



## Office of the Ohio Consumers' Counsel

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September 2, 2022

Ms. Tanowa Troupe, Secretary  
Public Utilities Commission of Ohio  
180 East Broad Street, 11th Floor  
Columbus, Ohio 43215

RE: Duke Electric Consumers/*In the Matter of the Application of Duke Energy Ohio, Inc. for an Increase in its Electric Distribution Rates, Case No. 21-887-EL-AIR, et al.*

Dear Ms. Troupe:

On September 1, 2022, the Attorney Examiner in the above-referenced proceeding directed that intervenor testimony be filed on September 2, 2022, if parties have not filed a (partial) settlement. In accordance with the Attorney Examiner's directive and as there is not a settlement filed, OCC is filing the Direct Testimony of Robert B. Fortney today.

Very truly yours,

*/s/ Angela D. O'Brien*

Angela D. O'Brien (0097579)  
Counsel of Record  
Assistant Consumers' Counsel

cc: All Parties of Record & Attorney Examiners

**OCC EXHIBIT NO. \_\_\_\_\_**

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of )  
Duke Energy Ohio, Inc., for an ) Case No. 21-887-EL-AIR  
Increase in Electric Distribution Rates. )

In the Matter of the Application of )  
Duke Energy Ohio, Inc., for Tariff ) Case No. 21-888-EL-ATA  
Approval. )

In the Matter of the Application of )  
Duke Energy Ohio, Inc., for Approval ) Case No. 21-889-EL-AAM  
To Change Accounting Methods. )

**DIRECT TESTIMONY  
OF  
ROBERT B. FORTNEY**

**On Behalf of**  
**Office of the Ohio Consumers' Counsel**  
*65 East State Street, Suite 700*  
*Columbus, Ohio 43215*

**September 2, 2022**

## **TABLE OF CONTENTS**

	<b>PAGE</b>
I. INTRODUCTION .....	1
II. PURPOSE OF TESTIMONY .....	3
III. OCC OBJECTIONS TO STAFF REPORT.....	4
OCC Objection No. 16: Prohibition against adding or modifying riders in a rate case proceeding. ....	4
OCC Objection No. 17: Distribution of the revenue increase. ....	5
OCC Objection No. 18: Residential Customer Charge. ....	7
OCC Objection No. 19: Remote Reconnection Charge.....	10
OCC Objection No. 20: Convenience fees charged to consumers. ....	11
OCC Objection No. 21: Duke should be required to file a new application to update its Net Metering Rider. ....	12
OCC Objection No. 22: Duke should be required to continue offering Time of Day rate (“Rate TD”). ....	13
IV. OCC CONCURRENCE OR NON-OPPOSITION TO CERTAIN RECOMMENDATIONS OF STAFF REPORT .....	14
V. CONCLUSION.....	20

## **LIST OF ATTACHMENTS**

Attachment RBF-1

Attachment RBF-2

1    **I.       INTRODUCTION**

2

3    ***Q1.    PLEASE STATE YOUR NAME, ADDRESS AND POSITION.***

4    ***A1.***    My name is Robert B. Fortney. My business address is 65 East State Street, Suite  
5            700, Columbus, Ohio 43215. I am a Rate Design and Cost of Service Analyst for  
6            the Office of the Ohio Consumers' Counsel ("OCC").

7

8    ***Q2.    WHAT ARE YOUR RESPONSIBILITIES AS A RATE DESIGN AND COST***  
9            ***OF SERVICE ANALYST?***

10   ***A2.***    I am responsible for investigating utility applications regarding rate and tariff  
11            activities such as tariff language, cost of service studies, revenue distribution, cost  
12            allocation, and rate design that impact the residential consumers of Ohio. My  
13            primary focus is to make recommendations to protect residential consumers from  
14            unreasonable and unjustified utility rate increases and unfair regulatory practices.

15

16   ***Q3.    PLEASE SUMMARIZE YOUR EDUCATIONAL BACKGROUND.***

17   ***A3.***    I earned a Bachelor of Science degree in Business Administration from Ball State  
18            University in Muncie, Indiana in 1971. I earned a Master of Business  
19            Administration degree from the University of Dayton in 1979.

