

FILE

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke)
 Energy Ohio for Authority to Establish a)
 Standard Service Offer Pursuant to Section)
 4928.143, Revised Code, in the Form of) Case No. 14-841-EL-SSO
 an Electric Security Plan, Accounting)
 Modifications and Tariffs for Generation)
 Service.)

In the Matter of the Application of Duke)
 Energy Ohio for Authority to Amend its) Case No. 14-842-EL-ATA
 Certified Supplier Tariff, P.U.C.O. No. 20.)

DIRECT TESTIMONY OF

JAMES P. HENNING

ON BEHALF OF

DUKE ENERGY OHIO, INC.

RECEIVED-BOOKETING DIV

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I. INTRODUCTION

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

2 A. My name is James P. Henning, and my business address is 139 East Fourth Street,
3 Cincinnati, Ohio 45202.

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

5 A. I am employed by Duke Energy Business Services LLC (DEBS), as State
6 President of Duke Energy Ohio, Inc., (Duke Energy Ohio or the Company) and its
7 subsidiary, Duke Energy Kentucky, Inc. (Duke Energy Kentucky). DEBS
8 provides various administrative and other services to Duke Energy Ohio and other
9 affiliated companies of Duke Energy Corporation (Duke Energy).

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

12 A. I received a Bachelor of Science in Financial Services from Wright State
13 University in 1988, and a Master of Business Administration from the University
14 of South Florida in 1990.

15 I have worked in the energy industry for 23 years. From 1990-1993, I was
16 employed at the Dayton Power & Light Company (DP&L) as a Natural Gas
17 Analyst in the Natural Gas Supply Planning Department. In 1996, I joined
18 Cinergy Corp.'s non-regulated natural gas sales company (Cinergy Resources,
19 Inc.) as the Manager of Energy Sales and Services and worked in this capacity
20 until 2000. From 2000-2001, I worked for various departments within Cinergy,
21 including Environmental Services, Labor Relations, and Natural Gas Operations.
22 Beginning October 2001, I led the commercial activities of Duke Energy's

1 regulated natural gas business in Ohio and Kentucky as General Manager, Natural
2 Gas Commercial Operations. In September 2010, I became Vice President of
3 Government and Regulatory Affairs for Duke Energy Ohio and Duke Energy
4 Kentucky. I assumed the role of State President, Duke Energy Ohio and Duke
5 Energy Kentucky, in December 2012.

6 **Q. PLEASE DESCRIBE YOUR DUTIES AS STATE PRESIDENT, DUKE**
7 **ENERGY OHIO.**

8 A. As State President, Duke Energy Ohio, I am responsible for ensuring that our
9 customers continue to have access to safe, reliable, and reasonably priced natural
10 gas and electric service and that these services are provided in accordance with
11 applicable federal and state laws and regulations. I am also involved in external
12 efforts relating to governmental and regulatory affairs, interacting with state and
13 community leaders and regulators on matters relevant to Duke Energy Ohio's
14 business and presence in Ohio. I am responsible for the Company's community
15 relations and economic development efforts, as well as Duke Energy's charitable
16 contributions in the Greater Cincinnati region.

17 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE PUBLIC**
18 **UTILITIES COMMISSION OF OHIO?**

19 A. Yes. I have previously testified before the Public Utilities Commission of Ohio
20 (Commission) and have also submitted pre-filed testimony with the Commission.

21 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THESE**
22 **PROCEEDINGS?**

1 A. My testimony provides a general overview of the electric security plan (ESP)
2 being proposed in the Application filed in these proceedings. I also describe how
3 the proposed ESP advances state policy as established under R.C. 4928.02. And,
4 finally, I provide an introduction of the witnesses who will testify in these
5 proceedings.

II. DUKE ENERGY OHIO'S PROPOSED ESP

6 **Q. PLEASE BRIEFLY DESCRIBE DUKE ENERGY OHIO'S PROPOSED**
7 **ESP.**

8 A. I will provide a summary of the primary components of the proposed ESP. In
9 doing so, however, I believe it is important to first understand the considerations
10 that influenced our plan.

