEWED PRIOR COMMISSION ORDERS INVOLVING**
2 **NATURAL GAS UTILITIES TRANSITIONING FROM A GCR TO AN SSO**
3 **STRUCTURE?**

4 **A.** Yes. I reviewed the Commission Orders involving the transitions of Vectren Energy
5 Delivery of Ohio, Inc. (Case No. 07-1285-GA-EXM), The East Ohio Gas Company
6 (Case No. 05-474-GA-ATA), and Columbia Gas of Ohio, Inc. (Case No. 08-1344-
7 GA-EXM).

8 **Q. DO YOU BELIEVE DUKE ENERGY OHIO’S APPLICATION IN THESE**
9 **PROCEEDINGS IS CONSISTENT WITH PRIOR COMMISSION ORDERS**
10 **APPROVING A NATURAL GAS UTILITY’S EXITING THE GCR AND**
11 **TRANSITIONING TO AN SSO?**

12 **A.** Yes.

13 **Q. PLEASE EXPLAIN HOW THE COMPANY’S SSO APPLICATION IS**
14 **CONSISTENT WITH PRIOR COMMISSION ORDERS APPROVING A**
15 **NATURAL GAS UTILITY TRANSITIONING TO AN SSO.**

16 **A.** There are many areas in which Duke Energy Ohio’s SSO application is similar to
17 prior Commission orders that approved a LDC transition to an SSO, including the
18 following:

- 19 1) The decision to transition to an SSO service directly from the GCR.
- 20 2) The use of a descending clock auction to determine an RPA to determine
- 21 the commodity price to be added to the NYMEX rate at a per-DTH
- 22 price.

- 1 3) The method by which customers are billed the commodity price of
2 natural gas based on the NYMEX, RPA, and System BTU, and the use
3 of a reconciliation rider.
- 4 4) Mandatory transportation capacity assignment by the SSO suppliers.
- 5 5) The Company's retention of storage capacity to assist in balancing the
6 Company's system.
- 7 6) The length of the SSO service, after the initial SSO period, being a year
8 in length starting on April 1st and going to the following year on March
9 31st.
- 10 7) The determination of the number of tranches based on approximately 5
11 billion cubic feet (BCF) for one tranche load annually.
- 12 8) Limiting the number of suppliers to only one third of the SSO total daily
13 supply.
- 14 9) The use of a forecast demand of the expected customer usage being
15 divided equally to each tranche daily.

1 **Q. PLEASE EXPLAIN ANY MAJOR DIFFERENCES IN THE COMPANY’S**
2 **APPLICATION IN THESE PROCEEDINGS FROM OTHER NATURAL**
3 **GAS UTILITY TRANSITIONS TO AN SSO PROCESS?**

4 A. The first difference between Duke Energy Ohio’s proposed transition to an SSO
5 and previous LDCs’ transitions to an SSO process is that the Company proposes to
6 retain all storage assets in order to balance and serve the Company’s customers.
7 The second difference pertains to how the Company allows the balancing of its
8 interruptible transportation customers.

9 **Q. PLEASE EXPLAIN WHY THESE DIFFERENCES ARE REASONABLE**
10 **AND NECESSARY.**

11 A. The differences described in the answer above are due mainly to how Duke Energy
12 Ohio currently operates today and the desire to minimize the impact to all the
13 shopping customers. Regarding the first difference, in which Duke Energy Ohio
14 plans to retain all storage for both system balancing and the SSO customers’ use,
15 this is necessary in order to maintain the current Choice and interruptible
16 transportation services in the same operating manner as they operate today.
17 Currently, the Company provides a virtual storage and balancing service for the
18 Choice brokers, which is backed by the Company’s storage. The impact of releasing
19 the storage to the SSO suppliers would have necessitated changes to the current
20 Choice tariffs, thus making the impact of transitioning to an SSO service not limited
21 to only the GCR customers.

22 The second difference is due to how Duke Energy Ohio currently operates
23 and allows the interruptible transportation customers’ demand to be served.

1 Interruptible transportation customers are customers with interruptible contracts
2 with the Company, who are supplied by third-party suppliers using supply pool
3 agreements. The daily differences between what the third-party suppliers supply
4 daily and what the interruptible customers use is balanced by the Company. There
5 are no required daily imbalance minimums requirements, unless under an
6 operational flow order, so supply pools are allowed to have any daily imbalance
7 volume. In order to again minimize impact to shopping customers, it was best not
8 to change how interruptible transportation customers are balanced in moving to the
9 SSO process. In addition, the current flexibility in the balancing process for the
10 interruptible transportation customers further demonstrates why the Company
11 needs to retain all storage for balancing and SSO customer use.

IV CONCLUSION

12 **Q. WERE ATTACHMENTS CBG-1 THROUGH CBG-5 PREPARED BY YOU**
13 **OR UNDER YOUR DIRECTION AND CONTROL?**

14 A. Yes.

15 **Q. DOES THIS CONCLUDE YOUR PRE-FILED DIRECT TESTIMONY?**

16 A. Yes.

Duke Energy Ohio Gas SSO Supplier Interest Form

Please fill out the following information

Corporate Name: _____

Mailing Address: _____

City, State, Zip: _____

Telephone Number: _____

Duns #: _____

Primary Contact Name: _____

Title: _____

Mailing Address: _____

City, State, Zip: _____

Office Number: _____ Mobile Number: _____

E-mail Address: _____

Secondary Contact Name: _____

Title: _____

Mailing Address: _____

City, State, Zip: _____

Office Number: _____ Mobile Number: _____

E-mail Address: _____

I hereby authorize Duke Energy Ohio, Inc to set up a user id and password for the SSO Supplier secure FTP site in order to learn more about the SSO Supplier service and potentially participate in the next SSO Auction.

Signature: _____

Name (print or type): _____

Date: _____

Duke Energy Ohio Gas SSO Supplier Credit Application

An Applicant shall upload this completed and signed application and accompanying information to the Duke Energy Ohio SSO secure FTP website.

1. Applicant/Contact

Applicant/Corporate Name: _____

Mailing Address: _____ Telephone: _____

City, State, Zip: _____

State of Incorporation: _____ Years in Business: _____

Federal Tax ID: _____ D&B Duns #: _____

Company Web Address: _____

Primary Contact Name: _____ Title: _____

Mailing Address: _____ Office # : _____

City, State, Zip: _____ Mobile #: _____

Email Address: _____ Fax #: _____

Credit/Financial Contact: _____ Title: _____

Mailing Address: _____ Office #: _____

City, State, Zip: _____ Fax #: _____

Email Address: _____

Does the Applicant intend to utilize a Guarantor (Yes or No): _____

Guarantor Name: _____

Mailing Address: _____ Telephone: _____

City, State, Zip: _____

Federal Tax ID: _____ D&B Duns #: _____

Guarantor Web Address: _____

Duke Energy Ohio Gas SSO Supplier Credit Application

2. Bank References

- A. Bank Name: _____ Account Officer: _____
 Address: _____ Telephone: _____
 City, State, Zip: _____ Account Number: _____
- B. Bank Name: _____ Account Officer: _____
 Address: _____ Telephone: _____
 City, State, Zip: _____ Account Number: _____

3. Supplemental Data

Please provide the following information for the Applicant and Guarantor (if applicable):

- A. A description of the corporate structure.
- B. Two most recent years of complete audited financial statements, including footnotes and audit report. For public companies, the two of the most recent SEC Forms 10-K.
- C. The most recent unaudited quarterly financial statements or SEC Form 10-Q.
- D. If the information requested in part B or C is unavailable provide such comparable information as may be available with certification from an appropriate officer of the company (i.e. Chief Financial Officer or Chief Accounting Officer) that the information submitted is true, correct and a fair representation of the Applicant's financial condition.
- E. Long- Term Bond Rating (Senior unsecured rating unsupported by third party enhancements, or if not available then the issuer or corporate rating).
 - a. Moody's _____
 - b. S & P: _____
 - c. Fitch: _____
- F. Disclosure of any prior bankruptcy (in past five years): _____

4. Representations:

Is the applicant and/or their parent (Yes or No)	Applicant	Parent
A. Operating under federal bankruptcy laws?	_____	_____
B. Subject to pending litigation or regulatory proceedings in state of federal courts and/or agencies which could impact the Applicant's and/or Parent's financial condition?	_____	_____

Duke Energy Ohio Gas SSO Supplier Credit Application

- C. Subject to collection lawsuits or outstanding judgements
which could impact solvency? _____

5. Acknowledgement of Authorization of Transportation:

Applicant hereby acknowledges in order to be approved to participate in the SSO Gas Auction the Applicant must secure the prior authorization to transport gas from the gas pipeline providers with which Duke Energy Ohio, Inc currently owns transportation capacity: Tennessee Gas Pipeline Company, LLC, TC Energy's Columbia Gulf Transmission, Tallgrass Energy's Rockies Express Pipeline, KO Transmission Company, and Boardwalk Pipelines' Texas Gas Transmission, LLC.

6. Certification, Authorization, and Signature:

Duke Energy Ohio, Inc will treat all non-public financial information and statements provided by Applicant in a confidential manner.

Applicant will notify Duke Energy Ohio, Inc of any change to the information contained in the application or of any change in financial condition.

Applicant certifies that the information herein is complete and accurate to the best of Applicant's knowledge, information, and belief, and that the individual signing below is an authorized representative of the Applicant.

Applicant hereby authorizes Duke Energy Ohio, Inc to obtain any information that may be required relative to this Application from any source, including Applicant's financial and trade references. Applicant also hereby authorizes each source to provide such information.

Legal Name of Applicant: _____

Signature of Authorized Representative: _____

Name (print or type): _____

Title: _____

Sworn Before: _____

Date: _____

Duke Energy Ohio
SSO Gas Auction Registration Form

**For Participation in the Duke Energy Ohio Standard Service Offer Service Gas Auction to be held on
January 11th, 2022 for the SSO Period of November 1, 2022 through March 31, 2024**

**The Deadline for Submitting the Duke Energy Ohio Gas Auction Registration Form and Associated
Financial Security is 5:00 pm EPT Friday, December 17, 2021**

Complete Name of

Company: _____

Mailing

Address: _____

Name and Title of Primary

Contact: _____

Telephone Number for Primary

Contact: _____

E-Mail Address of Primary

Contact: _____

General Instructions: In order to participate in Duke Energy Ohio's ("DEO") Standard Service Offer ("SSO") Auction ("Auction"), a party must have completed an Auction Registration Form. The Auction Registration Form is required to make certifications regarding its participation in the Auction and must submit the initial financial security required for the number of tranches that it intends to bid upon during the Auction.

When completed, the Auction Registration Form should be sent to the attention of the Natural Gas Business Unit, Attn: Gas Supply, 4720 Piedmont Row Drive, Charlotte, NC 28210, or emailed to GasSupply@duke-energy.com. The deadline for submitting this Form is 5:00 pm EPT Friday, December 17, 2021. If security is required, it also must be delivered to Duke Credit Department by the same deadline as the Auction Registration Form.

Incomplete Auction Registration Forms, those forms submitted without the required financial security documentation will be rejected. DEO will treat all information provided in the Auction Registration Form as confidential. DEO may share the information on a confidential basis with the staff of the PUCO and the Office of the Ohio Consumers' Counsel if requested to do so by the PUCO.

Statements, Elections, and Certifications:

1. We have received and reviewed the information provided by DEO on its website or otherwise concerning the Auction rules, SSO supply requirement data, Auction processes and SSO Supplier requirements. We will abide by and be bound by the rules and other processes established for the Auction as reflected in the SSO Supplier Agreement, DEO's Tariff and PUCO Orders.

Duke Energy Ohio
SSO Gas Auction Registration Form

2. We understand that the information presented in the supplier education presentation, or in any other DEO communication regarding the Auction process is for the sole purpose of providing general information about the Auction process in order to help potential participants determine whether they will participate in the Auction. The information is subject to change, and it is not intended to be, and does not purport to constitute, a sufficient basis on which to determine whether to participate or how to structure potential bids. While DEO has used reasonable efforts to ensure the accuracy of the information presented, it does not warrant the accuracy of that information for use by any party in assessing potential participation or structuring potential bidding approaches or actual bids.
3. We have reviewed the Letter of Credit Form (attached below) and any proposed changes have been approved by DEO prior to providing the initial financial security.
4. We are aware that the initial financial security required for each tranche to be bid upon is \$150,000.00. We understand that such required security must be provided to DEO on the same day as this Auction Registration Form, such security being determined by multiplying the initial financial security required per tranche found above, by the number of tranches selected below.

