

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke )  
Energy Ohio, Inc., for an Increase in ) Case No. 22-507-GA-AIR  
Natural Gas Rates. )

In the Matter of the Application of Duke )  
Energy Ohio, Inc., for Approval of an ) Case No. 22-508-GA-ALT  
Alternative Form of Regulation. )

In the Matter of the Application of Duke )  
Energy Ohio, Inc., for Tariff Approval. ) Case No. 22-509-GA-ATA  
)

In the Matter of the Application of Duke )  
Energy Ohio, Inc., for Approval to ) Case No. 22-510-GA-AAM  
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*

**April 28, 2023**

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**ATTACHMENTS**

Attachment RBF-1 Fortney Testimony History

**EXHIBITS**

Exhibit RBF-1 Base Distribution Revenue Allocation

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"), employed through Sterling  
7 Staffing Services.

8

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

11

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

17

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

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

*Direct Testimony of Robert B. Fortney  
On Behalf of Office of the Ohio Consumers' Counsel  
PUCO Case No 22-507-GA-AIR, et al.*

1 **Q4. PLEASE SUMMARIZE YOUR PROFESSIONAL EXPERIENCE AS IT**  
2 **RELATES TO UTILITY REGULATION.**

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

15

16 **Q5. HAVE YOU PREVIOUSLY SUBMITTED TESTIMONY BEFORE THE**  
17 **PUCO?**

18  
19 **A5.** Yes. When I worked at the PUCO, I testified on numerous occasions to advocate  
20 to the PUCO the positions of the PUCO Staff. Over the course of my career at the  
21 PUCO, I often recommended to the PUCO cost allocation methodologies needed  
22 to develop a reasonable distribution of utility revenues. I also was responsible for  
23 recommending reasonable rate designs needed to recover the revenue  
24 requirement, by class of service and in total.

1           In addition, I have submitted testimony for OCC in several proceedings since  
2           joining its staff. A list of proceedings that I have submitted testimony to the  
3           PUCO is provided in Attachment RBF-1.

4

5   **II.    PURPOSE OF TESTIMONY**

6

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

9

10 ***A6.***   The purpose of my testimony is to explain and support OCC's position protecting  
11       residential consumers as it relates to the Application of Duke Energy, Ohio, Inc,  
12       ("Duke") for an Increase in Gas Distribution Rates ("Application") filed in case  
13       No. 22-507-GA-AIR, et al.

14

15       Specifically, I will explain and support OCC's Objection Nos. 14 and 16<sup>1</sup>  
16       pertaining to recommendations made by the PUCO Staff in the Staff Report  
17       ("Staff Report") filed in this proceeding on December 21, 2022.<sup>2</sup> Those  
18       recommendations are related to the allocation of base distribution revenues to the  
19       different customer classes, the fixed delivery charge for the Residential  
20       consumers (RS, RFT, RSLI and RFTLI), and convenience charges.

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<sup>1</sup> Objections to the PUCO Staff's Report of Investigation by the Office of the Ohio Consumers' Counsel (January, 2023) at 14-15.

<sup>2</sup> Staff's Report of Investigation (December 21, 2022).

1 **III. OCC'S OBJECTIONS TO STAFF REPORT**

2

3 **OCC Objection No. 14**

4

5 ***Q7. WHAT IS STAFF'S RECOMMENDATION OF THE ALLOCATION OF***  
6 ***BASE DISTRIBUTION REVENUES TO THE RESIDENTIAL***  
7 ***CONSUMERS?***

8

9 ***A7.*** See Table 6, page 32 of the Staff Report. Exhibit RBF-1 is a brief summary of

10 that Table. Staff has recommended that the allocation of base distribution

11 revenues to the Residential consumers be 67.815%.

12

13 ***Q8. DOES OCC HAVE A RECOMMENDATION REGARDING THE***  
14 ***ALLOCATION OF BASE DISTRIBUTION REVENUES TO RESIDENTIAL***  
15 ***CONSUMERS?***

16

17 ***A8.*** Yes. While moving towards cost of service is a reasonable goal, public policy

18 should dictate that the Residential consumers should not be over-burdened with

19 price increases after nearly three years of being ravaged by the economic

20 hardships caused by covid and inflation. OCC recommends that the allocation of

21 base distribution revenues to the Residential consumers be no more than 67%.