11 Ohio has adopted a policy that retail electric generation service must be
12 competitive. Pursuant to this policy, each electric distribution utility (EDU) is
13 obligated to provide a standard service offer (SSO) of competitive retail electric
14 service and to function as the provider of last resort. In this regard, the EDU is
15 merely establishing a default generation or SSO rate, based on forward market
16 conditions, for customers who have not chosen to shop. The market, and
17 transparent offers predicated on market conditions, should form the basis for
18 competitive offers and customers' decisions regarding participation in supplier
19 choice.

20 The selection of a competitive generation supplier or the decision to take
21 the SSO generation rate means nothing if the delivery of electrons is not reliable.
22 Indeed, one of Duke Energy Ohio's core tenets is the provision of reliable electric

1 service. Maintaining and improving the reliability of our distribution system is a
2 continuing effort – one that must properly balance necessary capital investments
3 with the Company’s financial viability. This effort must also recognize our
4 customers’ continually increasing expectations regarding dependable service and
5 the cost of meeting those expectations.

6 Retail customers are significantly influenced by current wholesale market
7 design fundamentals for energy and capacity, which are creating a volatile and
8 uncertain environment as the PJM Interconnection, L.L.C., (PJM) market design
9 does not place any additional value on resource diversity. Further, capacity equal
10 to 24,932 megawatts (MWs) in the PJM zone is expected to retire between 2011
11 and 2019.¹ Ninety-two percent of these retirements will occur by June 1, 2015,
12 with the overwhelming majority being coal plants.² It is worth noting that it was
13 these coal plants that operated reliably during the recent polar vortex, thereby
14 enabling Ohio’s economy to continue to function and its citizens to have access to
15 power. Retirement of these coal plants places much greater reliance on a single
16 fuel source, such as natural gas-fired generation, and this reduction in fuel
17 diversity will most likely lead to more episodes of the volatility and uncertainty
18 experienced with the recent polar vortex. For example, new natural gas-fired
19 generators generally have neither the firm transportation nor the back-up fuel
20 supply to avoid the circumstances experienced in January 2014. And, because
21 local natural gas distribution companies have their own reliability commitments,
22 they are reluctant to release capacity on pipelines for resale to natural gas-fired

¹ 2013 *State of the Market Report for PJM*, Monitoring Analytics, LLC, Section 12, Planning (March 2014).

² *Id.*

1 generators in peak periods. Furthermore, coordination between wholesale
2 electricity markets and natural gas markets is not yet synchronized. Taken
3 together, these market design fundamentals will have consequences in terms of
4 pricing and, more specifically, price volatility. As even Governor Kasich recently
5 remarked, Ohio's energy market is in a "challenging time."³

6 In response to these challenges, Duke Energy Ohio is proposing to provide
7 an SSO in the form of an ESP that we believe strikes the appropriate balance
8 between our customers and investors, competitive suppliers, and the state. As set
9 forth in the Application and supporting testimony, Duke Energy Ohio's proposed
10 ESP reflects our commitment to providing safe, reliable, and reasonably priced
11 electric service for our customers and further recognizes customers' appreciation
12 of stability and predictability in an otherwise volatile market.

13 The proposed ESP has a term of three years – from June 1, 2015, to May
14 31, 2018. All supply for SSO load will be procured pursuant to a competitive
15 bidding process (CBP) plan that is consistent with the procurement methodology
16 employed by Duke Energy Ohio for its current SSO supply. In perpetuating this
17 auction format, Duke Energy Ohio will continue to provide its SSO customers a
18 competitive generation service that is based upon forward wholesale market
19 prices. Furthermore, all customers will have transparent pricing information in
20 respect of Duke Energy Ohio's SSO generation service such that they should be
21 able to make well-reasoned decisions when presented with offers from
22 competitive retail electric service (CRES) providers.