Select the Maximum Number of Tranches on which you want the ability to Bid:

☐ 1 tranche

☐ 2 tranches

Amount and Description of Financial Security Provided (Letter of Credit/Cash):

5. We acknowledge receipt of a notice from DEO regarding the amount of unsecured credit extended to our company by DEO and the amount of additional financial security required as a result of DEO's credit analysis. We are also aware that, should we be awarded one or more tranches in the Auction, we may be obligated to provide additional financial information and security from time to time as part of DEO's ongoing credit review process. The initial financial security will be held by DEO until the SSO Supplier Agreement ("Agreement") has been fully executed and any additional collateral has been received by DEO.
6. If not successful in the SSO Auction, the bidder's initial financial security shall be returned within 5 business days following the PUCO's approval of the SSO Auction results.
7. We are aware that bidders awarded one or more tranches as a result of PUCO approval of the Auction results must execute an Agreement within 5 business days following completion of Auction, and that furthermore, winning bidders will operate under the fee structure and operational aspects of such Agreement and DEO's Tariff.

Duke Energy Ohio
SSO Gas Auction Registration Form

8. We understand and agree to provide to DEO a letter of credit in the form specified by DEO in the amount of thirty-five cents (\$0.35) per Dth multiplied by the initial estimated annual delivery requirements for the SSO Period of the tranches awarded to our company as a result of the Auction. Such SSO Default Fee Letter of Credit shall be held by DEO during the SSO Period. In the event of a default by our company that results in an allocation of our supply obligations to other parties as further described in DEO's tariff, DEO shall exercise the SSO Default Fee Letter of Credit and allocate the funds therefrom to the replacement suppliers on a proportionate basis. We further understand that this SSO Default Fee Letter of Credit is in addition to all financial security requirements described in paragraph 4 above. This SSO Default Fee Letter of Credit shall be provided to DEO no later than 30 days prior to the start of the applicable SSO period.
9. We certify that we will maintain the confidentiality of our bidding strategy and bids submitted during the Auction and will not retain any bidding advisors or consultants providing similar service to another party that submitted an Auction Registration Form. We do not have any knowledge or information related to the confidential bidding strategy of another party that submitted an Auction Registration Form. Furthermore, should we be awarded one or more tranches in the Auction, we agree not to divulge our winning status until such information has been made publicly known by the PUCO.
10. We certify that we will participate in the Auction process in the following manner (place a check in the appropriate box and describe as applicable):

☐ We will participate in the Auction on a stand-alone basis.

OR

☐ We will participate in the Auction as part of a bidding partnership, joint venture, or other arrangement related to the Auction, or we have a 10% or greater interest in another registered bidder or have a relationship that would provide financial or other incentives based on the outcome of the bidding efforts. The other parties involved in the arrangement(s) and the nature of the arrangement(s) are as follows:

11. We are not presently aware of any events or transactions that would alter the manner in which we will participate in the Auction process as set forth above. We will disclose any such events or transactions to DEO as soon as practical. DEO will treat such information as confidential. DEO may share the information on a confidential basis with the staff of the PUCO and the Office of the Ohio Consumers' Counsel if requested to do so by the PUCO.

Duke Energy Ohio
SSO Gas Auction Registration Form

12. We are aware that any bid that is submitted during the descending clock Auction process is a binding obligation to accept responsibility to supply the specified number of tranches at the offered price in the Auction round pursuant to the terms and conditions of the SSO Supplier Agreement.
13. Should we be awarded one or more tranches in the Auction process and have not previously been an SSO Supplier on DEO, we hereby agree to participate in any DEO sponsored training prior to the SSO Auction.
14. We are aware that sanctions may be imposed on a registered bidder for failing to abide by any of the preceding certifications. Such sanctions may include, but are not limited to, the loss of any rights awarded in the Auction, forfeiture of any monies owed to us by DEO, liability for attorneys' fees and court costs incurred in any litigation that arises from failure to abide by the certifications, and being subject to any other legal actions, including prosecution, as DEO in its sole discretion deems appropriate under the circumstances.
15. We have been authorized and approved by each pipeline company to accept and own transportation capacity on the current interstate and intrastate pipelines that DEO currently holds transportation capacity.

I hereby certify that I have read and that I understand the preceding statements, elections, and certifications and that _____ (Company name) will abide by each of them.

Signature: _____ Title: _____

Name (Printed or Typed): _____ Date: _____

Bank Wiring Information

Bank Name: _____ ABA Number: _____

Contact: _____ Account Number: _____

Address: _____ Telephone: _____

City, State, Zip Code: _____

Irrevocable Standby Letter of Credit No.: _____

Date: _____

Beneficiary:
Duke Energy Ohio, Inc.
c/o Duke Energy Corporation
Attention: Chief Risk Officer
400 S. Tryon Street
Charlotte, NC 28202

Ladies and Gentlemen:

By the order of:

Applicant: _____

We hereby issue in your favor our irrevocable letter of credit No.: _____ (“Letter of Credit”) for the account of _____ (the “Applicant”) for an amount or amounts not to exceed _____ US Dollars in the aggregate (US\$ _____) available by your drafts at sight drawn on [Issuing Bank] effective _____ and expiring at our office on _____ (the “Initial Expiration Date”). This Letter of Credit shall be automatically extended, without amendment, after the Initial Expiration Date for successive one (1) year periods unless we provide Beneficiary with not less than sixty (60) days’ prior written notice by overnight courier to the address set forth above that we elect not to extend this Letter of Credit. This Letter of Credit will not be extended beyond _____ (“Final Expiration Date”). Upon receipt by the Beneficiary of any such notice not to extend this Letter of Credit and notwithstanding anything in this Letter of Credit to the contrary, the Beneficiary may draw any or the entire amount available hereunder by presenting drawing documents in compliance with the terms and conditions of this Letter of Credit.

Funds under this Letter of Credit are available against your draft(s), in the form of attached Annex 1, mentioning our letter of credit number and presented at our office located at [Issuing Bank’s address must be in US] and accompanied by a certificate in the form of attached Annex 2 with appropriate blanks completed, purportedly signed by an authorized representative of the Beneficiary, on or before the Final Expiration Date in accordance with the terms and conditions of this Letter of Credit. Partial drawings under this Letter of Credit are permitted.

We hereby undertake to promptly honor your drawing(s) presented in compliance with the terms of this Letter of Credit, up to the amount then available herein, in no event will payment exceed the amount then available to be drawn under this Letter of Credit.

We engage with you that drafts drawn under and in conformity with the terms of this Letter of Credit will be duly honored on presentation if presented on or before the Final Expiration Date. Presentation at our office includes presentation in person, by certified, registered, or overnight mail.

Except as stated herein, this undertaking is not subject to any agreement, condition or qualification. The obligation of [Issuing Bank] under this Letter of Credit is the individual obligation of [Issuing Bank] and is in no way contingent upon reimbursement with respect hereto.

This Letter of Credit is subject to the International Standby Practices 1998, International Chamber Of Commerce Publication No. 590 (“ISP98”). Matters not addressed by ISP98 shall be governed by the laws of the state of New York.

We shall have a reasonable amount of time, not to exceed two (2) business days following the date of our receipt of drawing documents, to examine the documents and determine whether to take up or refuse the documents and to inform you accordingly.

Kindly address all communications with respect to this Letter of Credit to [Issuing Bank’s contact information], specifically referring to the number of this Letter of Credit.

All banking charges are for the account of the Applicant.

This Letter of Credit may not be amended, changed or modified without our express written consent and the consent of the Applicant and the Beneficiary.

Very truly yours

[Issuing Bank]

Authorized Signer

Authorized Signer

This is an integral part of letter of credit number: _____
[irrevocable standby letter of credit number]

ANNEX 1

FORM OF SIGHT DRAFT

[date of sight draft]

To: _____

[Issuing Bank's name and address]

For the value received, pay to the order of _____ by wire transfer of immediately available funds to the following account:

[name of account]

[account number]

[name and address of bank at which account is maintained]

[aba number]

[reference]

The following amount: _____ United States Dollars
[insert number of dollars in writing]

US\$
[insert number of dollars in figures]

[insert number of dollars in writing]

US\$

[insert number of dollars in figures]

Drawn upon your irrevocable letter of credit No. _____
dated _____

dated _____

[irrevocable standby letter of credit number] [effective date]

[Beneficiary]

By: _____

Title: _____

This is an integral part of letter of credit number: _____
[irrevocable standby letter of credit number]

[irrevocable standby letter of credit number]

ANNEX 2

FORM OF CERTIFICATE

[Insert date of certificate]

To: _____

[issuing bank's name and address]

Duke Energy Ohio, Inc. (the "Beneficiary") is drawing the funds requested under this draft based on the below specified draw condition:

[check appropriate draw condition]

☐ The Applicant has made a material omission or misrepresentation in the Notice of Intent and Application or submitted by the Bidder to participate in Duke Energy Ohio's SSO Gas Auction for purposes of becoming an SSO Supplier under the Standard Service Offer Services Rates SSOS Sheet 43.

Or

☐ The Applicant has violated the rules for Duke Energy Ohio's SSO Gas Auction for purposes of becoming an SSO Supplier as defined in the SSO Gas Auction Registration form.

Or

☐ The Applicant, after successfully being awarded one or more tranches in Duke Energy Ohio's SSO Gas Auction for purposes of SSO Supplier under the under the Standard Service Offer Services Rates SSOS Sheet 43, has failed to execute the SSO Supplier Agreement within five (5) business days of the PUCO approving the DEO SSO Gas Auction results as defined in the SSO Gas Auction Registration form.

Or

☐ The Applicant, after successfully being awarded one or more tranches in Duke Energy Ohio's SSO Gas Auction for purposes of SSO Supplier under the under the Standard Service Offer Services Rates SSOS Sheet 43, has failed to meet the creditworthiness requirements of the SSO Supplier Agreement within eight (8) business days following the PUCO approving the DEO SSO Gas Auction results as defined in the SSO Gas Auction Registration form.

Duke Energy Ohio, inc.

By: _____

Title: _____

Base Contract for Sale and Purchase of Natural Gas

This Base Contract is entered into as of the following date: _____

The parties to this Base Contract are the following:

PARTY A Duke Energy Ohio, Inc.	PARTY NAME	PARTY B [CP Legal Name]
	ADDRESS	
	BUSINESS WEBSITE	
	CONTRACT NUMBER	
[DE DUNS]	D-U-N-S® NUMBER	
<input checked="" type="checkbox"/> US FEDERAL: [DE FIN] <input type="checkbox"/> OTHER:	TAX ID NUMBERS	<input type="checkbox"/> US FEDERAL: <input type="checkbox"/> OTHER:
[DE Jurisdiction]	JURISDICTION OF ORGANIZATION	
<input type="checkbox"/> Corporation <input type="checkbox"/> LLC <input type="checkbox"/> Limited Partnership <input type="checkbox"/> Partnership <input type="checkbox"/> LLP <input type="checkbox"/> Other: _____	COMPANY TYPE	<input type="checkbox"/> Corporation <input type="checkbox"/> LLC <input type="checkbox"/> Limited Partnership <input type="checkbox"/> Partnership <input type="checkbox"/> LLP <input type="checkbox"/> Other: _____
	GUARANTOR (IF APPLICABLE)	[CP Guarantor]
CONTACT INFORMATION		
ATTN: [DE Commercial Name] TEL#: [DE Commercial Phone] FAX#: [DE Commercial Fax] EMAIL: [DE Commercial Email]	▪ COMMERCIAL	ATTN: _____ TEL#: _____ FAX#: _____ EMAIL: _____
ATTN: [DE Scheduling Name] TEL#: [DE Scheduling Phone] FAX#: [DE Scheduling Fax] EMAIL: [DE Scheduling Email]	▪ SCHEDULING	ATTN: _____ TEL#: _____ FAX#: _____ EMAIL: _____
[DE Contracts Address], [DE Contracts City St] [DE Contracts Zip] ATTN: [DE Contracts Name] TEL#: [DE Contracts Phone] FAX#: [DE Contracts Fax] EMAIL: [DE Contracts Email]	▪ CONTRACT AND LEGAL NOTICES	ATTN: _____ TEL#: _____ FAX#: _____ EMAIL: _____
550 South Tryon Street, DEC41Q, Charlotte, NC 28202 ATTN: Credit Risk Management TEL#: 704-382-5903 FAX#: 980-373-8640 EMAIL: req.credit@duke-energy.com	▪ CREDIT	ATTN: _____ TEL#: _____ FAX#: _____ EMAIL: _____
[DE Confirms Address], [DE Confirms City St] [DE Confirms Zip] ATTN: [DE Confirms Name] TEL#: [DE Confirms Phone] FAX#: [DE Confirms Fax] EMAIL: [DE Confirms Email]	▪ TRANSACTION CONFIRMATIONS	ATTN: _____ TEL#: _____ FAX#: _____ EMAIL: _____
ACCOUNTING INFORMATION		
[DE Invoices Address], [DE Invoices City St] [DE Invoices Zip] ATTN: [DE Invoices Name] TEL#: [DE Invoices Phone] FAX#: [DE Invoices Fax] EMAIL: [DE Invoices Email]	▪ INVOICES ▪ PAYMENTS ▪ SETTLEMENTS	ATTN: _____ TEL#: _____ FAX#: _____ EMAIL: _____
BANK: [DE Bank-Wire] ABA: [DE ABA-Wire] ACCT: [DE Account-Wire] OTHER DETAILS: _____	WIRE TRANSFER NUMBERS (IF APPLICABLE)	BANK: _____ ABA: _____ ACCT: _____ OTHER DETAILS: _____
BANK: [DE Bank-ACH] ABA: [DE ABA-ACH] ACCT: [DE Account-ACH] OTHER DETAILS: _____	ACH NUMBERS (IF APPLICABLE)	BANK: _____ ABA: _____ ACCT: _____ OTHER DETAILS: _____