22

23 ***Q9. IF RESIDENTIAL CONSUMERS RECEIVE A SMALLER ALLOCATION***  
24 ***OF THE BASE DISTRIBUTION REVENUES, DOES THAT MEAN THE***  
25 ***NON-RESIDENTIAL CONSUMERS WILL RECEIVE GREATER***  
26 ***ALLOCATIONS?***

27

28 ***A9.*** Yes. That is basic math. If there is a fixed total allocation, and one class receives a

29 reduced allocation, then some other class or classes would receive an increased

1 allocation. And, if commercial/industrial consumers have increased rates, they  
2 have the ability to increase their prices.

3

4 ***Q10. SO, IF THE PRICES OF GOODS AND SERVICES INCREASE, WON'T***  
5 ***RESIDENTIAL CONSUMERS END UP PAYING MORE FOR THOSE***  
6 ***GOODS AND SERVICES?***

7

8 ***A10.*** Unfortunately, probably so. But the spending for goods and services may be more  
9 discretionary than paying for utility services and residential consumers may be  
10 able to make the choice of foregoing (or postponing) spending on certain goods  
11 and services.

12

13 **OCC Objection No. 16**

14

15 ***Q11. WHAT ARE THE PROPOSED FIXED DELIVERY CHARGES FOR THE***  
16 ***RESIDENTIAL CONSUMERS RATE CLASSES?***

17

18 ***A11.*** The proposed fixed delivery service charge for Rates RS and RFT was derived by  
19 adding the current charges for Rider AMRP and Rider CEP, which are also fixed  
20 per month charges, to the current fixed delivery service charge of \$31.26 per  
21 month. Since the current Rider AMRP charge is \$2.72 per month and Rider CEP  
22 charge is \$9.31 per month, the proposed fixed delivery service charge is \$43.29  
23 per month. The fixed delivery service charge for RSLI and RFTLI were set by  
24 discounting the charge for RS and RFT by \$4.00 per month as originally  
25 designed.

1 **Q12. WHAT IS YOUR UNDERSTANDING OF STAFF'S RECOMMENDATION**  
2 **REGARDING THE FIXED DISTRIBUTION CHARGE FOR RESIDENTIAL**  
3 **CONSUMERS?**  
4

5 **A12.** The Staff recommendation in Tables 9,10, 11 and 12 on pages 35 and 36 in the  
6 Staff Report seems to accept the Applicant's proposed fixed delivery charge to  
7 Rates RS, RFT, RSLI and RFTLI, in spite of recommending an \$18.2 million (at  
8 the Staff midpoint) reduction to the Applicant's proposed revenue requirement.  
9

10 **Q13. DOES OCC AGREE WITH THAT RECOMMENDATION?**

11 **A13.** No. On page 34 of the Staff Report, Staff finds "[b]ased on this review, Staff  
12 finds that the cost to serve customers within each of the current GS/FT -Small and  
13 GS/FT- Large rate classes are not the same. The rate structure should be analyzed  
14 and general service customers should be separated into rate classes with similar  
15 cost causation characteristics to achieve fair and equitable rates under the  
16 Modified Straight Fixed Variable (MSFV) rate design. Customers within a non-  
17 homogenous rate class should not be billed such that customers who place a small  
18 cost on the system may be subsidizing the larger cost causers within their own  
19 rate class."

20  
21 Staff should have also concluded that residential customers are also non-  
22 homogenous and those residential customers who place a small cost on the system  
23 may be subsidizing the larger cost causers within their own class.



1 **Q14. ARE THERE OTHER REASONS WHY THE COMMISSION SHOULD**  
2 **CONSIDER MODIFYING ITS SFV RATE DESIGN POLICY FOR**  
3 **RESIDENTIAL CONSUMERS?**

4  
5 **A14.** Yes. If costs are allocated to the fixed charge, the signal is that all residential  
6 consumers require the same amount of system capacity, regardless of the size of  
7 the residence (or, the size of the connected load). As the PUCO Staff has  
8 recognized for the non-residential classes, and should have recognized for the  
9 Residential classes, this is simply not true.