³*Columbus Dispatch*, April 17, 2014, "Kasich Questions Electricity Deregulation at PUCO Chief's Swearing In."

1 To better align the Company's rates for SSO supply with those of CRES
2 providers, Duke Energy Ohio is proposing some modifications to rate design.
3 Additionally, it is eliminating certain riders or arrangements that could be
4 interpreted as providing non-market based incentives to engage in choice, which
5 incentives artificially encourage the shifting of load to CRES providers and away
6 from SSO auction winners or vice versa. CRES providers and SSO auction
7 winners compete for load; so, introducing elements of rate design in SSO prices
8 that are not reflective of what can be expected in the market should be avoided, to
9 the extent possible.

10 The proposed ESP also makes provision for a Distribution Capital
11 Investment Rider (Rider DCI) that will enable proactive investment to maintain
12 and improve distribution reliability for our customers. And it includes a
13 distribution storm rider to defer and recover expense incurred by Duke Energy
14 Ohio in responding to major storm events, where this expense is either higher or
15 lower than the amount currently included in the Company's base rates.⁴
16 Additionally, the proposed ESP includes a financial arrangement that will serve as
17 a partial hedge for customers against further unpredictable market conditions.

18 The ESP, therefore, properly and optimally balances the interests of our
19 customers with those of Duke Energy Ohio and the state by enabling rate stability,
20 as well as the continued maintenance of and improvement to system reliability
21 and the timely restoration of services, without negatively impacting the financial
22 health of the Company in the provision of these services.

⁴ See *In the Matter of the Application of Duke Energy Ohio, Inc., for an Increase in its Electric Distribution Rates*, Case No. 12-1682-EL-AIR, *et al.*

1 **Q. WHY IS DUKE ENERGY OHIO PROPOSING A DISTRIBUTION**
2 **CAPITAL INVESTMENT RIDER IN THESE PROCEEDINGS?**

3 A. As an initial matter and as I have been advised by counsel, R.C. 4928.143
4 authorizes an EDU to include provisions relating to the utility's distribution
5 service. And consistent therewith, the Commission has previously authorized
6 ESPs that include distribution-related elements. Duke Energy Ohio is proposing
7 Rider DCI in these proceedings to ensure that the Company's distribution-related
8 reliability investment is consistent with the ever-increasing expectations of our
9 customers and their dependence upon a reliable distribution system, as discussed
10 further by Duke Energy Ohio witness Marc W. Arnold. The adoption of this rider
11 will facilitate improved service reliability through, among other things, the
12 replacement of aging infrastructure, proactive distribution maintenance,
13 distribution capacity and infrastructure additions necessitated by customer
14 demand, and distribution asset management programs.

15 Duke Energy Ohio witnesses William Don Wathen Jr., Peggy A. Laub,
16 and Arnold provide further detail on Rider DCI.

17 **Q. PLEASE DISCUSS THE COMPANY'S PROPOSED DISTRIBUTION**
18 **STORM RIDER.**

19 A. As we have seen over the last several years, significant weather events are
20 becoming more prevalent. Indeed, in the last six years alone, our service territory
21 has been affected by the remnants of a hurricane, a tornado, a derecho, and a polar
22 vortex. Although any one storm is unpredictable, in terms of its extent and impact,
23 major storms have proven to have a debilitating effect on our systems and our

1 customers. Storm restoration costs can also have a significant financial impact on
2 the Company, as resources are diverted in an effort to restore services as safely
3 and efficiently as possible. To mitigate the financial impact, Duke Energy Ohio is
4 proposing a distribution storm rider, as detailed in the testimony of Company
5 witnesses Wathen and Laub.