Base Contract for Sale and Purchase of Natural Gas

(Continued)

This Base Contract incorporates by reference for all purposes the General Terms and Conditions for Sale and Purchase of Natural Gas published by the North American Energy Standards Board. The parties hereby agree to the following provisions offered in said General Terms and Conditions. In the event the parties fail to check a box, the specified default provision shall apply. Select the appropriate box(es) from each section:

Section 1.2 Transaction Procedure <input checked="" type="checkbox"/> Oral (default) OR <input type="checkbox"/> Written	Section 10.2 Additional Events of Default <input type="checkbox"/> No Additional Events of Default (default) <input checked="" type="checkbox"/> Indebtedness Cross Default <input checked="" type="checkbox"/> Party A: 3% of Shareholders Equity <input checked="" type="checkbox"/> Party B: 3% of Shareholders Equity <input checked="" type="checkbox"/> Transactional Cross Default <u>Specified Transactions:</u> 'Specified Transaction(s)' shall mean any obligation of a party to this Contract incurred under any other agreement(s) between the parties to this Contract in relation to the purchase or sale of power, natural gas, or other commodity or any financial transaction related to such commodity.
Section 2.7 Confirm Deadline <input checked="" type="checkbox"/> 2 Business Days after receipt (default) OR <input type="checkbox"/> 5 Business Days after receipt	
Section 2.8 Confirming Party <input type="checkbox"/> Seller (default) OR <input type="checkbox"/> Buyer <input checked="" type="checkbox"/> Party B	
Section 3.2 Performance Obligation <input checked="" type="checkbox"/> Cover Standard (default) OR <input type="checkbox"/> Spot Price Standard	Section 10.3.1 Early Termination Damages <input checked="" type="checkbox"/> Early Termination Damages Apply (default) OR <input type="checkbox"/> Early Termination Damages Do Not Apply
Note: The following Spot Price Publication applies to both of the immediately preceding.	
Section 2.31 Spot Price Publication <input checked="" type="checkbox"/> Gas Daily Midpoint (default) OR <input type="checkbox"/> _____	Section 10.3.2 Other Agreement Setoffs <input checked="" type="checkbox"/> Other Agreement Setoffs Apply (default) <input type="checkbox"/> Bilateral (default) <input checked="" type="checkbox"/> Triangular OR <input type="checkbox"/> Other Agreement Setoffs Do Not Apply
Section 6 Taxes <input checked="" type="checkbox"/> Buyer Pays At and After Delivery Point (default) OR <input type="checkbox"/> Seller Pays Before and At Delivery Point	
Section 7.2 Payment Date <input checked="" type="checkbox"/> 25 th Day of Month following Month of delivery (default) OR <input type="checkbox"/> Day of Month following Month of delivery	Section 15.5 Choice Of Law _____ North Carolina
Section 7.2 Method of Payment <input checked="" type="checkbox"/> Wire transfer (default) <input checked="" type="checkbox"/> Automated Clearinghouse Credit (ACH) <input type="checkbox"/> Check	Section 15.10 Confidentiality <input checked="" type="checkbox"/> Confidentiality applies (default) OR <input type="checkbox"/> Confidentiality does not apply
Section 7.7 Netting <input type="checkbox"/> Netting applies (default) OR <input checked="" type="checkbox"/> Netting does not apply	
<input checked="" type="checkbox"/> Special Provisions Number of sheets attached: <u>2</u> <input type="checkbox"/> Addendum(s): _____	

IN WITNESS WHEREOF, the parties hereto have executed this Base Contract in duplicate.

Duke Energy Ohio, Inc.	PARTY NAME	[CP Legal Name]
By: _____	SIGNATURE	By: _____
	PRINTED NAME	
	TITLE	

General Terms and Conditions

Base Contract for Sale and Purchase of Natural Gas

SECTION 1. PURPOSE AND PROCEDURES

1.1. These General Terms and Conditions are intended to facilitate purchase and sale transactions of Gas on a Firm or Interruptible basis. "Buyer" refers to the party receiving Gas and "Seller" refers to the party delivering Gas. The entire agreement between the parties shall be the Contract as defined in Section 2.9.

The parties have selected either the "Oral Transaction Procedure" or the "Written Transaction Procedure" as indicated on the Base Contract.

Oral Transaction Procedure:

1.2. The parties will use the following Transaction Confirmation procedure. Any Gas purchase and sale transaction may be effectuated in an EDI transmission or telephone conversation with the offer and acceptance constituting the agreement of the parties. The parties shall be legally bound from the time they so agree to transaction terms and may each rely thereon. Any such transaction shall be considered a "writing" and to have been "signed". Notwithstanding the foregoing sentence, the parties agree that Confirming Party shall, and the other party may, confirm a telephonic transaction by sending the other party a Transaction Confirmation by facsimile, EDI or mutually agreeable electronic means within three Business Days of a transaction covered by this Section 1.2 (Oral Transaction Procedure) provided that the failure to send a Transaction Confirmation shall not invalidate the oral agreement of the parties. Confirming Party adopts its confirming letterhead, or the like, as its signature on any Transaction Confirmation as the identification and authentication of Confirming Party. If the Transaction Confirmation contains any provisions other than those relating to the commercial terms of the transaction (i.e., price, quantity, performance obligation, delivery point, period of delivery and/or transportation conditions), which modify or supplement the Base Contract or General Terms and Conditions of this Contract (e.g., arbitration or additional representations and warranties), such provisions shall not be deemed to be accepted pursuant to Section 1.3 but must be expressly agreed to by both parties; provided that the foregoing shall not invalidate any transaction agreed to by the parties.

Written Transaction Procedure:

1.2. The parties will use the following Transaction Confirmation procedure. Should the parties come to an agreement regarding a Gas purchase and sale transaction for a particular Delivery Period, the Confirming Party shall, and the other party may, record that agreement on a Transaction Confirmation and communicate such Transaction Confirmation by facsimile, EDI or mutually agreeable electronic means, to the other party by the close of the Business Day following the date of agreement. The parties acknowledge that their agreement will not be binding until the exchange of nonconflicting Transaction Confirmations or the passage of the Confirm Deadline without objection from the receiving party, as provided in Section 1.3.

1.3. If a sending party's Transaction Confirmation is materially different from the receiving party's understanding of the agreement referred to in Section 1.2, such receiving party shall notify the sending party via facsimile, EDI or mutually agreeable electronic means by the Confirm Deadline, unless such receiving party has previously sent a Transaction Confirmation to the sending party. The failure of the receiving party to so notify the sending party in writing by the Confirm Deadline constitutes the receiving party's agreement to the terms of the transaction described in the sending party's Transaction Confirmation. If there are any material differences between timely sent Transaction Confirmations governing the same transaction, then neither Transaction Confirmation shall be binding until or unless such differences are resolved including the use of any evidence that clearly resolves the differences in the Transaction Confirmations. In the event of a conflict among the terms of (i) a binding Transaction Confirmation pursuant to Section 1.2, (ii) the oral agreement of the parties which may be evidenced by a recorded conversation, where the parties have selected the Oral Transaction Procedure of the Base Contract, (iii) the Base Contract, and (iv) these General Terms and Conditions, the terms of the documents shall govern in the priority listed in this sentence.

1.4. The parties agree that each party may electronically record all telephone conversations with respect to this Contract between their respective employees, without any special or further notice to the other party. Each party shall obtain any necessary consent of its agents and employees to such recording. Where the parties have selected the Oral Transaction Procedure in Section 1.2 of the Base Contract, the parties agree not to contest the validity or enforceability of telephonic recordings entered into in accordance with the requirements of this Base Contract.

SECTION 2. DEFINITIONS

The terms set forth below shall have the meaning ascribed to them below. Other terms are also defined elsewhere in the Contract and shall have the meanings ascribed to them herein.

2.1. "Additional Event of Default" shall mean Transactional Cross Default or Indebtedness Cross Default, each as and if selected by the parties pursuant to the Base Contract.

2.2. "Affiliate" shall mean, in relation to any person, any entity controlled, directly or indirectly, by the person, any entity that controls, directly or indirectly, the person or any entity directly or indirectly under common control with the person. For this purpose, "control" of any entity or person means ownership of at least 50 percent of the voting power of the entity or person.

- 2.3. "Alternative Damages" shall mean such damages, expressed in dollars or dollars per MMBtu, as the parties shall agree upon in the Transaction Confirmation, in the event either Seller or Buyer fails to perform a Firm obligation to deliver Gas in the case of Seller or to receive Gas in the case of Buyer.
- 2.4. "Base Contract" shall mean a contract executed by the parties that incorporates these General Terms and Conditions by reference; that specifies the agreed selections of provisions contained herein; and that sets forth other information required herein and any Special Provisions and addendum(s) as identified on page one.
- 2.5. "British thermal unit" or "Btu" shall mean the International BTU, which is also called the Btu (IT).
- 2.6. "Business Day(s)" shall mean Monday through Friday, excluding Federal Banking Holidays for transactions in the U.S.
- 2.7. "Confirm Deadline" shall mean 5:00 p.m. in the receiving party's time zone on the second Business Day following the Day a Transaction Confirmation is received or, if applicable, on the Business Day agreed to by the parties in the Base Contract; provided, if the Transaction Confirmation is time stamped after 5:00 p.m. in the receiving party's time zone, it shall be deemed received at the opening of the next Business Day.
- 2.8. "Confirming Party" shall mean the party designated in the Base Contract to prepare and forward Transaction Confirmations to the other party.
- 2.9. "Contract" shall mean the legally-binding relationship established by (i) the Base Contract, (ii) any and all binding Transaction Confirmations and (iii) where the parties have selected the Oral Transaction Procedure in Section 1.2 of the Base Contract, any and all transactions that the parties have entered into through an EDI transmission or by telephone, but that have not been confirmed in a binding Transaction Confirmation, all of which shall form a single integrated agreement between the parties.
- 2.10. "Contract Price" shall mean the amount expressed in U.S. Dollars per MMBtu to be paid by Buyer to Seller for the purchase of Gas as agreed to by the parties in a transaction.
- 2.11. "Contract Quantity" shall mean the quantity of Gas to be delivered and taken as agreed to by the parties in a transaction.
- 2.12. "Cover Standard", as referred to in Section 3.2, shall mean that if there is an unexcused failure to take or deliver any quantity of Gas pursuant to this Contract, then the performing party shall use commercially reasonable efforts to (i) if Buyer is the performing party, obtain Gas, (or an alternate fuel if elected by Buyer and replacement Gas is not available), or (ii) if Seller is the performing party, sell Gas, in either case, at a price reasonable for the delivery or production area, as applicable, consistent with: the amount of notice provided by the nonperforming party; the immediacy of the Buyer's Gas consumption needs or Seller's Gas sales requirements, as applicable; the quantities involved; and the anticipated length of failure by the nonperforming party.
- 2.13. "Credit Support Obligation(s)" shall mean any obligation(s) to provide or establish credit support for, or on behalf of, a party to this Contract such as cash, an irrevocable standby letter of credit, a margin agreement, a prepayment, a security interest in an asset, guaranty, or other good and sufficient security of a continuing nature.
- 2.14. "Day" shall mean a period of 24 consecutive hours, coextensive with a "day" as defined by the Receiving Transporter in a particular transaction.
- 2.15. "Delivery Period" shall be the period during which deliveries are to be made as agreed to by the parties in a transaction.
- 2.16. "Delivery Point(s)" shall mean such point(s) as are agreed to by the parties in a transaction.
- 2.17. "EDI" shall mean an electronic data interchange pursuant to an agreement entered into by the parties, specifically relating to the communication of Transaction Confirmations under this Contract.
- 2.18. "EFP" shall mean the purchase, sale or exchange of natural Gas as the "physical" side of an exchange for physical transaction involving gas futures contracts. EFP shall incorporate the meaning and remedies of "Firm", provided that a party's excuse for nonperformance of its obligations to deliver or receive Gas will be governed by the rules of the relevant futures exchange regulated under the Commodity Exchange Act.
- 2.19. "Firm" shall mean that either party may interrupt its performance without liability only to the extent that such performance is prevented for reasons of Force Majeure; provided, however, that during Force Majeure interruptions, the party invoking Force Majeure may be responsible for any Imbalance Charges as set forth in Section 4.3 related to its interruption after the nomination is made to the Transporter and until the change in deliveries and/or receipts is confirmed by the Transporter.
- 2.20. "Gas" shall mean any mixture of hydrocarbons and noncombustible gases in a gaseous state consisting primarily of methane.
- 2.21. "Guarantor" shall mean any entity that has provided a guaranty of the obligations of a party hereunder.
- 2.22. "Imbalance Charges" shall mean any fees, penalties, costs or charges (in cash or in kind) assessed by a Transporter for failure to satisfy the Transporter's balance and/or nomination requirements.
- 2.23. "Indebtedness Cross Default" shall mean if selected on the Base Contract by the parties with respect to a party, that it or its Guarantor, if any, experiences a default, or similar condition or event however therein defined, under one or more agreements or instruments, individually or collectively, relating to indebtedness (such indebtedness to include any obligation whether present or future, contingent or otherwise, as principal or surety or otherwise) for the payment or repayment of borrowed money in an aggregate amount greater than the threshold specified in the Base Contract with respect to such party or its Guarantor, if any, which results in such indebtedness becoming immediately due and payable.