20

21   ***Q4.    PLEASE SUMMARIZE YOUR PROFESSIONAL EXPERIENCE AS IT***  
22            ***RELATES TO UTILITY REGULATION.***

*Direct Testimony of Robert B. Fortney  
On Behalf of Office of the Ohio Consumers' Counsel  
PUCO Case No 21-887-EL-AIR, et al.*

1    **A4.**    From July 1985 to August 2012, I was employed by the Public Utilities  
2           Commission of Ohio (“PUCO”). During that time, I held a number of positions  
3           (e.g., Rate Analyst, Rate Analyst Supervisor, Public Utilities Administrator) in  
4           various divisions and departments that focused on utility applications regarding  
5           rates and tariff issues. In August 2012, I retired from the PUCO as a Public  
6           Utilities Administrator, Chief of the Rates and Tariffs Division, which focused on  
7           utility rates and tariff matters. The role of that division was to investigate and  
8           analyze the rate- and tariff-related filings and applications of the electric, gas, and  
9           water utilities regulated by the PUCO and to make Staff recommendations to the  
10          PUCO regarding those filings. I joined the OCC in December of 2015 as a Rate  
11          Design and Cost of Service Analyst.

12  
13    **Q5.    HAVE YOU PREVIOUSLY SUBMITTED TESTIMONY BEFORE THE**  
14          **PUCO?**

15    **A5.**    Yes. When I worked at the PUCO, I testified on numerous occasions to advocate  
16           to the PUCO the positions of the PUCO Staff. Over the course of my career at the  
17           PUCO, I often recommended to the PUCO cost allocation methodologies needed  
18           to develop a reasonable distribution of utility revenues. I also was responsible for  
19           recommending reasonable rate designs needed to recover the revenue  
20           requirement, by class of service and in total.  
21           In addition, I have submitted testimony for OCC in several proceedings since  
22           joining its staff. A list of proceedings that I have submitted testimony to the  
23           PUCO is provided in Attachment RBF-1.

**II. PURPOSE OF TESTIMONY**

**Q6. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?**

**A6.** The purpose of my testimony is to explain and support OCC's position protecting residential consumers as it relates to the Application of Duke Energy Ohio, Inc, ("Duke" or "Applicant") filed on October 1, 2021 for an Increase in Electric Distribution Rates ("Application") in case Nos. 21-887-EL-AIR, *et al.*<sup>1</sup> Specifically, I will explain and support OCC Objection<sup>2</sup> Nos. 16, 17, 18, 19, 20, 21, and 22 to the recommendations and findings included in the Staff Report of Investigation (Staff Report)<sup>3</sup> filed in this proceeding.

Those objections are primarily related to the distribution of any revenue increase to the different consumer rate classes, the fixed delivery charge for the Residential consumers, and various tariff provisions. In addition, I discuss certain objections related to rates and tariffs made by the Staff which are either supported or not opposed by OCC.

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<sup>1</sup> *In the Matter of the Application of Duke Energy Ohio, Inc., for an Increase in Electric Distribution Rates*, Case No. 21-887-EL-AIR et al., (October 1, 2021). (Application).

<sup>2</sup> Objections to the PUCO Staff's Report of Investigation by Office of the Ohio Consumers' Counsel (June 21, 2022). (OCC Objections).

<sup>3</sup> Staff Report of Investigation (May 19, 2022). (Staff Report).

**III. OCC OBJECTIONS TO STAFF REPORT**

**OCC Objection No. 16: Prohibition against adding or modifying riders in a rate case proceeding.**

***Q7. PLEASE EXPLAIN OCC OBJECTION NO. 16.***

**A7.** Although I am not an attorney, my understanding, based on my regulatory experience, is that Duke is not permitted in a rate case proceeding to create new riders or modify existing riders that were approved as part of Duke's current electric security plan. Single-issue ratemaking is not permitted in base distribution rate cases like this one. Nothing in R.C. Chapter 4909 allows the PUCO to engage in single-issue ratemaking in this case.

In its application, Duke sought to modify certain riders that were approved in its most recent electric security plan case. This includes riders like the Delivery Capital Investment Rider, Electric Service Reliability Rider, Development Incentive Rider, and GoGreen Ohio Rider. The Staff Report should have stated that riders cannot be modified unless and until Duke files its next electric security plan case.

In addition, Duke also proposed to implement two new riders, the Community Driven Investment Rider and the Retail Reconciliation Rider. Even though the Staff Report correctly recommends denial of the two new riders, it should

*Direct Testimony of Robert B. Fortney  
On Behalf of Office of the Ohio Consumers' Counsel  
PUCO Case No 21-887-EL-AIR, et al.*

1 consider and explicitly state the illegality of the two new riders as an additional  
2 reason why they should not be approved.