6 **Q. PLEASE EXPLAIN THE HEDGING ARRANGEMENT THAT WILL**
7 **RESULT IN IMPROVED PRICE STABILITY AND CERTAINTY IN THE**
8 **PROVISION OF RETAIL ELECTRIC SERVICE.**

9 A. There has been a fundamental shift in PJM's market structure. As I previously
10 mentioned, the anticipated regional coal generation retirements, which include
11 generating assets that have not yet reached the end of their useful life, will not be
12 without consequence. As less expensive coal generation becomes increasingly
13 scarce and is replaced with resources with different characteristics (*i.e.*, mostly
14 natural gas fired generation plants, demand response, and wind with intermittent
15 capacity), market prices will respond, further exacerbating volatility in the
16 wholesale market that affects retail prices.

17 Additionally, there is a significant increase in reliance upon natural gas for
18 electric generation. But natural gas generators are generally constrained by
19 availability of firm transportation capacity and are therefore subject to
20 curtailments and pipeline operational flow orders. Furthermore, natural gas supply
21 may not even be available during times of peak demand, regardless of the price.
22 Although PJM has stated that it was able to manage the overall impact of
23 interruptions during the polar vortex, it has acknowledged that the interruption of

1 natural gas is a concern.⁵ PJM has further admitted that “this winter’s cold
2 weather resulted in higher than normal generation outages that, along with
3 increased dependency on natural gas for electric generation, complicated PJM’s
4 system operations and resulted in significantly higher wholesale electricity
5 prices.”⁶ Although PJM was able to avoid system losses, it was not without a cost.
6 The averages of real-time and day-ahead locational marginal pricing (LMP) in
7 January 2014 spiked considerably.⁷ And PJM was forced to seek waivers from the
8 Federal Energy Regulatory Commission (FERC) to enable it to provide make-
9 whole payments to natural gas generators having cost-based offers above the
10 existing \$1,000/MWh cap and to allow cost-based offers to exceed the cap and set
11 the LMP for energy.⁸

12 Repeating an event like the polar vortex of 2014 without all the retiring
13 coal generating capacity undeniably raises the specter of increased volatility, both
14 in energy and capacity. And this volatility will have an effect at the retail level, as
15 prospective wholesale suppliers are likely to incorporate risk premiums into their
16 bids and CRES providers likely to structure contracts such that they can recover
17 additional costs. In short, absent a change, all stakeholders, including customers,
18 should expect to incur increasing costs and experience increasing volatility for
19 generation supply. In this regard, there is no short-term remedy on the horizon

⁵ *Winter 2013-2014 Operations and Market Performance in Regional Transmission Organizations and Independent System Operators*, FERC Docket AD14-8-000, Statement of Michael J. Kormos, Executive Vice President – Operations, PJM Interconnection, LLC, at pp. 10-11 (April 1, 2014) (Kormos Statement).

⁶ Kormos Statement, at pg. 3.

⁷ PJM Interconnection FERC Technical Conference, *Polar Vortex 2014*, Presentation by Michael J. Kormos, at slide 9.

⁸ Kormos Statement, at pg. 8.

1 and events such as those experienced during January of this year can, and likely
2 will, happen again.

3 The Company has a proposal that will serve to mitigate some of the
4 volatility in overall rates that customers pay for generation service. The solution is
5 a partial hedge structure that involves Duke Energy Ohio's nine percent interest in
6 The Ohio Valley Electric Corporation (OVEC), but could be expanded to include
7 similar financial arrangements with other generators to provide further protection
8 for Ohio customers.

9 **Q. HOW WILL THE COMPANY'S HEDGING PROPOSAL FUNCTION?**

10 A. As Duke Energy Ohio witness Wathen provides detail on the arrangement, I will
11 only briefly discuss it here. Duke Energy Ohio will continue to sell its nine
12 percent entitlement from the OVEC-owned generating facilities into the
13 wholesale market administered by PJM. The Company will then net this revenue
14 against the cost charged by OVEC, with the resulting amount passed through to
15 customers via a non-bypassable rider. In a rising price environment, the
16 Company's margins from its contractual entitlement will be positive and the net
17 amount passed through the rider should similarly increase. In this circumstance,
18 therefore, as higher market prices for capacity and/or energy serve to increase
19 retail prices for the same service, customers will receive the benefit derived from
20 the increasing profitability of selling OVEC's generation as a favorable hedge that
21 serves to mitigate the volatility of overall generation rates.