- 2.24. "Interruptible" shall mean that either party may interrupt its performance at any time for any reason, whether or not caused by an event of Force Majeure, with no liability, except such interrupting party may be responsible for any Imbalance Charges as set forth in Section 4.3 related to its interruption after the nomination is made to the Transporter and until the change in deliveries and/or receipts is confirmed by Transporter.
- 2.25. "MMBtu" shall mean one million British thermal units, which is equivalent to one dekatherm.
- 2.26. "Month" shall mean the period beginning on the first Day of the calendar month and ending immediately prior to the commencement of the first Day of the next calendar month.
- 2.27. "Payment Date" shall mean a date, as indicated on the Base Contract, on or before which payment is due Seller for Gas received by Buyer in the previous Month.
- 2.28. "Receiving Transporter" shall mean the Transporter receiving Gas at a Delivery Point, or absent such receiving Transporter, the Transporter delivering Gas at a Delivery Point.
- 2.29. "Scheduled Gas" shall mean the quantity of Gas confirmed by Transporter(s) for movement, transportation or management.
- 2.30. "Specified Transaction(s)" shall mean any other transaction or agreement between the parties for the purchase, sale or exchange of physical Gas, and any other transaction or agreement identified as a Specified Transaction under the Base Contract.
- 2.31. "Spot Price " as referred to in Section 3.2 shall mean the price listed in the publication indicated on the Base Contract, under the listing applicable to the geographic location closest in proximity to the Delivery Point(s) for the relevant Day; provided, if there is no single price published for such location for such Day, but there is published a range of prices, then the Spot Price shall be the average of such high and low prices. If no price or range of prices is published for such Day, then the Spot Price shall be the average of the following: (i) the price (determined as stated above) for the first Day for which a price or range of prices is published that next precedes the relevant Day; and (ii) the price (determined as stated above) for the first Day for which a price or range of prices is published that next follows the relevant Day.
- 2.32. "Transaction Confirmation" shall mean a document, similar to the form of Exhibit A, setting forth the terms of a transaction formed pursuant to Section 1 for a particular Delivery Period.
- 2.33. "Transactional Cross Default" shall mean if selected on the Base Contract by the parties with respect to a party, that it shall be in default, however therein defined, under any Specified Transaction.
- 2.34. "Termination Option" shall mean the option of either party to terminate a transaction in the event that the other party fails to perform a Firm obligation to deliver Gas in the case of Seller or to receive Gas in the case of Buyer for a designated number of days during a period as specified on the applicable Transaction Confirmation.
- 2.35. "Transporter(s)" shall mean all Gas gathering or pipeline companies, or local distribution companies, acting in the capacity of a transporter, transporting Gas for Seller or Buyer upstream or downstream, respectively, of the Delivery Point pursuant to a particular transaction.

SECTION 3. PERFORMANCE OBLIGATION

- 3.1. Seller agrees to sell and deliver, and Buyer agrees to receive and purchase, the Contract Quantity for a particular transaction in accordance with the terms of the Contract. Sales and purchases will be on a Firm or Interruptible basis, as agreed to by the parties in a transaction.

The parties have selected either the "Cover Standard" or the "Spot Price Standard" as indicated on the Base Contract.

Cover Standard:

3.2. The sole and exclusive remedy of the parties in the event of a breach of a Firm obligation to deliver or receive Gas shall be recovery of the following: (i) in the event of a breach by Seller on any Day(s), payment by Seller to Buyer in an amount equal to the positive difference, if any, between the purchase price paid by Buyer utilizing the Cover Standard and the Contract Price, adjusted for commercially reasonable differences in transportation costs to or from the Delivery Point(s), multiplied by the difference between the Contract Quantity and the quantity actually delivered by Seller for such Day(s) excluding any quantity for which no replacement is available; or (ii) in the event of a breach by Buyer on any Day(s), payment by Buyer to Seller in the amount equal to the positive difference, if any, between the Contract Price and the price received by Seller utilizing the Cover Standard for the resale of such Gas, adjusted for commercially reasonable differences in transportation costs to or from the Delivery Point(s), multiplied by the difference between the Contract Quantity and the quantity actually taken by Buyer for such Day(s) excluding any quantity for which no sale is available; and (iii) in the event that Buyer has used commercially reasonable efforts to replace the Gas or Seller has used commercially reasonable efforts to sell the Gas to a third party, and no such replacement or sale is available for all or any portion of the Contract Quantity of Gas, then in addition to (i) or (ii) above, as applicable, the sole and exclusive remedy of the performing party with respect to the Gas not replaced or sold shall be an amount equal to any unfavorable difference between the Contract Price and the Spot Price, adjusted for such transportation to the applicable Delivery Point, multiplied by the quantity of such Gas not replaced or sold. Imbalance Charges shall not be recovered under this Section 3.2, but Seller and/or Buyer shall be responsible for Imbalance Charges, if any, as provided in Section 4.3. The amount of such unfavorable difference shall be payable five Business Days after presentation of the performing party's invoice, which shall set forth the basis upon which such amount was calculated.

Spot Price Standard:

3.2. The sole and exclusive remedy of the parties in the event of a breach of a Firm obligation to deliver or receive Gas shall be recovery of the following: (i) in the event of a breach by Seller on any Day(s), payment by Seller to Buyer in an amount equal to the difference between the Contract Quantity and the actual quantity delivered by Seller and received by Buyer for such Day(s), multiplied by the positive difference, if any, obtained by subtracting the Contract Price from the Spot Price; or (ii) in the event of a breach by Buyer on any Day(s), payment by Buyer to Seller in an amount equal to the difference between the Contract Quantity and the actual quantity delivered by Seller and received by Buyer for such Day(s), multiplied by the positive difference, if any, obtained by subtracting the applicable Spot Price from the Contract Price. Imbalance Charges shall not be recovered under this Section 3.2, but Seller and/or Buyer shall be responsible for Imbalance Charges, if any, as provided in Section 4.3. The amount of such unfavorable difference shall be payable five Business Days after presentation of the performing party's invoice, which shall set forth the basis upon which such amount was calculated.

3.3. Notwithstanding Section 3.2, the parties may agree to Alternative Damages in a Transaction Confirmation executed in writing by both parties.

3.4. In addition to Sections 3.2 and 3.3, the parties may provide for a Termination Option in a Transaction Confirmation executed in writing by both parties. The Transaction Confirmation containing the Termination Option will designate the length of nonperformance triggering the Termination Option and the procedures for exercise thereof, how damages for nonperformance will be compensated, and how liquidation costs will be calculated.

SECTION 4. TRANSPORTATION, NOMINATIONS, AND IMBALANCES

4.1. Seller shall have the sole responsibility for transporting the Gas to the Delivery Point(s). Buyer shall have the sole responsibility for transporting the Gas from the Delivery Point(s).

4.2. The parties shall coordinate their nomination activities, giving sufficient time to meet the deadlines of the affected Transporter(s). Each party shall give the other party timely prior Notice, sufficient to meet the requirements of all Transporter(s) involved in the transaction, of the quantities of Gas to be delivered and purchased each Day. Should either party become aware that actual deliveries at the Delivery Point(s) are greater or lesser than the Scheduled Gas, such party shall promptly notify the other party.

4.3. The parties shall use commercially reasonable efforts to avoid imposition of any Imbalance Charges. If Buyer or Seller receives an invoice from a Transporter that includes Imbalance Charges, the parties shall determine the validity as well as the cause of such Imbalance Charges. If the Imbalance Charges were incurred as a result of Buyer's receipt of quantities of Gas greater than or less than the Scheduled Gas, then Buyer shall pay for such Imbalance Charges or reimburse Seller for such Imbalance Charges paid by Seller. If the Imbalance Charges were incurred as a result of Seller's delivery of quantities of Gas greater than or less than the Scheduled Gas, then Seller shall pay for such Imbalance Charges or reimburse Buyer for such Imbalance Charges paid by Buyer.

SECTION 5. QUALITY AND MEASUREMENT

All Gas delivered by Seller shall meet the pressure, quality and heat content requirements of the Receiving Transporter. The unit of quantity measurement for purposes of this Contract shall be one MMBtu dry. Measurement of Gas quantities hereunder shall be in accordance with the established procedures of the Receiving Transporter.

SECTION 6. TAXES

The parties have selected either "Buyer Pays At and After Delivery Point" or "Seller Pays Before and At Delivery Point" as indicated on the Base Contract.

Buyer Pays At and After Delivery Point:

Seller shall pay or cause to be paid all taxes, fees, levies, penalties, licenses or charges imposed by any government authority ("Taxes") on or with respect to the Gas prior to the Delivery Point(s). Buyer shall pay or cause to be paid all Taxes on or with respect to the Gas at the Delivery Point(s) and all Taxes after the Delivery Point(s). If a party is required to remit or pay Taxes that are the other party's responsibility hereunder, the party responsible for such Taxes shall promptly reimburse the other party for such Taxes. Any party entitled to an exemption from any such Taxes or charges shall furnish the other party any necessary documentation thereof.

Seller Pays Before and At Delivery Point:

Seller shall pay or cause to be paid all taxes, fees, levies, penalties, licenses or charges imposed by any government authority ("Taxes") on or with respect to the Gas prior to the Delivery Point(s) and all Taxes at the Delivery Point(s). Buyer shall pay or cause to be paid all Taxes on or with respect to the Gas after the Delivery Point(s). If a party is required to remit or pay Taxes that are the other party's responsibility hereunder, the party responsible for such Taxes shall promptly reimburse the other party for such Taxes. Any party entitled to an exemption from any such Taxes or charges shall furnish the other party any necessary documentation thereof.

SECTION 7. BILLING, PAYMENT, AND AUDIT

7.1. Seller shall invoice Buyer for Gas delivered and received in the preceding Month and for any other applicable charges, providing supporting documentation acceptable in industry practice to support the amount charged. If the actual quantity delivered is not known by the billing date, billing will be prepared based on the quantity of Scheduled Gas. The invoiced quantity will then be adjusted to the actual quantity on the following Month's billing or as soon thereafter as actual delivery information is available.

7.2. Buyer shall remit the amount due under Section 7.1 in the manner specified in the Base Contract, in immediately available funds, on or before the later of the Payment Date or 10 Days after receipt of the invoice by Buyer; provided that if the Payment Date is not a Business Day, payment is due on the next Business Day following that date. In the event any payments are due Buyer hereunder, payment to Buyer shall be made in accordance with this Section 7.2.

7.3. In the event payments become due pursuant to Sections 3.2 or 3.3, the performing party may submit an invoice to the nonperforming party for an accelerated payment setting forth the basis upon which the invoiced amount was calculated. Payment from the nonperforming party will be due five Business Days after receipt of invoice.