3

4 **OCC Objection No. 17: Distribution of the revenue increase.**

5

6 ***Q8. WHAT WAS THE STAFF'S RECOMMENDATION REGARDING THE***  
7 ***DISTRIBUTION OF THE REVENUE INCREASE IN THIS PROCEEDING?***

8 **A8.** Staff proposed to allocate 191.7% (or \$15,573,962) of the proposed total revenue  
9 increase of \$8,121,044 (the midpoint of the range of total revenue increase in the  
10 Staff Report) to residential consumers , while proposing revenue decreases to all  
11 the other consumers classes, except for consumers in the GSFL Class.<sup>4</sup> To put it  
12 in another way, the Staff Report recommends the residential consumers pay for a  
13 rate increase that is almost double the amount of total rate increase requested by  
14 Duke.

15

16 ***Q9. IS THIS PROPOSED ALLOCATION OF REVENUE INCREASE TO***  
17 ***RESIDENTIAL CONSUMERS JUST AND REASONABLE?***

18 **A9.** No. The proposed allocation of revenue increase in the Staff Report is unjust,  
19 unreasonable and excessive. Staff goes to great lengths in describing how  
20 revenues should be allocated and rates should be designed.

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<sup>4</sup> See Staff Report at 28, Table 3.



*Direct Testimony of Robert B. Fortney  
On Behalf of Office of the Ohio Consumers' Counsel  
PUCO Case No 21-887-EL-AIR, et al.*

1 It states “From a practicable rate design standpoint, difficulties may arise in  
2 achieving absolute equality between costs and revenues for the short term. The  
3 perceived equity of setting rates at cost may be viewed as unreasonable rates if the  
4 rates change significantly for individual customers. While desiring cost supported  
5 charges, Staff considers such items as resulting typical customer billings and  
6 resulting revenue increases which would necessarily occur. While Staff maintains  
7 the position that rate schedules reflect costs, *Staff also considers the continuity*  
8 *associated with current and proposed pricing structures important (emphasis*  
9 *added)*. This may result in movement more closely aligning revenue with costs  
10 rather than an absolute match at a particular time period. When employing these  
11 standards to develop and design rates, the results should be understandable to all  
12 the customers billed under the tariff.”<sup>5</sup>

13  
14 Staff then proceeds to ignore its own guidelines and allocate the revenue increase  
15 based solely on cost of service.<sup>6</sup> The affordability of utility service and the  
16 stability and continuity of rates and revenues should also be considered. A good  
17 rule of thumb to follow when distributing a revenue increase is that if there is an  
18 overall revenue increase, no class should be given a revenue decrease, except in  
19 extreme circumstances. It is a bad public policy to allocate the entire revenue  
20 increase (plus the revenue decreases given to other customer classes) to one single  
21 rate class.

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<sup>5</sup> See Staff Report at 25.

<sup>6</sup> See Staff Report at 27.

1    ***Q10. HOW DOES OCC RECOMMEND THE REVENUE INCREASE SHOULD***  
2        ***BE ALLOCATED?***

3    ***A10.*** OCC recommends using the Applicant's proposed distribution (allocation) of the  
4        revenue increase which gradually moves the rates of each class towards the cost  
5        of service. Any revenue increase should adhere to the rate and revenue guidelines  
6        mentioned in the previous answer. The allocation of the revenue increase to the  
7        Residential Class under that proposal should be no more than 68.02%.<sup>7</sup>

8  
9    **OCC Objection No. 18: Residential Customer Charge.**

10

11   ***Q11. WHAT IS THE CURRENT CUSTOMER CHARGE FOR THE***  
12        ***RESIDENTIAL ("RS") CLASS?***

13   ***A11.*** The current Customer Charge for the residential consumers is \$6.00.

14

15   ***Q12. WHAT DID DUKE PROPOSE FOR THE CUSTOMER CHARGE FOR THE***  
16        ***RS CLASS?***

17   ***A12.*** Duke proposed to double the residential Customer Charge, making residential  
18        consumers pay an unavoidable charge of \$12.00 per month.

19

20   ***Q13. WHAT DID STAFF RECOMMEND FOR THE CUSTOMER CHARGE FOR***  
21        ***RESIDENTIAL CONSUMERS?***

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<sup>7</sup> See Staff Report at 28, Table 2.

*Direct Testimony of Robert B. Fortney  
On Behalf of Office of the Ohio Consumers' Counsel  
PUCO Case No 21-887-EL-AIR, et al.*

1   **A13.** Staff utilized a minimally compensatory methodology to calculate the Residential  
2       Customer Charge of \$7.32.

3  
4   **Q14. DOES OCC CONCUR WITH THE STAFF RECOMMENDATION ON THE**  
5       **RESIDENTIAL CUSTOMER CHARGE?**

6   **A14.** No. While OCC concurs with Staff's use of a minimally compensatory  
7       methodology to calculate the Residential Customer Charge, OCC objects to  
8       Staff's inclusion of a carrying charge on the plant account 368, Line  
9       Transformers.<sup>8</sup> A minimally compensatory formula should not include a carrying  
10      charge on Line Transformers.

