

**BEFORE THE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

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

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

PREFILED TESTIMONY
OF
BARBARA BOSSART
SUBMITTED ON BEHALF OF THE STAFF OF
THE PUBLIC UTILITIES COMMISSION OF OHIO
RELIABILITY AND SERVICE ANALYSIS DIVISION
OF THE SERVICE MONITORING AND ENFORCEMENT DEPARTMENT

STAFF EX. ____

September 7, 2022

1 1. Q. Please state your name and business address.

2 A. My name is Barbara Bossart. My business address is 180 E. Broad Street,
3 Columbus, Ohio 43215-3793.
4

5 2. Q. By whom are you employed?

6 A. I am employed by the Public Utilities Commission of Ohio (Commission).
7

8 3. Q. What is your present position with the Commission and what are your duties?

9 A. I am the Chief of the Reliability and Service Analysis Division of the Service
10 Monitoring and Enforcement Department. My current duties include the
11 development and enforcement of service reliability and consumer protection
12 policies, as well as rules for gas, water, electric, and telephone services and
13 competitive retail gas and electric services. I also oversee the application for
14 competitive retail natural gas service (CRNGS) and competitive retail electric
15 service (CRES) certification and other application related to competitive retail
16 services.
17

18 4. Q. Would you briefly state your educational background and work experience.

19 A. I have a Bachelor's degree from Marshall University and I have been employed
20 by the Commission since 1999. For six years, I worked as an Investigator in the
21 Investigation and Audits Division of the Service Monitoring and Enforcement
22 Department. As an Investigator, my duties included interacting with the

1 consumers to investigate their concerns about utility companies' policies and
2 practices. I also participated in Customer Service Audits to identify service issues
3 or non-compliance with rules. In May 2005, I was promoted to Utility Specialist 2
4 in the Reliability and Service Analysis Division of the Service Monitoring and
5 Enforcement Department where I was responsible for analyzing service quality
6 performance as well as for recommending and enforcing service-quality and
7 consumer-protection policies and rules. In January 2013, I was promoted to Chief
8 of the Reliability and Service Analysis Division.

9
10 5. Q. What is the scope of your testimony?

11 A. The purpose of my testimony is to discuss Staff's review of the parts of Duke
12 Energy Ohio Inc.'s (Duke or Company) application and witness testimony
13 addressing the following: compliance with R.C. 4929.04 and Duke's proposed
14 Corporate Separation Plan, Code of Conduct, and bill format change.

15
16 6. Q. What are the requirements of R.C. 4929.04(A)?

17 A. While I am not a lawyer, based on my experience and understanding of R.C.
18 4929.04(A) in order to approve the application before it the Commission must
19 find that Duke is in substantial compliance with the policy of this state specified
20 in R.C. 4929.02 and that either of the following conditions exists: (1) the natural
21 gas company is subject to effective competition with respect to the commodity

1 sales service or ancillary services; or (2) the customers of the commodity sales
2 service or ancillary service have reasonable available alternatives.

3
4 7. Q. Does Staff believe that Duke is in substantial compliance with the policy of this
5 state specified in R.C. 4929.02?

6 A. Yes, Staff believes that Duke is in substantial compliance with the policy of this
7 state specified in R.C. 4929.02.

8
9 8. Q. Does Staff believe that Duke has satisfied one of two conditions in R.C.
10 4929.04(A) outlined above?

11 A. Yes, Staff believes Duke has shown that it has satisfied the conditions in
12 4929.04(A)(1) and (A)(2).

13
14 9. Q. What factors indicate that Duke has met the condition(s) stated above?

15 A. R.C. 4929.04(B) includes a list of the following factors that the Commission shall
16 consider in determining whether the conditions exist: (1) the number and size of
17 alternative providers of the commodity sales service or ancillary service; (2) the
18 extent to which the commodity sales service or ancillary service is available from
19 alternative providers in the relevant market; (3) the ability of alternative providers
20 to make functionally equivalent or substitute services readily available at
21 competitive prices, terms, and conditions; (4) other indicators of market power,

1 which may include market share, growth in market share, ease of entry, and the
2 affiliation of providers of services.