7.4. If the invoiced party, in good faith, disputes the amount of any such invoice or any part thereof, such invoiced party will pay such amount as it concedes to be correct; provided, however, if the invoiced party disputes the amount due, it must provide supporting documentation acceptable in industry practice to support the amount paid or disputed without undue delay. In the event the parties are unable to resolve such dispute, either party may pursue any remedy available at law or in equity to enforce its rights pursuant to this Section.

7.5. If the invoiced party fails to remit the full amount payable when due, interest on the unpaid portion shall accrue from the date due until the date of payment at a rate equal to the lower of (i) the then-effective prime rate of interest published under "Money Rates" by The Wall Street Journal, plus two percent per annum; or (ii) the maximum applicable lawful interest rate.

7.6. A party shall have the right, at its own expense, upon reasonable Notice and at reasonable times, to examine and audit and to obtain copies of the relevant portion of the books, records, and telephone recordings of the other party only to the extent reasonably necessary to verify the accuracy of any statement, charge, payment, or computation made under the Contract. This right to examine, audit, and to obtain copies shall not be available with respect to proprietary information not directly relevant to transactions under this Contract. All invoices and billings shall be conclusively presumed final and accurate and all associated claims for under- or overpayments shall be deemed waived unless such invoices or billings are objected to in writing, with adequate explanation and/or documentation, within two years after the Month of Gas delivery. All retroactive adjustments under Section 7 shall be paid in full by the party owing payment within 30 Days of Notice and substantiation of such inaccuracy.

7.7. Unless the parties have elected on the Base Contract not to make this Section 7.7 applicable to this Contract, the parties shall net all undisputed amounts due and owing, and/or past due, arising under the Contract such that the party owing the greater amount shall make a single payment of the net amount to the other party in accordance with Section 7; provided that no payment required to be made pursuant to the terms of any Credit Support Obligation or pursuant to Section 7.3 shall be subject to netting under this Section. If the parties have executed a separate netting agreement, the terms and conditions therein shall prevail to the extent inconsistent herewith.

SECTION 8. TITLE, WARRANTY, AND INDEMNITY

8.1. Unless otherwise specifically agreed, title to the Gas shall pass from Seller to Buyer at the Delivery Point(s). Seller shall have responsibility for and assume any liability with respect to the Gas prior to its delivery to Buyer at the specified Delivery Point(s). Buyer shall have responsibility for and assume any liability with respect to said Gas after its delivery to Buyer at the Delivery Point(s).

8.2. Seller warrants that it will have the right to convey and will transfer good and merchantable title to all Gas sold hereunder and delivered by it to Buyer, free and clear of all liens, encumbrances, and claims. EXCEPT AS PROVIDED IN THIS SECTION 8.2 AND IN SECTION 15.8, ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR ANY PARTICULAR PURPOSE, ARE DISCLAIMED.

8.3. Seller agrees to indemnify Buyer and save it harmless from all losses, liabilities or claims including reasonable attorneys' fees and costs of court ("Claims"), from any and all persons, arising from or out of claims of title, personal injury (including death) or property damage from said Gas or other charges thereon which attach before title passes to Buyer. Buyer agrees to indemnify Seller and save it harmless from all Claims, from any and all persons, arising from or out of claims regarding payment, personal injury (including death) or property damage from said Gas or other charges thereon which attach after title passes to Buyer.

8.4. The parties agree that the delivery of and the transfer of title to all Gas under this Contract shall take place within the Customs Territory of the United States (as defined in general note 2 of the Harmonized Tariff Schedule of the United States 19 U.S.C. §1202, General Notes, page 3); provided, however, that in the event Seller took title to the Gas outside the Customs Territory of the United States, Seller represents and warrants that it is the importer of record for all Gas entered and delivered into the United States, and shall be responsible for entry and entry summary filings as well as the payment of duties, taxes and fees, if any, and all applicable record keeping requirements.

8.5. Notwithstanding the other provisions of this Section 8, as between Seller and Buyer, Seller will be liable for all Claims to the extent that such arise from the failure of Gas delivered by Seller to meet the quality requirements of Section 5.

SECTION 9. NOTICES

9.1. All Transaction Confirmations, invoices, payment instructions, and other communications made pursuant to the Base Contract ("Notices") shall be made to the addresses specified in writing by the respective parties from time to time.

9.2. All Notices required hereunder shall be in writing and may be sent by facsimile or mutually acceptable electronic means, a nationally recognized overnight courier service, first class mail or hand delivered.

9.3. Notice shall be given when received on a Business Day by the addressee. In the absence of proof of the actual receipt date, the following presumptions will apply. Notices sent by facsimile shall be deemed to have been received upon the sending party's receipt of its facsimile machine's confirmation of successful transmission. If the day on which such facsimile is received is

not a Business Day or is after five p.m. on a Business Day, then such facsimile shall be deemed to have been received on the next following Business Day. Notice by overnight mail or courier shall be deemed to have been received on the next Business Day after it was sent or such earlier time as is confirmed by the receiving party. Notice via first class mail shall be considered delivered five Business Days after mailing.

9.4. The party receiving a commercially acceptable Notice of change in payment instructions or other payment information shall not be obligated to implement such change until ten Business Days after receipt of such Notice.

SECTION 10. FINANCIAL RESPONSIBILITY

10.1. If either party ("X") has reasonable grounds for insecurity regarding the performance of any obligation under this Contract (whether or not then due) by the other party ("Y") (including, without limitation, the occurrence of a material change in the creditworthiness of Y or its Guarantor, if applicable), X may demand Adequate Assurance of Performance. "Adequate Assurance of Performance" shall mean sufficient security in the form, amount, for a term, and from an issuer, all as reasonably acceptable to X, including, but not limited to cash, a standby irrevocable letter of credit, a prepayment, a security interest in an asset or guaranty. Y hereby grants to X a continuing first priority security interest in, lien on, and right of setoff against all Adequate Assurance of Performance in the form of cash transferred by Y to X pursuant to this Section 10.1. Upon the return by X to Y of such Adequate Assurance of Performance, the security interest and lien granted hereunder on that Adequate Assurance of Performance shall be released automatically and, to the extent possible, without any further action by either party.

10.2. In the event (each an "Event of Default") either party (the "Defaulting Party") or its Guarantor shall: (i) make an assignment or any general arrangement for the benefit of creditors; (ii) file a petition or otherwise commence, authorize, or acquiesce in the commencement of a proceeding or case under any bankruptcy or similar law for the protection of creditors or have such petition filed or proceeding commenced against it; (iii) otherwise become bankrupt or insolvent (however evidenced); (iv) be unable to pay its debts as they fall due; (v) have a receiver, provisional liquidator, conservator, custodian, trustee or other similar official appointed with respect to it or substantially all of its assets; (vi) fail to perform any obligation to the other party with respect to any Credit Support Obligations relating to the Contract; (vii) fail to give Adequate Assurance of Performance under Section 10.1 within 48 hours but at least one Business Day of a written request by the other party; (viii) not have paid any amount due the other party hereunder on or before the second Business Day following written Notice that such payment is due; or ix) be the affected party with respect to any Additional Event of Default; then the other party (the "Non-Defaulting Party") shall have the right, at its sole election, to immediately withhold and/or suspend deliveries or payments upon Notice and/or to terminate and liquidate the transactions under the Contract, in the manner provided in Section 10.3, in addition to any and all other remedies available hereunder.

10.3. If an Event of Default has occurred and is continuing, the Non-Defaulting Party shall have the right, by Notice to the Defaulting Party, to designate a Day, no earlier than the Day such Notice is given and no later than 20 Days after such Notice is given, as an early termination date (the "Early Termination Date") for the liquidation and termination pursuant to Section 10.3.1 of all transactions under the Contract, each a "Terminated Transaction". On the Early Termination Date, all transactions will terminate, other than those transactions, if any, that may not be liquidated and terminated under applicable law ("Excluded Transactions"), which Excluded Transactions must be liquidated and terminated as soon thereafter as is legally permissible, and upon termination shall be a Terminated Transaction and be valued consistent with Section 10.3.1 below. With respect to each Excluded Transaction, its actual termination date shall be the Early Termination Date for purposes of Section 10.3.1.

The parties have selected either "Early Termination Damages Apply" or "Early Termination Damages Do Not Apply" as indicated on the Base Contract.

Early Termination Damages Apply:

10.3.1. As of the Early Termination Date, the Non-Defaulting Party shall determine, in good faith and in a commercially reasonable manner, (i) the amount owed (whether or not then due) by each party with respect to all Gas delivered and received between the parties under Terminated Transactions and Excluded Transactions on and before the Early Termination Date and all other applicable charges relating to such deliveries and receipts (including without limitation any amounts owed under Section 3.2), for which payment has not yet been made by the party that owes such payment under this Contract and (ii) the Market Value, as defined below, of each Terminated Transaction. The Non-Defaulting Party shall (x) liquidate and accelerate each Terminated Transaction at its Market Value, so that each amount equal to the difference between such Market Value and the Contract Value, as defined below, of such Terminated Transaction(s) shall be due to the Buyer under the Terminated Transaction(s) if such Market Value exceeds the Contract Value and to the Seller if the opposite is the case; and (y) where appropriate, discount each amount then due under clause (x) above to present value in a commercially reasonable manner as of the Early Termination Date (to take account of the period between the date of liquidation and the date on which such amount would have otherwise been due pursuant to the relevant Terminated Transactions).

For purposes of this Section 10.3.1, "Contract Value" means the amount of Gas remaining to be delivered or purchased under a transaction multiplied by the Contract Price, and "Market Value" means the amount of Gas remaining to be delivered or purchased under a transaction multiplied by the market price for a similar transaction at the Delivery Point determined by the Non-Defaulting Party in a commercially reasonable manner. To ascertain the Market Value, the Non-Defaulting Party may consider, among other valuations, any or all of the settlement prices of NYMEX Gas futures contracts, quotations from leading dealers in energy swap contracts or physical gas trading markets, similar sales or purchases and any other bona fide third-party offers, all adjusted for the length of the term and differences in transportation costs. A party shall not be required to enter into a replacement transaction(s) in order to determine the Market Value. Any extension(s) of the term of a transaction to which parties are not bound as of the Early Termination Date (including but not limited to "evergreen provisions") shall not be considered in determining Contract Values and

Market Values. For the avoidance of doubt, any option pursuant to which one party has the right to extend the term of a transaction shall be considered in determining Contract Values and Market Values. The rate of interest used in calculating net present value shall be determined by the Non-Defaulting Party in a commercially reasonable manner.

Early Termination Damages Do Not Apply:

10.3.1. As of the Early Termination Date, the Non-Defaulting Party shall determine, in good faith and in a commercially reasonable manner, the amount owed (whether or not then due) by each party with respect to all Gas delivered and received between the parties under Terminated Transactions and Excluded Transactions on and before the Early Termination Date and all other applicable charges relating to such deliveries and receipts (including without limitation any amounts owed under Section 3.2), for which payment has not yet been made by the party that owes such payment under this Contract.

The parties have selected either "Other Agreement Setoffs Apply" or "Other Agreement Setoffs Do Not Apply" as indicated on the Base Contract.

Other Agreement Setoffs Apply:

Bilateral Setoff Option:

10.3.2. The Non-Defaulting Party shall net or aggregate, as appropriate, any and all amounts owing between the parties under Section 10.3.1, so that all such amounts are netted or aggregated to a single liquidated amount payable by one party to the other (the "Net Settlement Amount"). At its sole option and without prior Notice to the Defaulting Party, the Non-Defaulting Party is hereby authorized to setoff any Net Settlement Amount against (i) any margin or other collateral held by a party in connection with any Credit Support Obligation relating to the Contract; and (ii) any amount(s) (including any excess cash margin or excess cash collateral) owed or held by the party that is entitled to the Net Settlement Amount under any other agreement or arrangement between the parties.

Triangular Setoff Option:

10.3.2. The Non-Defaulting Party shall net or aggregate, as appropriate, any and all amounts owing between the parties under Section 10.3.1, so that all such amounts are netted or aggregated to a single liquidated amount payable by one party to the other (the "Net Settlement Amount"). At its sole option, and without prior Notice to the Defaulting Party, the Non-Defaulting Party is hereby authorized to setoff (i) any Net Settlement Amount against any margin or other collateral held by a party in connection with any Credit Support Obligation relating to the Contract; (ii) any Net Settlement Amount against any amount(s) (including any excess cash margin or excess cash collateral) owed by or to a party under any other agreement or arrangement between the parties; (iii) any Net Settlement Amount owed to the Non-Defaulting Party against any amount(s) (including any excess cash margin or excess cash collateral) owed by the Non-Defaulting Party or its Affiliates to the Defaulting Party under any other agreement or arrangement; (iv) any Net Settlement Amount owed to the Defaulting Party against any amount(s) (including any excess cash margin or excess cash collateral) owed by the Defaulting Party to the Non-Defaulting Party or its Affiliates under any other agreement or arrangement; and/or (v) any Net Settlement Amount owed to the Defaulting Party against any amount(s) (including any excess cash margin or excess cash collateral) owed by the Defaulting Party or its Affiliates to the Non-Defaulting Party under any other agreement or arrangement.