22 **Q. FOR WHAT PERIOD OF TIME WILL THIS PARTIAL HEDGING**
23 **PROPOSAL PERSIST?**

1 A. The Company's contractual entitlement extends beyond the term of the proposed
2 ESP and, as such, Duke Energy Ohio is offering its customers the hedging benefit
3 of this arrangement for as long as it receives energy and capacity from OVEC.
4 Extending the arrangement beyond the three-year term of the proposed ESP
5 increases its value as a hedge. Indeed, under the Company's offered solution,
6 customers will be afforded a hedging arrangement in periods where even greater
7 volatility in power prices is possible.

8 **Q. IN THE CONTEXT OF AN SSO PROCEEDING, HAS THE**
9 **COMMISSION APPROVED RIDERS FOR A TERM EXTENDING**
10 **BEYOND THE APPROVED SSO?**

11 A. As I have been informed by counsel, yes. In Duke Energy Ohio's current ESP, for
12 example, the Commission authorized the Alternative Energy Resource Rider to
13 continue beyond the term of the ESP.⁹ And a similar outcome is appropriate here,
14 so that customers can benefit from the stability afforded by this arrangement
15 during uncertain and challenging times.

III. CONSISTENCY WITH STATE POLICY

16 **Q. ARE YOU FAMILIAR WITH THE POLICIES OF THE STATE OF OHIO,**
17 **AS SET FORTH IN R.C. 4928.02?**

18 A. I am familiar with these state policies. R.C. 4928.02 contains a list of policy
19 statements relating to retail electric service in the state of Ohio and places
20 emphasis on developing choices and protections for customers and on

⁹ *In the Matter of the Application of Duke Energy Ohio for Authority to Establish a Standard Service Officer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan, Accounting Modifications, and Tariffs for Generation Service, Case No. 11-3549-EL-SSSO, et al., Opinion and Order, at pg. 51 (November 22, 2011).*

1 encouraging energy efficiency, demand-side management, renewable energy, and
2 reliable electric service. On the advice of counsel, I also understand that the Ohio
3 Supreme Court describes these policies as guidelines for the Commission to
4 weigh in evaluating an electric distribution utility's SSO application.

5 **Q. DO YOU BELIEVE THAT DUKE ENERGY OHIO'S PROPOSED ESP**
6 **ADVANCES STATE POLICIES?**

7 A. Yes.

8 **Q. PLEASE EXPLAIN HOW THE COMPANY'S PROPOSED ESP**
9 **ADVANCES THE STATE POLICY TO ENSURE THE AVAILABILITY**
10 **TO CONSUMERS OF ADEQUATE, RELIABLE, SAFE, EFFICIENT,**
11 **NONDISCRIMINATORY, AND REASONABLY PRICED, RETAIL**
12 **ELECTRIC SERVICE.**

13 A. Duke Energy Ohio's proposed ESP will ensure that customers have a reliable and
14 sufficient supply of retail electric service. Retail customers will continue to have
15 the option of purchasing generation service from the Company via the SSO or
16 from CRES providers. In either case, an adequate, safe, reliable, efficient, and
17 reasonably priced electric service is made available to all retail load. As I
18 discussed above, the refinements being proposed in this ESP will also further the
19 goal of ensuring that such prices are nondiscriminatory.

20 **Q. WITH ALL THE CHANGES BEING PROPOSED IN THIS**
21 **APPLICATION, HOW WILL DUKE ENERGY OHIO'S RATES**
22 **COMPARE TO THE RATES OF OHIO'S OTHER ELECTRIC**
23 **DISTRIBUTION UTILITIES (EDUs)?**

1 A. Currently, Duke Energy Ohio has the lowest rates for residential customers in the
 2 state and among the lowest non-residential rates. The following table summarizes
 3 the typical residential bills for the other EDUs based on recent filings each
 4 company has made.