3 Staff believes these factors indicate that Duke has met the requirements as set
4 forth in R.C. 4929.04(A).

5
6 10. Q. Please comment on Staff's findings regarding the first factor: the number and size
7 of alternative providers of the commodity sales service or ancillary service.

8 A. As Duke witness Spiller's indicates, the Energy Choice Ohio website shows there
9 are many competitive retail natural gas service (CRNGS) providers offering
10 alternative competitive retail natural gas services.¹ There are over 30 providers
11 offering CRNGS for residential service and 13 providers offering general service
12 on the Energy Choice Ohio.gov website when viewing the historical charts for
13 Duke's Service territory as of August 29, 2022.² In addition, as indicated on page
14 5 of Duke Witness Spiller's testimony, the Commission's Energy Choice activity
15 webpage shows that Duke's overall shopping is at 40%.³ Staff believes this is
16 another indication of effective competition.

¹ Direct Testimony of Duke Witness Amy Spiller at 6 (Apr. 27, 2022); Apples to Apples Comparison Chart for Duke Energy Ohio, <https://energychoice.ohio.gov/ApplesToApplesComparision.aspx?Category=NaturalGas&TerritoryId=10&TariffCodeId=28&RateCode=1>.

² See Apples to Apples History Browser, PUCO website (Aug. 29, 2022), <https://puco.ohio.gov/documents-and-rules/resources/a2a>. (Must input "August 29, 2022" into "Date" field, "Gas – Duke Energy Ohio" into "Territories" field, and either "Residential" or "Small Commercial" into "Category" field to produce results).

³ Natural Gas Choice Activity, PUCO website, <https://app.powerbigov.us/view?r=eyJrIjojOGJOTA2MjYtNzZmNi00Y2RhLTljZjEtZTU3Zjg5ZDZhMDgyIiwidCI6IjUwZjhmY2M0LTk0ZDgtNGYwNy04NGViLTM2ZWQ1N2M3YzhhMiJ9>.

1 11. Q. Please comment on Staff's findings regarding the second factor: the extent to
2 which the commodity sales service or ancillary service is available from
3 alternative providers in the relevant market.

4 A. As noted in the answer to the previous questions, there are many CRNGS
5 providers offering commodity sales service or ancillary service in Duke's
6 territory.⁴ Although, there is only a little over 40% shopping in Duke's territory, it
7 does not appear to be due to a lack of offers.⁵
8

9 12. Q. Please comment on Staff's findings regarding the third factor: The ability of
10 alternative providers to make functionally equivalent or substitute services readily
11 available at competitive prices, terms, and conditions.

12 A. Staff believes the Energy Choice website indicates that there are comparable
13 offers to the current gas cost recovery (GCR) price.⁶ However, to help determine
14 how competitive prices, terms, and conditions are sustainable after an initial offer
15 is accepted, Staff recommends Duke work with Staff to provide data that will help

⁴ See Energy Choice Ohio, PUCO website, <https://www.energychoice.ohio.gov/ApplesToApplesCategory.aspx?Category=NaturalGas>. (Must select the appropriate category, and "Duke Energy Ohio" in dropdown menu where applicable, to proceed to comparison chart).

⁵ Natural Gas Choice Activity, PUCO website <https://app.powerbigov.us/view?r=eyJrIjojOGJjOTA2MjYtNzMzNi00Y2RhLTljZjEtZTU3Zjg5ZDZhMDgyIiwidCI6IjUwZjhmY2M0LTk0ZDgtNGYwNy04NGViLTM2ZWQ1N2M3YzhhMiJ9>.

⁶ Energy Choice Ohio, PUCO Website, <https://www.energychoice.ohio.gov/ApplesToApplesComparision.aspx?Category=NaturalGas&TerritoryId=10&RateCode=1>.