Other Agreement Setoffs Do Not Apply:

10.3.2. The Non-Defaulting Party shall net or aggregate, as appropriate, any and all amounts owing between the parties under Section 10.3.1, so that all such amounts are netted or aggregated to a single liquidated amount payable by one party to the other (the "Net Settlement Amount"). At its sole option and without prior Notice to the Defaulting Party, the Non-Defaulting Party may setoff any Net Settlement Amount against any margin or other collateral held by a party in connection with any Credit Support Obligation relating to the Contract.

10.3.3. If any obligation that is to be included in any netting, aggregation or setoff pursuant to Section 10.3.2 is unascertained, the Non-Defaulting Party may in good faith estimate that obligation and net, aggregate or setoff, as applicable, in respect of the estimate, subject to the Non-Defaulting Party accounting to the Defaulting Party when the obligation is ascertained. Any amount not then due which is included in any netting, aggregation or setoff pursuant to Section 10.3.2 shall be discounted to net present value in a commercially reasonable manner determined by the Non-Defaulting Party.

10.4. As soon as practicable after a liquidation, Notice shall be given by the Non-Defaulting Party to the Defaulting Party of the Net Settlement Amount, and whether the Net Settlement Amount is due to or due from the Non-Defaulting Party. The Notice shall include a written statement explaining in reasonable detail the calculation of the Net Settlement Amount, provided that failure to give such Notice shall not affect the validity or enforceability of the liquidation or give rise to any claim by the Defaulting Party against the Non-Defaulting Party. The Net Settlement Amount as well as any setoffs applied against such amount pursuant to Section 10.3.2, shall be paid by the close of business on the second Business Day following such Notice, which date shall not be earlier than the Early Termination Date. Interest on any unpaid portion of the Net Settlement Amount as adjusted by setoffs, shall accrue from the date due until the date of payment at a rate equal to the lower of (i) the then-effective prime rate of interest published under "Money Rates" by The Wall Street Journal, plus two percent per annum; or (ii) the maximum applicable lawful interest rate.

10.5. The parties agree that the transactions hereunder constitute a "forward contract" within the meaning of the United States Bankruptcy Code and that Buyer and Seller are each "forward contract merchants" within the meaning of the United States Bankruptcy Code.

10.6. The Non-Defaulting Party's remedies under this Section 10 are the sole and exclusive remedies of the Non-Defaulting Party with respect to the occurrence of any Early Termination Date. Each party reserves to itself all other rights, setoffs, counterclaims and other defenses that it is or may be entitled to arising from the Contract.

10.7. With respect to this Section 10, if the parties have executed a separate netting agreement with close-out netting provisions, the terms and conditions therein shall prevail to the extent inconsistent herewith.

SECTION 11. FORCE MAJEURE

11.1. Except with regard to a party's obligation to make payment(s) due under Section 7, Section 10.4, and Imbalance Charges under Section 4, neither party shall be liable to the other for failure to perform a Firm obligation, to the extent such failure was caused by Force Majeure. The term "Force Majeure" as employed herein means any cause not reasonably within the control of the party claiming suspension, as further defined in Section 11.2.

11.2. Force Majeure shall include, but not be limited to, the following: (i) physical events such as acts of God, landslides, lightning, earthquakes, fires, storms or storm warnings, such as hurricanes, which result in evacuation of the affected area, floods, washouts, explosions, breakage or accident or necessity of repairs to machinery or equipment or lines of pipe; (ii) weather related events affecting an entire geographic region, such as low temperatures which cause freezing or failure of wells or lines of pipe; (iii) interruption and/or curtailment of Firm transportation and/or storage by Transporters; (iv) acts of others such as strikes, lockouts or other industrial disturbances, riots, sabotage, insurrections or wars, or acts of terror; and (v) governmental actions such as necessity for compliance with any court order, law, statute, ordinance, regulation, or policy having the effect of law promulgated by a governmental authority having jurisdiction. Seller and Buyer shall make reasonable efforts to avoid the adverse impacts of a Force Majeure and to resolve the event or occurrence once it has occurred in order to resume performance.

11.3. Neither party shall be entitled to the benefit of the provisions of Force Majeure to the extent performance is affected by any or all of the following circumstances: (i) the curtailment of interruptible or secondary Firm transportation unless primary, in-path, Firm transportation is also curtailed; (ii) the party claiming excuse failed to remedy the condition and to resume the performance of such covenants or obligations with reasonable dispatch; or (iii) economic hardship, to include, without limitation, Seller's ability to sell Gas at a higher or more advantageous price than the Contract Price, Buyer's ability to purchase Gas at a lower or more advantageous price than the Contract Price, or a regulatory agency disallowing, in whole or in part, the pass through of costs resulting from this Contract; (iv) the loss of Buyer's market(s) or Buyer's inability to use or resell Gas purchased hereunder, except, in either case, as provided in Section 11.2; or (v) the loss or failure of Seller's gas supply or depletion of reserves, except, in either case, as provided in Section 11.2. The party claiming Force Majeure shall not be excused from its responsibility for Imbalance Charges.

11.4. Notwithstanding anything to the contrary herein, the parties agree that the settlement of strikes, lockouts or other industrial disturbances shall be within the sole discretion of the party experiencing such disturbance.

11.5. The party whose performance is prevented by Force Majeure must provide Notice to the other party. Initial Notice may be given orally; however, written Notice with reasonably full particulars of the event or occurrence is required as soon as reasonably possible. Upon providing written Notice of Force Majeure to the other party, the affected party will be relieved of its obligation, from the onset of the Force Majeure event, to make or accept delivery of Gas, as applicable, to the extent and for the duration of Force Majeure, and neither party shall be deemed to have failed in such obligations to the other during such occurrence or event.

11.6. Notwithstanding Sections 11.2 and 11.3, the parties may agree to alternative Force Majeure provisions in a Transaction Confirmation executed in writing by both parties.

SECTION 12. TERM

This Contract may be terminated on 30 Day's written Notice, but shall remain in effect until the expiration of the latest Delivery Period of any transaction(s). The rights of either party pursuant to Section 7.6, Section 10, Section 13, the obligations to make payment hereunder, and the obligation of either party to indemnify the other, pursuant hereto shall survive the termination of the Base Contract or any transaction.

SECTION 13. LIMITATIONS

FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY. A PARTY'S LIABILITY HEREUNDER SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN OR IN A TRANSACTION, A PARTY'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY. SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

SECTION 14. MARKET DISRUPTION

If a Market Disruption Event has occurred then the parties shall negotiate in good faith to agree on a replacement price for the Floating Price (or on a method for determining a replacement price for the Floating Price) for the affected Day, and if the parties have not so agreed on or before the second Business Day following the affected Day then the replacement price for the Floating Price shall be determined within the next two following Business Days with each party obtaining, in good faith and from non-affiliated market participants in the relevant market, two quotes for prices of Gas for the affected Day of a similar quality and quantity in the geographical location closest in proximity to the Delivery Point and averaging the four quotes. If either party fails to provide two quotes then the average of the other party's two quotes shall determine the replacement price for the Floating Price. "Floating Price" means the price or a factor of the price agreed to in the transaction as being based upon a specified index. "Market Disruption Event" means, with respect to an index specified for a transaction, any of the following events: (a) the failure of the index to announce or publish information necessary for determining the Floating Price; (b) the failure of trading to commence or the permanent discontinuation or material suspension of trading on the exchange or market acting as the index; (c) the temporary or permanent discontinuance or unavailability of the index; (d) the temporary or permanent closing of any exchange acting as the index; or (e) both parties agree that a material change in the formula for or the method of determining the Floating Price has occurred. For the purposes of the calculation of a replacement price for the Floating Price, all numbers shall be rounded to three decimal places. If the fourth decimal number is five or greater, then the third decimal number shall be increased by one and if the fourth decimal number is less than five, then the third decimal number shall remain unchanged.

SECTION 15. MISCELLANEOUS

15.1. This Contract shall be binding upon and inure to the benefit of the successors, assigns, personal representatives, and heirs of the respective parties hereto, and the covenants, conditions, rights and obligations of this Contract shall run for the full term of this Contract. No assignment of this Contract, in whole or in part, will be made without the prior written consent of the non-assigning party (and shall not relieve the assigning party from liability hereunder), which consent will not be unreasonably withheld or delayed; provided, either party may (i) transfer, sell, pledge, encumber, or assign this Contract or the accounts, revenues, or proceeds hereof in connection with any financing or other financial arrangements, or (ii) transfer its interest to any parent or Affiliate by assignment, merger or otherwise without the prior approval of the other party. Upon any such assignment, transfer and assumption, the transferor shall remain principally liable for and shall not be relieved of or discharged from any obligations hereunder.

15.2. If any provision in this Contract is determined to be invalid, void or unenforceable by any court having jurisdiction, such determination shall not invalidate, void, or make unenforceable any other provision, agreement or covenant of this Contract.

15.3. No waiver of any breach of this Contract shall be held to be a waiver of any other or subsequent breach.

15.4. This Contract sets forth all understandings between the parties respecting each transaction subject hereto, and any prior contracts, understandings and representations, whether oral or written, relating to such transactions are merged into and superseded by this Contract and any effective transaction(s). This Contract may be amended only by a writing executed by both parties.

15.5. The interpretation and performance of this Contract shall be governed by the laws of the jurisdiction as indicated on the Base Contract, excluding, however, any conflict of laws rule which would apply the law of another jurisdiction.

15.6. This Contract and all provisions herein will be subject to all applicable and valid statutes, rules, orders and regulations of any governmental authority having jurisdiction over the parties, their facilities, or Gas supply, this Contract or transaction or any provisions thereof.

15.7. There is no third party beneficiary to this Contract.

15.8. Each party to this Contract represents and warrants that it has full and complete authority to enter into and perform this Contract. Each person who executes this Contract on behalf of either party represents and warrants that it has full and complete authority to do so and that such party will be bound thereby.

15.9. The headings and subheadings contained in this Contract are used solely for convenience and do not constitute a part of this Contract between the parties and shall not be used to construe or interpret the provisions of this Contract.

15.10. Unless the parties have elected on the Base Contract not to make this Section 15.10 applicable to this Contract, neither party shall disclose directly or indirectly without the prior written consent of the other party the terms of any transaction to a third party (other than the employees, lenders, royalty owners, counsel, accountants and other agents of the party, or prospective purchasers of all or substantially all of a party's assets or of any rights under this Contract, provided such persons shall have agreed to keep such terms confidential) except (i) in order to comply with any applicable law, order, regulation, or exchange rule, (ii) to the extent necessary for the enforcement of this Contract, (iii) to the extent necessary to implement any transaction, (iv) to the extent necessary to comply with a regulatory agency's reporting requirements including but not limited to gas cost recovery proceedings; or (v) to the extent such information is delivered to such third party for the sole purpose of calculating a published index. Each party shall notify the other party of any proceeding of which it is aware which may result in disclosure of the terms of any transaction (other than as permitted hereunder) and use reasonable efforts to prevent or limit the disclosure. The existence of this Contract is not subject to this confidentiality obligation. Subject to Section 13, the parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with this confidentiality obligation. The terms of any transaction hereunder shall be kept confidential by the parties hereto for one year from the expiration of the transaction.

In the event that disclosure is required by a governmental body or applicable law, the party subject to such requirement may disclose the material terms of this Contract to the extent so required, but shall promptly notify the other party, prior to disclosure,

and shall cooperate (consistent with the disclosing party's legal obligations) with the other party's efforts to obtain protective orders or similar restraints with respect to such disclosure at the expense of the other party.

15.11. The parties may agree to dispute resolution procedures in Special Provisions attached to the Base Contract or in a Transaction Confirmation executed in writing by both parties

15.12. Any original executed Base Contract, Transaction Confirmation or other related document may be digitally copied, photocopied, or stored on computer tapes and disks (the "Imaged Agreement"). The Imaged Agreement, if introduced as evidence on paper, the Transaction Confirmation, if introduced as evidence in automated facsimile form, the recording, if introduced as evidence in its original form, and all computer records of the foregoing, if introduced as evidence in printed format, in any judicial, arbitration, mediation or administrative proceedings will be admissible as between the parties to the same extent and under the same conditions as other business records originated and maintained in documentary form. Neither Party shall object to the admissibility of the recording, the Transaction Confirmation, or the Imaged Agreement on the basis that such were not originated or maintained in documentary form. However, nothing herein shall be construed as a waiver of any other objection to the admissibility of such evidence.