11  
12   **Q15. WHY SHOULD A MINIMALLY COMPENSATORY CUSTOMER CHARGE**  
13       **NOT INCLUDE A CARRYING CHARGE ON ACCOUNT 368, LINE**  
14       **TRANSFORMERS?**

15   **A15.** The customer charge should recover only those costs that are directly attributable  
16       to serving an individual consumer, independent of his or her demand. The 1992  
17       NARUC Electric Cost Allocation Manual states, "Primary voltages are reduced to  
18       more usable secondary voltages by smaller line transformers installed at customer  
19       locations along the primary distribution circuit. In some cases, the utility may  
20       choose to install transformers for the exclusive use of a single commercial or  
21       industrial customer. On the other hand, in service areas with high customer

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<sup>8</sup> See Staff Report at 30, Table 5.

*Direct Testimony of Robert B. Fortney  
On Behalf of Office of the Ohio Consumers' Counsel  
PUCO Case No 21-887-EL-AIR, et al.*

1 density, such as housing tracts, a line transformer will be installed to serve many  
2 customers. In this case, secondary voltage lines will run from pole to pole or from  
3 hand hole to hand hole, and each customer is served by a drop tapped off the  
4 secondary line leading directly to the customer's premise." It goes on to say,  
5 "Analysts should be aware that minimum-sized distribution equipment (FERC  
6 accounts 364-368) has a certain load-carrying capability, which can be viewed as  
7 a demand-related cost."<sup>9</sup>

8  
9 In my opinion, therefore, Line Transformers should not be viewed as customer-  
10 related plant and should not be included in a minimally compensatory calculation  
11 to determine the customer charge. The customer charge should provide a price  
12 signal to the consumer that there are costs associated with serving consumers that  
13 are independent of the customer demand for the consumption of energy. The  
14 demand or energy charge should collect the remaining capital operating costs the  
15 company incurs from consumers while providing sufficient operating capacity to  
16 meet the consumer's maximum demand.

17

18 ***Q16. WHAT IS THE RESIDENTIAL CUSTOMER CHARGE RECOMMENDED***  
19 ***BY OCC?***

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<sup>9</sup> See *Electric Utility Cost Allocation Manual* at 86, Chapter 6, National Association of Regulatory Utility Commissioners (January 1982).

1    **A16.**   OCC recommends the monthly Residential Customer Charge should be no higher  
2           than \$5.66. This \$5.66 monthly Residential Customer Charge is calculated in  
3           Exhibit RBF-1 by removing the carrying charge related to Line Transformers.

4

5    **OCC Objection No. 19: Remote Reconnection Charge.**

6

7    ***Q17.   WHAT IS THE CURRENT REMOTE RECONNECTION CHARGE FOR***  
8           ***CONSUMERS WHOSE ELECTRIC SERVICE HAS BEEN***  
9           ***DISCONNECTED?***

10   **A17.**   It is \$10.00 as referenced in the Schedule of Rates and Tariffs of Duke Energy,  
11           Ohio, Sheet 92.4.

12

13   ***Q18.   DID THE APPLICANT PROPOSE A CHANGE TO THE REMOTE***  
14           ***RECONNECTION CHARGE?***

15   **A18.**   No. However, Duke did propose to increase the *non-remote* reconnection charge  
16           from \$69.00 to \$90.00.

17

18   ***Q19.   WHAT WAS STAFF'S RECOMMENDATION REGARDING THE NON-***  
19           ***REMOTE RECONNECTION CHARGE AND THE REMOTE***  
20           ***RECONNECTION CHARGE?***

*Direct Testimony of Robert B. Fortney  
On Behalf of Office of the Ohio Consumers' Counsel  
PUCO Case No 21-887-EL-AIR, et al.*

1   **A19.**   The PUCO Staff recommended approval of the \$90.00 non-remote charge  
2           because Duke had provided workpapers justifying it.<sup>10</sup> Since the charge appears to  
3           be cost-based, OCC does not oppose that recommendation. Staff did not make a  
4           recommendation regarding the remote reconnection charge.

5

6   **Q20.   SHOULD STAFF HAVE MADE A RECOMMENDATION REGARDING**  
7           **THE REMOTE RECONNECTION CHARGE OF \$10.00?**

8   **A20.**   Yes. Staff should have recommended that the **Remote Reconnection Fee** be  
9           reduced to \$0 until such a time as the Applicant (Duke) can provide  
10          documentation justifying a \$10.00 charge.