10  
11 Residential consumers who use less energy will experience the greatest  
12 percentage jumps in their gas bills if the fixed charge is raised because bills are  
13 based less on usage and more on a flat fee structure.

14  
15 Pricing structures that are weighted heavily on fixed charges are much more  
16 inferior from a conservation and energy efficiency standpoint than pricing  
17 structures that require consumers to incur more costs with additional  
18 consumption.

19  
20 **Q15. ARE YOU MAKING ANY RECOMMENDATIONS REGARDING THE**  
21 **FIXED DELIVERY CHARGE FOR RESIDENTIAL CONSUMERS?**

22  
23 **A15.** Yes, I am recommending that the PUCO reject the Staff's MSFV proposal for  
24 Residential consumers as proposed in the Staff Report. I recommend that the  
25 increase to the fixed delivery charge be no more than the overall increase to the  
26 Residential classes' base distribution revenues (i.e. if the increase to the

1 Residential classes is 7.5%, then the fixed delivery charge increase should be no  
2 more than \$31.26 \* 7.5%, or \$2.35). Any remaining revenue requirement should  
3 be recovered through a volumetric charge.

4

5 **OCC Objection No. 17**

6

7 ***Q16. WHAT IS OCC'S RECOMMENDATION REGARDING***  
8 ***CONVENIENCE FEES CHARGED WHEN A CONSUMER PAYS BY***  
9 ***A CREDIT/DEBIT CARD?***

10

11 ***A16.*** Duke is proposing to include convenience fees for credit and debit cards as a e  
12 expense to be charged to consumers through the Rider UE-G. Staff recommends  
13 denial of this proposal. Staff recommends that convenience fees remain the  
14 responsibility of the customers utilizing the service. While OCC does not object  
15 to the recommendation that convenience fees, if charged, should be the  
16 responsibility of the customers utilizing the service, it would be preferable that no  
17 consumer should have to pay a convenience fee for utilizing a credit or debit card  
18 for making a payment. Payments by credit or debit card actually provide a benefit  
19 to the Company. In some industries (e.g. insurance), payment by debit/credit card  
20 is actually preferable to the company as it saves the additional expense of  
21 processing checks sent through the mail.

*Direct Testimony of Robert B. Fortney  
On Behalf of Office of the Ohio Consumers' Counsel  
PUCO Case No 22-507-GA-AIR, et al.*

1 ***Q17. DOES THIS CONCLUDE YOUR TESTIMONY?***

2 ***A17.*** Yes. However, I reserve the right to incorporate new information that may  
3 subsequently become available. I also reserve the right to supplement my  
4 testimony in the event Duke, the PUCO Staff or other parties submit new or  
5 corrected information in connection with this proceeding.

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of this *Direct Testimony of Robert B. Fortney* was served on the persons stated below *via* electronic transmission, this 28th day of April 2023.

*/s/ William J. Michael*  
William J. Michael  
Assistant Consumers' Counsel

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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
Duke Electric	21-887-EL-AIR	2022
Columbia Gas	21-637-GA-AIR	2022

EXHIBIT RBF-1

Base Distribution Revenue Allocation

Class	Current Base		Staff		OCC	
	Distribution Revenue	% of Total	Recommended Base Dist Rev	% of Total	Recommended Base D Rev	% of Total
Residential	\$ 228,140,436	67.77%	\$ 248,641,645	67.81%	\$ 245,654,476	<b>67.00%</b>
Non-Residential	\$ 108,476,339	32.23%	\$ 118,006,826	32.19%	\$ 120,993,995	33.00%
Total	\$ 336,616,775	100.00%	\$ 366,648,471	100.00%	\$ 366,648,471	100.00%

Staff Midpoint

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AAM**

Summary: Testimony Direct Testimony of Robert B. Fortney on Behalf of Office of  
The Ohio Consumers' Counsel electronically filed by Mrs. Tracy J. Greene on  
behalf of Michael, William J..