Company	Bill ^(a)	Source
Columbus Southern Power	\$156.72	Case No. 14-873-EL-RDR (5/15/14)
Ohio Power	\$150.39	Case No. 14-873-EL-RDR (5/15/14)
Cleveland Electric Illuminating	\$124.85	Case No. 13-2005-EL-RDR (4/23/14)
Ohio Edison	\$127.93	Case No. 13-2006-EL-RDR (4/23/14)
Toledo Edison	\$129.72	Case No. 13-2007-EL-RDR (4/23/14)
Dayton Power & Light	\$137.99	Case No. 14-401-EL-RDR (3/31/14)
Duke Energy Ohio	\$112.73	Attachment JEZ-3
^(a) Assumes 1,000 kWh/month.		

5 None of the changes being proposed by Duke Energy Ohio in its ESP Application
 6 are expected to change its position as having the lowest residential rates and
 7 among the lowest non-residential rates among Ohio EDUs.

8 **Q. PLEASE EXPLAIN HOW THE COMPANY'S PROPOSED ESP**
 9 **ADVANCES THE STATE POLICY TO ENSURE THE AVAILABILITY**
 10 **OF UNBUNDLED AND COMPARABLE RETAIL ELECTRIC SERVICE**
 11 **THAT PROVIDES CONSUMERS WITH THE SUPPLIER, PRICE,**
 12 **TERMS, CONDITIONS, AND QUALITY OPTIONS THEY ELECT TO**
 13 **MEET THEIR RESPECTIVE NEEDS.**

14 A. The state of Ohio has determined that competition in the supply of retail
 15 generation service is important. And many of Duke Energy Ohio's customers

1 have exercised their statutory right to choose suppliers. As in the current ESP, the
2 Company's proposed ESP relies upon market forces to set the price for generation
3 service for all customers, whether they take SSO service from the Company or
4 take service from a CRES provider. The generation service provided to customers
5 taking SSO service represents an unbundled generation service that customers can
6 compare with generation services offered by CRES providers. The Company's
7 tariffs for SSO service provide all of the required information regarding the
8 pricing, terms, conditions and quality to meet customers' needs.

9 **Q. PLEASE EXPLAIN HOW THE COMPANY'S PROPOSED ESP**
10 **ADVANCES THE STATE POLICY TO ENSURE DIVERSITY OF**
11 **ELECTRIC SUPPLIES AND SUPPLIERS AND BY GIVING**
12 **CUSTOMERS EFFECTIVE CHOICES OVER THE SELECTION OF**
13 **THOSE SUPPLIES AND SUPPLIERS AND BY ENCOURAGING**
14 **DEVELOPMENT OF DISTRIBUTED AND SMALL GENERATION**
15 **FACILITIES.**

16 A. Currently, Duke Energy Ohio has fifty-five registered and active CRES providers
17 in its service territory and this number has increased from twenty at the start of
18 the current ESP. The Company proposes to continue certain of the provisions of
19 the current ESP that facilitated the competitive market that currently exists in our
20 service territory. For example, maintaining the purchase of accounts receivable
21 program with the corresponding uncollectible generation expense rider, as well as
22 minimal limits on switching, should serve to ensure that there will continue to be
23 numerous and diverse suppliers willing to make CRES offers in the Company's

1 service territory. Duke Energy Ohio witness Daniel L. Jones will elaborate further
2 on the efforts that the Company continues to make in furtherance of this policy
3 objective.

4 Further, under the proposed ESP, Duke Energy Ohio will continue to rely
5 upon the competitive market – via an independent CBP plan – to procure all of
6 the supply for the SSO load. As evidenced by the Company’s experience with the
7 auctions conducted under the current ESP, there are numerous competitive
8 wholesale suppliers willing to supply generation for SSO service.