11

12          As indicated in the Staff Report, Staff believes Miscellaneous Charges should  
13          reflect the actual costs incurred by the utility. The collection of these charges  
14          generally manifests a reasonable approximation of costs.<sup>11</sup> In fact, Staff  
15          recommended denying Applicant's request to increase its Field Collection Charge  
16          from \$15.00 to \$60.00 because the Applicant could not provide the supporting  
17          documentation.<sup>12</sup> The same principle should be applied to the Remote  
18          Reconnection Fee.

19

20   **OCC Objection No. 20: Convenience fees charged to consumers.**

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<sup>10</sup> Staff Report at 25 -26.

<sup>11</sup> See Staff Report at 25.

<sup>12</sup> See Staff Report at 26.

**Q21. PLEASE EXPLAIN THE RATIONALE BEHIND OCC OBJECTION 20  
REGARDING CONVENIENCE FEES.**

**A21.** Duke proposed that convenience fees for using credit and debit cards, electronic checks, and pre-paid cards no longer be charged to the individual customer but rather be included in base rates. Convenience fees are charged to Duke by the processing companies. Staff recommends that convenience fees continue to be charged to the individual customer and not included in base rates.<sup>13</sup> OCC concurs with the recommendation that convenience fees should not be socialized through base rates.

However, OCC objects to the Staff Report's failure to recommend that for greater consumer protection, Duke should make every available effort with its authorized processing companies to reduce the level of the convenience fee charged. The Staff and Duke should do more to reduce the costs to consumers. The PUCO should ideally prohibit charging convenience fees to consumers. This could be accomplished through Duke absorbing the convenience fees or vendors ending the convenience fees.

**OCC Objection No. 21: Duke should be required to file a new application to update its Net Metering Rider.**

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<sup>13</sup> Staff Report at 24.

**Q22. PLEASE EXPLAIN THE RATIONALE BEHIND OCC OBJECTION 21  
REGARDING NET METERING.**

**A22.** The Staff Report found that Net Metering Sheet No. 48 Rider NM, regarding net metering, has not been updated for compliance with the most recent changes in Ohio Administrative Code Section 4901:1-10-28. OCC concurs.

Duke indicated there would be an update in an upcoming application to amend tariff (“ATA”) filing in a response to Staff data request (STAFF-DR-49-010).<sup>14</sup> Staff should have recommended that the PUCO order Duke to file an ATA updating the Net Metering Rider. Such ATA would be subject to the normal ATA regulatory process prescribed in R.C. 4909.18.

**OCC Objection No. 22: Duke should be required to continue offering Time of Day rate (“Rate TD”).**

**Q23. PLEASE EXPLAIN THE RATIONALE BEHIND OCC OBJECTION 22  
REGARDING THE CURRENT TIME OF DAY (“TD”) RATE.**

**A23.** The availability of the newly proposed TOU -Critical Peak Pricing rate (“Rate TD-CPP”) is contingent on the implementation of Duke’s new billing system (Customer Connect), which is estimated to occur in the first half of the 2023 calendar year. Once Rate TD-CPP is available, Duke will discontinue new

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<sup>14</sup> See Staff Report at 42.



*Direct Testimony of Robert B. Fortney  
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PUCO Case No 21-887-EL-AIR, et al.*

1 customer enrollment in the existing Rate TD and may ultimately cancel Rate TD,  
2 subject to approval by the PUCO.<sup>15</sup>

3  
4 It is my understanding that Staff generally supports Duke's implementation of  
5 Rate TD-CPP as a means to further state policy by making time-differentiated  
6 pricing options available to consumers for distribution service and enabling better  
7 demand-side management. However, Staff has made several recommendations to  
8 modify the proposed tariff.

9  
10 OCC supports the Staff Report recommendation to reduce the proposed customer  
11 charge for proposed Rider TD-CPP to be consistent with the customer charge  
12 under Rate RS. OCC also supports the elimination of the provision regarding  
13 repayment of savings if customers do not remain on TD-CPP for the full term.<sup>16</sup>  
14 However, OCC objects to the PUCO Staff's failure to recommend that the current  
15 TD rate be maintained so that consumers wishing to remain on it, for whatever  
16 reason, would have that option.

17

18 **IV. OCC CONCURRENCE OR NON-OPPOSITION TO CERTAIN**  
19 **RECOMMENDATIONS OF STAFF REPORT**

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<sup>15</sup> Staff Report at 23.

<sup>16</sup> See Staff Report at 22.