DISCLAIMER: The purposes of this Contract are to facilitate trade, avoid misunderstandings and make more definite the terms of contracts of purchase and sale of natural gas. Further, NAESB does not mandate the use of this Contract by any party. **NAESB DISCLAIMS AND EXCLUDES, AND ANY USER OF THIS CONTRACT ACKNOWLEDGES AND AGREES TO NAESB'S DISCLAIMER OF, ANY AND ALL WARRANTIES, CONDITIONS OR REPRESENTATIONS, EXPRESS OR IMPLIED, ORAL OR WRITTEN, WITH RESPECT TO THIS CONTRACT OR ANY PART THEREOF, INCLUDING ANY AND ALL IMPLIED WARRANTIES OR CONDITIONS OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY, OR FITNESS OR SUITABILITY FOR ANY PARTICULAR PURPOSE (WHETHER OR NOT NAESB KNOWS, HAS REASON TO KNOW, HAS BEEN ADVISED, OR IS OTHERWISE IN FACT AWARE OF ANY SUCH PURPOSE), WHETHER ALLEGED TO ARISE BY LAW, BY REASON OF CUSTOM OR USAGE IN THE TRADE, OR BY COURSE OF DEALING. EACH USER OF THIS CONTRACT ALSO AGREES THAT UNDER NO CIRCUMSTANCES WILL NAESB BE LIABLE FOR ANY DIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES ARISING OUT OF ANY USE OF THIS CONTRACT.**

TRANSACTION CONFIRMATION
FOR IMMEDIATE DELIVERY

Letterhead/Logo	Date: _____, _____ Transaction Confirmation #: _____	
This Transaction Confirmation is subject to the Base Contract between Seller and Buyer dated _____. The terms of this Transaction Confirmation are binding unless disputed in writing within 2 Business Days of receipt unless otherwise specified in the Base Contract.		
SELLER: _____ _____ Attn: _____ Phone: _____ Fax: _____ Base Contract No. _____ Transporter: _____ Transporter Contract Number: _____	BUYER: _____ _____ Attn: _____ Phone: _____ Fax: _____ Base Contract No. _____ Transporter: _____ Transporter Contract Number: _____	
Contract Price: \$ _____/MMBtu or _____		
Delivery Period: Begin: _____, _____ End: _____, _____		
Performance Obligation and Contract Quantity: (Select One)		
Firm (Fixed Quantity): _____ MMBtus/day <input type="checkbox"/> EFP	Firm (Variable Quantity): _____ MMBtus/day Minimum _____ MMBtus/day Maximum subject to Section 4.2. at election of <input type="checkbox"/> Buyer or <input type="checkbox"/> Seller	Interruptible: Up to _____ MMBtus/day
Delivery Point(s): _____ (If a pooling point is used, list a specific geographic and pipeline location):		
Special Conditions: 		
Seller: _____ By: _____ Title: _____ Date: _____	Buyer: _____ By: _____ Title: _____ Date: _____	

**SPECIAL PROVISIONS TO THE
2006 NAESB BASE CONTRACT FOR SALE AND PURCHASE OF NATURAL GAS
BY AND BETWEEN**

**Duke Energy Ohio, Inc.
("Party A")**

And

**[CP Legal Name]
("Party B")**

Dated: _____

The above-referenced Base Contract for Sale and Purchase of Natural Gas (the "Base Contract") between Party A and Party B is hereby amended and revised effective as of the date of the Base Contract. Unless specifically agreed to otherwise in a Transaction Confirmation, the Base Contract, as modified by these Special Provisions, shall apply to all transactions for the purchase and sale of Gas between the parties. All capitalized terms not otherwise defined herein shall have the meaning set forth in the Base Contract.

SECTION 1: PURPOSE AND PROCEDURES

SECTION 1.2

Add the following to the end of Section 1.2, Oral Transaction Procedure: "Mutually agreeable electronic means" may include instant messaging when mutually agreed."

SECTION 1.3

Amend Section 1.3(ii) by inserting "or other mutually agreeable electronic means, including instant messages if mutually agreed" after "recorded conversation".

SECTION 1.4

Amend this section by: adding the following to the end of the section: "Each party agrees to retain such evidence of transaction(s) in confidence, secured from improper access. Subject to applicable rules of procedure and evidence, each party agrees that the evidence of transaction(s) may be admitted into evidence in any proceeding. Each party waives any objection or defense to a party's authority to enter into a transaction and the authority of a party's employee to bind such party to a transaction. Each party agrees to hold harmless the other party against claims made by its own employees with respect to evidence of transaction(s). Each party will provide to the other, and neither party may knowingly destroy or erase, evidence of transaction(s) once the possessing party becomes aware of an actual dispute in which the evidence of transaction(s) is relevant or discoverable."

SECTION 2: DEFINITIONS

SECTION 2.2

Add the following at the end of Section 2.2: "; provided however, with respect to Party A, the term Affiliate(s) will be applied in accordance with rules and regulations of any state or federal utility or energy regulatory commission with jurisdiction over Party A."

SECTION 2.6

Add the following at the end of Section 2.6: ", and shall run from 8 a.m. to 5 p.m. Eastern Prevailing Time."

SECTION 2.9

Add the following after "telephone" in Section 2.9: "or other mutually agreed electronic means"

SECTION 2.12

Amend Section 2.12 by deleting: "(or an alternate fuel if elected by Buyer and replacement gas is not available)."

SECTION 2.23

Add the following after the word "becoming" in the last line of this section: ", or becoming capable at such time of being declared,".

SECTION 2.36

Add the following as the new Section 2.36:

"Merger Event" shall mean, with respect to a party, its Guarantor, or any other entity, that such entity consolidates with, or amalgamates with, or merges with, or transfers all or substantially all of its assets to another entity, or effectuates a liquidating dividend, leveraged buyout, highly-leveraged transaction, redemption of indebtedness, stock buyback or call on equity, or any such similar event; and, at the time of any such consolidation, amalgamation, merger, transfer, or event, howsoever it occurs, (i) the resulting, surviving, or transferee entity fails to assume all the obligations (including, without limitation, Credit Support Obligations) of such party under this Contract; (ii) the benefits of any credit support provided pursuant to or related to this Contract fail to fully extend to the performance by such resulting, surviving, or transferee entity of its obligations under this Contract; and/or (iii) the resulting, surviving, or transferee entity's creditworthiness is materially weaker than that of such party or entity prior to such action."

SECTION 2.37

Add the following as the new Section 2.37:

"S&P" shall mean Standard & Poor's Rating Group (a division of McGraw-Hill, Inc.) or its successor.

SECTION 2.38

Add the following as the new Section 2.38:

"Moody's" shall mean Moody's Investor Services, Inc. or its successor.

SECTION 2.39:

Add the following as the new Section 2.39:

"Credit Rating" shall mean, with respect to any entity, the rating then assigned to such entity's unsecured, senior long-term debt obligations (not supported by third party credit enhancements) or if such entity does not have a rating for its senior unsecured long-term debt, then the rating then assigned to such entity as a corporate or issuer rating by, in each aforementioned case, S&P or Moody's; *provided, however*, in the event of an inconsistency in ratings assigned by S&P and Moody's, or other agreed-upon rating agency, the lowest rating assigned shall control.

SECTION 2.40

Add the following as the new Section 2.40:

"Investment Grade" shall mean a Credit Rating of (i) BBB- or above as assigned by S&P and (ii) Baa3 or above as assigned by Moody's.

SECTION 2.41

Add the following as the new Section 2.41:

"Ratings Downgrade Event" shall mean (i) with respect to Party A, the failure to maintain its Credit Rating at Investment Grade; (ii) with respect to Party B, the failure of it or its Guarantor to maintain its Credit Rating at Investment Grade; and (iii) with respect to either party, that it or its Guarantor, as applicable, ceases to be rated by S&P or Moody's.

SECTION 2.42

Add the following as the new Section 2.42:

"Interest Rate" shall mean a rate of interest calculated as set forth in 18 C.F.R. §35.19a.

SECTION 3: PERFORMANCE OBLIGATION**SECTION 3.5**

Add the following as the new Section 3.5:

Notwithstanding anything in this Contract to the contrary, in the event: (i) a transaction has a Firm obligation; (ii) as a result of an event of Force Majeure, Seller is unable to sell and deliver, or Buyer is unable to purchase and receive, the Contract Quantity for such transaction; (iii) the Delivery Period for such transaction is at least one month; and (iv) the Contract Price is a Fixed Price (as defined below), then

If the FOM Price (as defined below) is above the Fixed Price, Seller will pay Buyer, for each MMBtu of Gas not delivered and/or received, the difference between the FOM Price and the Fixed Price.

If the FOM Price is below the Fixed Price, Buyer will pay Seller, for each MMBtu of Gas not delivered and/or received, the difference between the Fixed Price and the FOM Price.

For purposes of this Section 3.5, the "Fixed Price" means the Contract Price for a transaction that is expressed as a set amount. Fixed Price includes prices that were converted from an index-based price or a NYMEX basis to a set amount upon the agreement of the parties or as a result of a party exercising a price option available to a party under a Transaction Confirmation that resulted in a maximum price or a minimum price.

For purposes of this Section 3.5, the "FOM Price" means the price per MMBtu, stated in the same currency as the transaction subject to such Force Majeure event, for the first of the month of delivery as published in the Inside FERC Gas Market Report (or such other published index as mutually agreed to by the parties), for the geographic location closest in proximity to the Delivery Point.

SECTION 10: FINANCIAL RESPONSIBILITY

SECTION 10.1

Insert the following as a new sentence between the first and second sentences:

"Reasonable grounds for insecurity regarding the performance of any obligation under this Contract" may include, but are not limited to: (a) knowledge that a party, or its Guarantor, is defaulting under other material contracts or transactions (including, without limitation, contracts or transactions with third parties), or (b) the occurrence of a Ratings Downgrade Event; or, (c) the occurrence of a Merger Event.

SECTION 10.2

Amend this section as follows:

- (1) Delete the word "or" immediately preceding the sub-section numeral "(ix)" and add the following as new subsections immediately following the end of subsection "(ix)" and immediately preceding the words "then the other party":

(x) make any representation or warranty herein that was false or misleading in any material respect when made or when deemed made or repeated; (xi) be the subject of a Merger Event; (xii) with respect to a party's Guarantor only, the failure of such Guarantor's guaranty to be in full force and effect for purposes of this Contract prior to the satisfaction of all obligations of such party under each transaction to which such guaranty relates; (xiii) fail to perform any material covenant or obligation set forth in this Contract (except to the extent constituting a separate Event of Default, and except for such party's obligations to deliver or receive Gas, the exclusive remedy for which is provided in Section 3.2), and fail to cure such failure within ten days of written notice thereof; (xiv) fail to comply with or perform any agreement or obligation to be complied with or performed by it in accordance with any Credit Support Obligation, if such failure is continuing after any applicable grace period has elapsed; (xv) the expiration or termination of a Credit Support Obligation or the failing or ceasing of such Credit Support Obligation, or any security interest granted by a party or a Guarantor to the other party pursuant to any such Credit Support Obligation, to be in full force and effect for the purpose of this Contract (in each case other than in accordance with its terms) prior to the satisfaction of all obligations of such party under each Specified Transaction to which such Credit Support Obligation relates without the written consent of the other party; or (xvi) A party or any Guarantor of such party defaults (other than by failing to make a delivery) under a Specified Transaction or any credit support arrangement relating to a Specified Transaction after giving effect to any applicable notice requirement or grace period."
- (2) Immediately following the words "suspend deliveries or payments upon Notice" add the following words: "(subject to the limitation in Section 10.4 below)".

SECTION 10.3.1 (Early Termination Damages Apply)

In the last line of the second paragraph, replace the words "determined by the Non-Defaulting Party in a commercially reasonable manner" with the following words: "the Interest Rate"

Section 10.3.1 is further amended by adding the following to the end:

"Notwithstanding the foregoing, in no event shall the Non-Defaulting Party owe any amounts to the Defaulting Party on account of the Market Value of this Transaction as a Terminated Transaction, whatever the difference between Market Value and Contract Value."

Section 10.3.1 is further amended by adding the following to the end:

Netting applies in the calculation of amounts due under Section 10, notwithstanding any election in Section 7.7 that netting does not apply.