1 Staff monitor the market similar to the data that is collected from Dominion
2 Energy Ohio and Columbia Gas of Ohio as required by the Commission.⁷
3

4 13. Q. Please comment on Staff's findings regarding the fourth factor: other indicators of
5 market power, which may include market share, growth in market share, ease of
6 entry, and the affiliation of providers of services.

7 A. Based on over 60 CRNGS providers participating in Duke's territory there
8 appears to be an ease of entry.⁸ In addition, as stated previously, Duke has 40% of
9 its customers taking CRNGS from one of those providers. However, to monitor
10 the market power, which may include market share, of CRNGS providers, Staff
11 again recommend Duke work with Staff to provide similar data that Dominion
12 Energy Ohio and Columbia are providing.
13

14 14. Q. Does Staff believe that Duke's proposal complies with R.C. 4929.04(D)?

15 A. Based on Staff's review and understanding of Duke's application and tariff
16 filings, it appears that Duke will continue to offer distribution services on a fully
17 open, equal, and unbundled basis to all its customers and that all such customers
18 reasonably may acquire commodity sales services from suppliers other than the

⁷ *In the Matter of the Application to Modify, in Accordance with Section 4929.08, Revised Code, the Exemption Granted to The East Ohio Gas Company d/b/a Dominion Energy Ohio*, Case No. 12-1842-GA-EMX, Order at 17 (Jan. 9, 2013); *In the Matter of the Application to Modify, in Accordance with Section 4929.08, Revised Code, the Exemption Granted Columbia Gas of Ohio, Inc., in Case No. 08- 1344-GA-EXM*, Case No. 12-2637-GA-EXM, Order at 31 (Jan. 9, 2013).

⁸ See Certified Gas Suppliers Participating, Duke Energy Ohio, <https://www.duke-energy.com/home/products/ohio-customer-choice/gas/certified-gas-suppliers-participating>.

1 natural gas company. From Staff's understanding, the only distribution service
2 impacted by this filing is Duke's GCR tariff. Staff witness Matthews will address
3 Duke's proposed Standard Service Offer tariffs, which will replace the GCR tariff
4 service.

5
6 15. Q. Does Staff believe that Duke's proposal complies with R.C. 4929.04(E)(1) by
7 including a separation plan that ensures, to the maximum extent practicable, that
8 the operations, resources, and employees involved in the provision or marketing
9 of exempt commodity sales services or ancillary services, and the books and
10 records associated with those services, shall be separate from the operations,
11 resources, and employees involved in the provision or marketing of nonexempt
12 commodity sales services or ancillary services and the books and records
13 associated with those services?

14 A. Duke states that it does not currently expect that it will ever have any operation,
15 resources, or employees involved in providing or marketing exempt commodity
16 sales service or ancillary services. Rather, the Company's involvement will be
17 limited to nonexempt operations.⁹ Staff agrees that Duke should not market
18 exempt sales service or ancillary services. However, Staff believes that if Duke
19 uses any resources to market Energy Choice to its customers, it should include the
20 SSO option in its marketing as well.

⁹ Direct Testimony of Duke Witness Christian E. Whicker at 3 (Apr. 27, 2022).

1

2 16. Q. Does Staff believe that Duke's proposal complies with section R.C.

3 4929.04(E)(2) by including a code of conduct that governs both the company's

4 adherence to the state policy specified in R.C. 4929.02 and its sharing of

5 information and resources between those employees involved in the provision of

6 marketing of exempt commodity sales services or ancillary services and those

7 employees involved in the provision or marketing of nonexempt commodity sales

8 service or ancillary services?