1   ***Q24. ARE THERE ANY RECOMMENDATIONS IN THE RATES AND TARIFFS***  
2           ***SECTION OF THE STAFF REPORT THAT OCC SUPPORTS OR DOES***  
3           ***NOT OPPOSE?***

4   ***A24.***   Yes.

5

6           The Staff Report correctly recommended reducing the customer charge for the  
7           proposed Optional Time of Day Rate with Critical Peak Pricing for residential  
8           service (“Rate TD-CPP”) to be consistent with the customer charge under Rate  
9           RS. OCC further supports the elimination of the provision regarding repayment of  
10          savings if customers do not remain on TD-CPP for the full term.

11          OCC supports the Staff Report recommendation to maintain the current \$15 field  
12          collection charge.<sup>17</sup>

13

14          OCC supports the Staff Report recommendation to moderate the magnitude of the  
15          proposed increase in the Residential Service Low Income (RSLI) customer charge  
16          to \$2.44.<sup>18</sup> However, should the Commission find that the Residential customer  
17          charge should remain at \$6.00 or below, then the RSLI customer charge should  
18          remain at \$2.00.

---

<sup>17</sup> See Staff Report at 26.

<sup>18</sup> See Staff Report at 35.

1 ***Q25. WHAT IS THE OCC'S POSITION REGARDING STAFF'S***  
2 ***RECOMMENDATION TO DENY THE APPLICANT'S PROPOSED***  
3 ***COMMUNITY DRIVEN INVESTMENT RIDER ("RIDER CDI")?***

4 ***A25.*** OCC supports the Staff recommendation to deny Duke's request to implement  
5 Rider CDI, Community Driven Investment Rider. I share many concerns the Staff  
6 Report has identified regarding this particular rider. Furthermore, as discussed  
7 earlier in my testimony, Duke is not permitted in a rate case proceeding to create  
8 new riders and the Staff Report should consider and explicitly state the illegality  
9 of creating a new rider such as Rider CDI in a rate case proceeding.

10  
11 ***Q26. WHAT IS YOUR UNDERSTANDING OF THE PROPOSED COMMUNITY***  
12 ***DRIVEN INVESTMENT RIDER ("RIDER CDI")?***

13 ***A26.*** Duke has requested to implement a new rider to recover the costs of certain  
14 distribution system investments made pursuant to requests from local  
15 communities.<sup>19</sup> As proposed, cities, townships, villages, and other types of  
16 municipal corporations within Duke's service territory would be able to propose  
17 projects that could be eligible for cost recovery through Rider CDI.

18  
19 Under proposed Rider CDI, project costs would be assessed by Duke to the  
20 constituents of each community through individual Rider CDI charges for each  
21 approved project. These charges would be assessed to all customers within the

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<sup>19</sup> Staff Report at 40.

*Direct Testimony of Robert B. Fortney  
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PUCO Case No 21-887-EL-AIR, et al.*

1 applicable tax district, regardless of customer class. The specific allocation and  
2 rate design would be determined by Duke in coordination with the community  
3 through the development of a contract. To the extent that a project provides wider  
4 system benefits (*e.g.*, improved reliability), Duke may recover a portion of the  
5 project costs through distribution rates or the Distribution Capital Investment  
6 Rider.

7

8 Duke proposes to implement Rider CDI by using the reasonable rate agreement  
9 authority, as defined in R.C. 4905.31. Duke also proposes an automatic approval  
10 process for communities that have entered into a service agreement with the  
11 Utility to implement the improvement project “or pass[] an ordinance charging  
12 the users of the public way for the cost of the project.” (R.C. 4905.31).

13

14 ***Q27. PLEASE EXPLAIN YOUR CONCERNS WITH THE PROPOSED***  
15 ***COMMUNITY DRIVEN INVESTMENT RIDER (“RIDER CDI”).***

16 ***A27.*** I share Staff’s concerns about Rider CDI. Notably, Rider CDI seems to impose an  
17 obligation on local consumers within the applicable tax district to pay for public  
18 investments without proper notice or sufficient opportunity for engagement. Staff  
19 believes customers are more likely to pay attention to matters related to local  
20 improvements through items included in a municipality or township's operating  
21 budget or specific items proposed through a resolution or ordinance, as compared  
22 to a proceeding before the PUCO.