SECTION 10.3.2

"Other Agreement Set-Offs Apply - Triangular Setoff Option", is amended by inserting "and/or" immediately prior to subsection (iv); replacing the ";" at the end of subsection (iv) with a "."; and deleting subsection (v) thereof.

SECTION 10.3.3

In the last sentence, replace the words "in a commercially reasonable manner determined by the Non-Defaulting Party" with the following words: "using the Interest Rate."

SECTION 10.4

Add the following after the end of this section:

Notwithstanding any provision to the contrary contained in this Contract but subject to the limitations set forth below, the Non-Defaulting Party shall not be required to pay to the Defaulting Party any amount until the Non-Defaulting Party receives confirmation satisfactory to it in its reasonable discretion (which may include an opinion of its counsel) that all other obligations of the Defaulting Party to make payment to the Non-Defaulting Party under this Contract or otherwise have been fully performed.

SECTION 10.5

Delete the original Section 10.5 and replace it in its entirety with the following:

The parties agree and intend that: (i) this Contract and each transaction constitutes a commodity forward agreement within the meaning of Section 101(53B)(A)(i)(VII) of the United States Bankruptcy Code (the "Bankruptcy Code"); (ii) all transfers of Adequate Assurance of Performance by one party to the other party under this Contract constitute "margin payments" within the meaning of the Bankruptcy Code; and (iii) this Contract, subject to terms hereof, constitutes a "master netting agreement" as defined in 11 U.S.C. 101(38A) and a "master agreement" for purposes of 12 U.S.C. 1821(e)(8)(D)(vii) or any successor provisions. The parties further agree that each party's contractual rights under this Contract (including, without limitation as set forth under Sections 10.2, 10.3, 10.3.1, 10.3.2, 10.3.3, and 10.4) constitute contractual rights "to liquidate, terminate, accelerate or offset" under the Bankruptcy Code.

SECTION 10.8

Add the following as the new Section 10.8:

Throughout the term of the Contract each party will provide the other party with its or its Guarantor's, as applicable, annual audited financial statements prepared in accordance with generally accepted accounting principles ("GAAP") and quarterly unaudited consolidated financial statements prepared in accordance with GAAP (subject to normal year-end adjustments and the omission of footnotes) within 60 days after the end of each fiscal year and 45 days after the end of each fiscal quarter, as applicable, and in each case fairly presenting the financial condition of the applicable entity or entities (which such providing party hereby represents and warrants as such) and certified by the chief financial officer of the applicable entity; *provided, however*, in the event such entity is required to make its annual audited and quarterly unaudited financial statements available to the public, then the other party shall use public sources to obtain such information.

SECTION 13: LIMITATIONS**SECTION 13**

Amend Section 13 by deleting the words "UNLESS EXPRESSLY HEREIN PROVIDED" found at the beginning of the fifth sentence.

SECTION 14: MARKET DISRUPTION**SECTION 14.1**

Label the existing paragraph of Section 14 as 14.1, and add the following to the end thereof:

Notwithstanding the foregoing, if the parties have determined a replacement price for the Floating Price (or a replacement method for determining a replacement price for the Floating Price) pursuant to this Section and at a later date the specified index subsequently reports the Floating Price, then such reported Floating Price shall be treated as a corrected price and either party may notify the other party of the correction and the amount payable as a result of that correction in accordance with Section 14.2 hereof.

SECTION 14.2

Add the following as the new Section 14.2:

14.2. Subject to Section 7.6, for purposes of determining the Floating Price, if the price published or announced on a given Day and used, or to be used, to determine a Floating Price is subsequently corrected and the correction is reported by the specified index, either party may provide Notice to the other party of (i) that correction and (ii) the amount (if any) that is payable as a result of that correction. If a party gives Notice that an amount is so payable, the party that originally either received or retained such amount will, not later than three (3) Business Days after the effectiveness of that Notice, pay to the other party that amount, together with interest pursuant to Section 7.5 of the Base Contract for the period from and including the Day on which payment originally was (or was not) made to but excluding the

Day of payment of the refund or payment resulting from that correction.

SECTION 15: MISCELLANEOUS

SECTION 15.1

Add the following to the end of the second sentence: “, if such transfer or assignment is to an entity whose creditworthiness is equal to or better than that of the transferor party, such transfer has no adverse consequences to the non-transferring party, and the assignee agrees in writing to be bound by the Contract.”

SECTION 15.2

Add the following at the end of this section:

This Contract shall be considered for all purposes as prepared through the joint efforts of the parties, and nothing herein shall be construed against either party as a result of the preparation or drafting by such party. Each party waives the benefit of any rule that disfavors the drafter.

SECTION 15.8

Add the following at the end of this section:

Further, as of the date of the Base Contract and as of the date of entering into each transaction hereunder, each party represents and warrants to the other party that: (a) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation; (b) it has all then-current valid and applicable state and federal regulatory authorizations, consents, or approvals required for it to legally perform its obligations under this Contract; (c) this Contract, and each other document executed and delivered in accordance with this Contract constitutes its legally valid and binding obligations enforceable against it in accordance with their respective terms; (d) there are no proceedings described in Section 10.2 (i) through (v) pending or being contemplated by it or, to its knowledge, threatened against it; (e) there is not pending or, to its knowledge, threatened against it or any of its Affiliates (to the extent applicable) any legal proceedings that could materially adversely affect its ability to perform its obligations under this Contract; (f) no Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Contract; (g) it is acting for its own account, has made its own independent decision to enter into this Contract, it is not relying upon the advice or recommendations of the other party in so doing, and is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions and risks of this Contract, and agrees to perform in accordance with the Contract; (h) it is an “eligible commercial entity” within the meaning of Section 1a(17) of the Commodity Exchange Act; and (i) it is an “eligible contract participant” within the meaning of Section 1a (18) of the Commodity Exchange Act. Further, as of the date of the Base Contract and as of the date of entering into each transaction hereunder, each party represents and warrants to the other party that it is not a “special entity” within the meaning of Section 4s(h)(2)(C) Commodity Exchange Act, as amended, or the rules and regulations of the Commodity Futures Trading Commission, and, notwithstanding any limitations of liability provided in this Contract, covenants to indemnify the other party and its affiliates, and their officers, directors, employees and contractors, from and against any and all harm, damages, liability, and other consequences of any kind to any of them should this representation and warranty be untrue.

SECTION 15.10

Add the following to the end of this section: “Notwithstanding the foregoing, in regulatory proceedings in all state and federal jurisdictions in which it does business, a Party may from time to time be required to produce the foregoing confidential information as part of regulatory oversight over the Party by a public service commission, public utility commission, or other agency having jurisdiction over the Party, and such Party shall be entitled to comply in connection with such regulatory oversight over it by producing the confidential information without prior notice and will use its business judgment in its compliance with all of the foregoing and the appropriate level of confidentiality it seeks for such disclosures. Upon the establishment of a docket or proceeding relating to a Party’s transactions with the other Party before any public service commission, public utility commission, or other agency having jurisdiction over it, the Party’s obligations to other Party, this Section 15.10 shall automatically be governed solely by the rules and procedures governing such docket to the extent such rules or procedures are additional to, different from or inconsistent with this Base Contract and not by this Base Contract.”

SECTION 15.13

Add the following as the new Section 15.13:

This Base Contract and any Transaction Confirmation may be executed in counterparts, and all such counterparts shall constitute one and the same original agreement fully binding on both parties hereto.

SECTION 15.14

Add the following as the new Section 15.14:

WAIVER OF RIGHT TO JURY TRIAL.

EACH PARTY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY SUIT, ACTION, COUNTERCLAIM OR PROCEEDING RELATING TO THIS

CONTRACT OR ANY RELATED CREDIT SUPPORT OBLIGATION. EACH PARTY FURTHER WAIVES ANY RIGHT TO CONSOLIDATE ANY ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED.

SECTION 15.15

Add the following as the new Section 15.15:

Federal Energy Regulatory Commission ("FERC") Standard of Review:

(a) Absent the agreement of all parties to the proposed change, the standard of review for changes to any rate, charge, classification, term or condition of this Contract, whether proposed by a party (to the extent that any waiver in subsection (b) below is unenforceable or ineffective as to such party), a non-party or FERC acting *sua sponte*, shall solely be the "public interest" application of the "just and reasonable" standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956) (the "Mobile-Sierra" doctrine), and clarified in *Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish* 554 U.S. 527, 128 S. Ct. 2733 (2008) and *NRG Power Mktg., LLC v. Me. Pub. Utils. Comm'n*, 558 U.S. 165, 130 S. Ct. 693 (2010).

(b) In addition, and notwithstanding the foregoing subsection (a), to the fullest extent permitted by applicable law, each party, for itself and its successors and assigns, hereby expressly and irrevocably waives any rights it can or may have, now or in the future, to seek to obtain from FERC by any means, directly or indirectly (through complaint, investigation or otherwise), and each hereby covenants and agrees not at any time to seek to so obtain, an order from FERC changing any section or transaction of or under this Contract specifying the rate, charge, classification, or other term or condition agreed to by the parties, it being the express intent of the parties that, to the fullest extent permitted by applicable law, neither party shall unilaterally seek to obtain from FERC any relief changing the rate, charge, classification, or other term or condition of this Contract, notwithstanding any subsequent changes in applicable law or market conditions that may occur.

SECTION 15.16

Add the following as the new Section 15.16:

As of the Effective Date and the date of each subsequent Transaction, each party represents and warrants to the other party that it is a "financial institution" as defined in and pursuant to Title VI of the Federal Deposit Insurance Corporation Improvement Act of 1991 ("FDICIA"). Each party intends that this Contract constitutes a "netting contract" as defined in and subject to FDICIA, and each payment entitlement and payment obligation under this Contract constitutes a "covered contractual payment entitlement" and "covered contractual payment obligation," respectively, as defined in and subject to FDICIA. With reference to 77 Federal Register 42561, these representations do not represent that a party is a "financial entity" under the Dodd-Frank Act or any other applicable law or regulation, or is engaged in activities that are predominately financial in nature.

SECTION 15.17

Add the following as the new Section 15.17:

Each party agrees that it will not assert, and hereby waives any right to assert, that the other party in performing hereunder is doing so as a "utility" as such term is used in 11 U.S.C. Section 366. Further each party hereby waives and agrees not to assert that 11 U.S.C. Section 366 applies to this Contract or any transaction hereunder or that the other party is a provider of last resort in any bankruptcy proceeding. Without limiting the binding nature of any other provision of this Contract on permitted successors and assigns, this provision is intended to be binding upon all successors and assigns of the parties, including judgment lien creditors, receivers, estates in possession, and trustees thereof.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed these Special Provisions, to the Base Contract in duplicate, as of the date of the Base Contract.

Duke Energy Ohio, Inc.

[CP Legal Name]

By: _____
Name: _____
Title: _____
Date: _____

By: _____
Name: _____
Title: _____
Date: _____

Duke Interstate Capacity Portfolio for November 2022 – March 2024

* Summer = April 1st – October 31st

* Winter = November 1st – March 31st

- Expect release quantities per tranche

Pipeline	Svc Type	Duke Contract Number	Primary Receipt	Description	Primary Delivery	Description	Estimated per Tranche Dths
TXGAS	STF	37259	9185	TGT – ENABLE BOSSO	1229	TGT – DUKE ENERGY	WINTER = 9,473 SUMMER = 2,368
CGT	FT1	34688	RAYNE	CGT ML POOL	MEANS	KOT – CGT INTERCONNECT	WINTER = 5,019 SUMMER = 3,234
CGT	FT1	154403	LEACH	CGT – TCO INTERCONNECT	MEANS	KOT – CGT INTERCONNECT	WINTER = 2,151 SUMMER = 2,156
TGP	FTA	321248	420998	800 LEG POOL – ZONE L	420049	NORTH MEANS	WINTER = 2,458 SUMMER = 2,464
REX	FTS	954559	60062	EQT OVC/REX ISALY MONROE	60478	REX/DUKE DICKS CREEK POINT	WINTER = 5,869 SUMMER = 5,869
KOT	FTS	001	KO MEANS	KOT – CGT INTERCONNECT	13-10	Duke/CGE	WINTER = 9,601 SUMMER = 7,832

**This foregoing document was electronically filed with the Public Utilities
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in

Case No(s). 21-0903-GA-EXM, 21-0904-GA-ATA, 21-0905-GA-AAM

Summary: Testimony Direct Testimony of Brady Gould electronically filed by Mrs.
Debbie L. Gates on behalf of Duke Energy Ohio Inc. and D'Ascenzo, Rocco O. Mr.