9 A. Staff reviewed Duke's proposed Code of Conduct and Duke witness Whicker's

10 direct testimony and agrees that Duke's proposed Code of Conduct complies with

11 the requirements of R.C. 4929.04(E)(2). Regarding the Company adhering to the

12 policy of the state specified in R.C. 4929.02, Staff agrees that Duke's Code of

13 Code is consistent with the specified policy. Further, as Duke witness Whicker

14 stated, Duke does not expect to market exempt commodity sales services or

15 ancillary services. Duke's code of conduct, as stated by Duke witness Whicker, is

16 based on the requirements of R.C. 4905.35 which, among other things, prohibits

17 the Company from giving any undue or unreasonable preference or advantage, or

18 any undue or unreasonable prejudice or disadvantage to any person or entity.

19 Duke's proposed Code of Conduct would prevent any sharing of resources or

20 information with an affiliate, if or when Duke has an affiliate associated with the

21 provision of marketing exempt service. However, to ensure that all are aware of

22 any affiliates operating in Duke's territory, Staff recommends that Duke list all of

1 its affiliates operating in its Ohio service territory in its Code of Conduct tariff or
2 on its website.

3
4 17. Q. Does Staff recommend any other indicators that will demonstrate continued
5 support for Duke's application?

6 A. Yes, Staff recommends that Duke work with Staff to provide data, similar to the
7 data provided by Dominion Energy Ohio and Columbia Gas of Ohio,¹⁰ in order
8 for Staff to examine CRNGS provider market power, market share and
9 continuation of diversity of natural gas suppliers, and promotion of reasonable
10 priced natural gas services.

11
12 18. Q. Is Duke's proposed bill format change in compliance with the Ohio Adm.Code
13 4901:1-13 bill format rules?

14 A. No, I do not believe that it is in compliance. Duke's proposed bill format appears
15 to only include the total charge attributable to the rate for natural gas service. To
16 easily compare the commodity price for natural gas provided by the SSO service
17 and those rates offered by CRNGS providers under individual contracts, the Ohio
18 Adm.Code 4901:1-13-11 (B)(9) and (10), required the rate for the purchase of
19 commodity service and the total charge attributable to the rate be on the bill. Staff

¹⁰ See *In the Matter of the Application to Modify, in Accordance with Section 4929.08, Revised Code, the Exemption Granted to The East Ohio Gas Company d/b/a Dominion Energy Ohio*, Case No. 12-1842-GA-EMX, Order at 17 (Jan. 9, 2013); See *In the Matter of the Application to Modify, in Accordance with Section 4929.08, Revised Code, the Exemption Granted Columbia Gas of Ohio, Inc., in Case No. 08- 1344-GA-EXM*, Case No. 12-2637-GA-EXM., Order at 31 (Jan. 9, 2013).

1 has worked with utilities in the past to ensure that the tax rate is separate from the
2 commodity rate for comparison purposes. However, Duke stated in a data request
3 response that it will work with its billing/IT departments to ensure the SSO rate
4 appears separately on the bill.¹¹ Staff recommends that Duke file a revised bill
5 format which separates the tax from the SSO rate.
6

7 19. Q. Does Staff recommend approval of Duke's Application?

8 A. Yes, Staff recommends the approval of Duke's Application, subject to the
9 recommendations and modifications described above.
10

11 20. Q. Does this conclude your testimony?

12 A. Yes. However, I reserve the right to submit supplemental testimony as new
13 information becomes available or in response to positions taken by other parties.

¹¹ STAFF-DR-41-001.

PROOF OF SERVICE

I hereby certify that a true copy of the foregoing **Prefilled Testimony of Barbara Bossart**, submitted on behalf of the Public Utilities Commission of Ohio, was served via electronic mail upon the following parties of record, this 7th day of September, 2022.

/s/ Robert Eubanks

Robert Eubanks

Assistant Attorney General

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Summary: Testimony Prefiled Testimony Of Barbara Bossart Submitted On Behalf
Of The Staff Of The Public Utilities Commission Of Ohio Reliability And Service
Analysis Division Of The Service Monitoring And Enforcement Department
electronically filed by Mrs. Kimberly M. Naeder on behalf of PUCO