*Direct Testimony of Robert B. Fortney  
On Behalf of Office of the Ohio Consumers' Counsel  
PUCO Case No 21-887-EL-AIR, et al.*

1 Duke has indicated that no specific projects have been requested by any of the  
2 municipalities or townships within the service territory at the time of the  
3 Application. Staff believes the existing process of direct payment is sufficient.  
4 Alternatively, and instead of the proposed Rider CDI, Staff believes that some  
5 type of payment or financing plan could be made available by Duke for  
6 communities to achieve a similar outcome.<sup>20</sup>

7  
8 In addition, I believe the proposed Rider CDI will impose additional and  
9 unnecessary costs on the consumers served by Duke. For example,  
10 the proposed Rider CDI would cause significant costs in negotiating, reviewing,  
11 analyzing, determining whether the project should be paid for locally or system-  
12 wide, allocating the costs to consumers, and auditing. It also could require  
13 additional billing and programming costs. All of these costs would eventually be  
14 passed on to consumers, most of which did not cause the costs and will receive no  
15 benefit from them.

16  
17 Based on my many years of experience as a regulatory analyst, I conclude that the  
18 proposed program is ripe for gold-plating by municipalities and townships and  
19 Duke, and for possible discrimination and fraud.

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<sup>20</sup> See Staff Report at 40.

*Direct Testimony of Robert B. Fortney  
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1       The proposal for an automatic approval process is simply bad public policy.

2       Overall, I did not see any demonstrated clear and unique benefits to consumers  
3       and the community associated with the proposed Rider CDI.

4

5       ***Q28. DOES THE CURRENT TARIFF OF DUKE ENERGY OHIO CONTAIN***  
6       ***LANGUAGE REGARDING POTENTIAL REFUNDS?***

7       ***A28.*** Yes. Some of the Riders include the following, or similar, provision: This Rider is  
8       subject to reconciliation, including, but not limited to, refunds or additional  
9       charges to customers, ordered by the Commission as the result of audits by the  
10      Commission in accordance with the December 19, 2018, Opinion and Order in  
11      Case No. 17-1263-EL-SSO.

12

13      ***Q29. IS THE CURRENT REFUND LANGUAGE SUFFICIENT FOR***  
14      ***CONSUMER PROTECTION?***

15      ***A29.*** No. Staff should have recommended that refund language be added to all  
16      of the current Rate Schedules and Riders. Refund language should not just  
17      be applicable to specific Riders. Therefore, OCC recommends including a  
18      general Refund provision in all riders and tariffs stating that, unless  
19      expressly stated otherwise, any and all charges to consumers are subject to  
20      refund if they are eventually determined by a court to be unlawful,  
21      unreasonable, unjust or unduly discriminatory or if ordered by the PUCO.

1   **V.     CONCLUSION**

2

3   ***Q30.   DOES THIS CONCLUDE YOUR TESTIMONY?***

4   ***A30.***   Yes. However, I reserve the right to incorporate new information that may  
5           subsequently become available. I also reserve the right to supplement my  
6           testimony in the event Duke, the PUCO Staff or other parties submit new or  
7           corrected information in connection with this proceeding.

## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Direct Testimony of Robert B. Fortney on behalf of Office of the Ohio Consumers' Counsel has been served upon those persons listed below via electronic service this 2<sup>nd</sup> day of September 2022.

/s/ Angela D. O'Brien  
Angela D. O'Brien  
Assistant Consumers' Counsel

The PUCO's e-filing system will electronically serve notice of the filing of this document on the following parties:

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Robert Fortney  
 Proceedings with Testimony Submitted to the Public Utilities Commission of Ohio

Company	Docket No.	Date
Cleveland Electric Illuminating Company	85-675-EL-AIR	1986
Cleveland Electric Illuminating Company	86-2025-EL-AIR	1987
Toledo Edison Company	86-2026-EL-AIR	1987
Ohio Edison Company	87-689-EL-AIR	1987
Cleveland Electric Illuminating Company	88-170-EL-AIR	1988
Toledo Edison Company	88-171-EL-AIR	1988
Ohio Edison Company	89-1001-EL-AIR	1990
Cincinnati Gas & Electric Company	91-410-EL-AIR	1991
Columbus Southern Power Company	91-418-EL-AIR	1992
Cincinnati Gas & Electric Company	92-1464-EL-AIR	1993
Ohio Power Company	94-996-EL-AIR	1994
Toledo Edison Company	94-1987-EL-CSS	1995
Cleveland Electric Illuminating Company	94-1964-EL-CSS	1995
Toledo Edison Company	95-299-EL-AIR	1995
Cleveland Electric Illuminating Company	95-300-EL-AIR	1996
All Electric Companies (Rulemaking Proceeding)	96-406-EL-COI	1998
Cleveland Electric Illuminating Company	97-358-EL-ATA	1998
Toledo Edison Company	97-359-EL-ATA	1998
Cleveland Electric Illuminating Company	97-1146-EL-COI	1998
Toledo Edison Company	97-1147-EL-COI	1998
FirstEnergy	96-1211-EL-UNC	1998
Columbus Southern Power Company	01-1356-EL-ATA	2002
Columbus Southern Power Company	01-1357-EL-AAM	2002
Rulemaking Proceeding	01-2708-EL-COI	2002
FirstEnergy	01-3019-EL-UNC	2002
Ohio Power Company	01-1358-EL-ATA	2002
Ohio Power Company	01-1359-EL-AAM	2002
The Dayton Power and Light Company	02-0570-EL-ATA	2003
Dayton Power and Light Company	02-2364-EL-CSS	2003
Dayton Power and Light Company	02-2879-EL-AAM	2003
Dayton Power and Light Company	02-2779-EL-ATA	2003
FirstEnergy Corporation	03-2144-EL-ATA	2004
Cincinnati Gas & Electric Company	03-0093-EL-ATA	2004
Cincinnati Gas & Electric Company	03-2079-EL-AAM	2004
Cincinnati Gas & Electric Company	03-2081-EL-AAM	2004
Monongahela Power Company	04-0880-EL-UNC	2004
Monongahela Power Company	05-0765-EL-UNC	2005
Dayton Power and Light Company	05-0276-EL-AIR	2005
FirstEnergy	07-0551-EL-AIR	2008
FirstEnergy	08-0936-EL-SSO	2008
FirstEnergy	08-0935-EL-SSO	2008

Ormet Primary Aluminum Corporation	09-0119-EL-AEC	2009
Cleveland Electric Illuminating Company	08-1238-EL-AEC	2009
Columbus Southern Power Company	09-0516-EL-AEC	2009
FirstEnergy	10-0388-EL-SSO	2010
FirstEnergy	10-0176-EL-ATA	2011
Columbus Southern Power Company	11-0346-EL-SSO	2011
Ohio Power Company	11-0348-EL-SSO	2011
Columbus Southern Power Company	10-0343-EL-ATA	2011
Ohio Power Company	10-0344-EL-ATA	2011
AEP Ohio	10-2376-EL-UNC	2011
AEP Ohio	10-2929-EL-UNC	2011
AEP Ohio	11-4921-EL-RDR	2011
FirstEnergy	12-1230-EL-SSO	2012
AEP Ohio	14-1693-EL-RDR	2015
Aqua	16-0907-WW-AIR	2016
Dayton Power and Light Company	16-0395-EL-SSO	2017
AEP Ohio	16-1852-EL-SSO	2017
Dayton Power and Light Company	15-1830-EL-AIR	2018
Vectren Energy Delivery	18-0298-GA-AIR	2018
Suburban Natural Gas Company	18-1205-GA-AIR	2019
AES	20-1651-EL-AIR	2021
Columbia Gas	21-637-GA-AIR	2022

Case No.

21-887

## Minimally Compensatory Customer Charge Calculation

DISTRIBUTION PLANT - CUSTOMER-RELATED A/C	Staff	OCC w/o 368
368 Line Transformers	\$ 86,900,451	0
369 Services	\$ 53,352,893	\$ 53,352,893
370 Meters	\$ 105,560,794	\$ 105,560,794
Total	\$ 245,814,138	\$ 158,913,687
EXPENSES		
586 Meter Expense	\$ 1,746,312	\$ 1,746,312
587 Installation Expense	\$ 3,010,036	\$ 3,010,036
597 Maintenance/Meters	\$ 786,531	\$ 786,531
901 Supervision/Customer Accounting	\$ 85,277	\$ 85,277
902 Meter Reading	\$ 865,424	\$ 865,424
903 Customer Records/Collections	\$ 14,511,118	\$ 14,511,118
907 Supervision/Customer Accounting	\$ -	\$ -
908 Customer Assistance	\$ -	\$ -
909 Info & Instruction	\$ 7,222	\$ 7,222
Total	\$ 21,011,920	\$ 21,011,920
CUSTOMER-RELATED CARRYING CHARGE %	15.409%	15.409%
Customer-Related Plant Carry Charge	\$ 37,878,375	\$ 24,487,575
Total Carrying Charge + Expenses	\$ 58,890,295	\$ 45,499,495
Number Customer Bills	8,043,766	8,043,766
Minimum Compensatory Charge	\$ 7.32	\$ 5.66

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**in**

**Case No(s). 21-0887-EL-AIR, 21-0888-EL-ATA, 21-0889-EL-AAM**

Summary: Testimony Direct Testimony of Robert B. Fortney on Behalf of Office of the Ohio Consumers' Counsel electronically filed by Ms. Alana M. Noward on behalf of O'Brien, Angela D.