9 Duke Energy Ohio will continue to offer customer generators a net
10 metering and interconnection tariff, which it amended in 2009 to enable
11 compliance with Chapter 4928, as required by the Commission.¹⁰ This tariff is
12 one of the tools that the Company uses to encourage the development of
13 distributed and small generation facilities and Duke Energy Ohio witness James
14 E. Ziolkowski provides testimony on the clarification being proposed to the net
15 metering rider. Duke Energy Ohio will continue to offer these services as it is
16 required to do under Ohio law, although it reserves its right to propose additional
17 modifications to the tariff, subject to the Commission’s approval.

18 **Q. PLEASE EXPLAIN HOW THE COMPANY’S PROPOSED ESP**
19 **ADVANCES THE STATE POLICY TO ENCOURAGE INNOVATION**
20 **AND MARKET ACCESS FOR COST-EFFECTIVE SUPPLY- AND**
21 **DEMAND-SIDE RETAIL ELECTRIC SERVICE, INCLUDING, BUT NOT**
22 **LIMITED TO, DEMAND-SIDE MANAGEMENT, TIME-**

¹⁰ *In the Matter of the Application of Duke Energy Ohio, Inc., to Modify its Tariff for Riders NM, NM-H, and Rider X*, Case No. 09-758-EL-ATA, Finding and Order (February 24, 2010).

1 **DIFFERENTIATED PRICING, AND IMPLEMENTATION OF**
2 **ADVANCED METERING INFRASTRUCTURE.**

3 A. Duke Energy Ohio’s proposed ESP will not affect its commitment to meet energy
4 efficiency and demand-side management standards required under Ohio law.
5 Duke Energy Ohio will continue to explore all cost-effective energy efficiency
6 offerings to meet the statutory thresholds established under Ohio law. As part of
7 the Company’s first ESP, Duke Energy Ohio received approval to deploy its
8 SmartGrid advanced energy infrastructure and the Company is making no
9 recommendations in this ESP proposal to modify the terms, conditions, or
10 schedule of deployment.

11 As part of a collaborative process, working with Commission Staff and a
12 number of other stakeholders, Duke Energy Ohio has developed and implemented
13 several pilot tariffs for time-differentiated pricing, enabled, in part, by the
14 SmartGrid deployment. The Company is not proposing to make any changes to
15 these tariffs in these proceedings.

16 As Company witness Ziolkowski discusses in his testimony, the
17 continuation of a rider to decouple volumetric sales from revenue, in the form of a
18 Distribution Decoupling Rider (Rider DDR), also advances state policy goals in
19 that it eliminates Duke Energy Ohio’s incentive to increase volumetric
20 consumption and, thus, supports the advancement of energy efficiency measures.

21 **Q. PLEASE EXPLAIN HOW THE COMPANY’S PROPOSED ESP**
22 **ADVANCES THE STATE POLICY TO ENCOURAGE COST-**
23 **EFFECTIVE AND EFFICIENT ACCESS TO INFORMATION**

1 **REGARDING THE OPERATION OF THE TRANSMISSION AND**
2 **DISTRIBUTION SYSTEMS OF ELECTRIC UTILITIES IN ORDER TO**
3 **PROMOTE BOTH EFFECTIVE CUSTOMER CHOICE OF RETAIL**
4 **ELECTRIC SERVICE AND THE DEVELOPMENT OF PERFORMANCE**
5 **STANDARDS AND TARGETS FOR SERVICE QUALITY FOR ALL**
6 **CONSUMERS, INCLUDING ANNUAL ACHIEVEMENT REPORTS**
7 **WRITTEN IN PLAIN LANGUAGE.**

8 A. The state of Ohio has determined that cost-effective and efficient access to
9 information regarding transmission and distribution system operation is vital to
10 effective customer choice and the development of appropriate performance
11 standards and targets for service quality, with annual reports to be in plain
12 language. Duke Energy Ohio provides free information concerning its delivery
13 services, available both on paper and electronically, thereby supplying consumers
14 with information that they might need in order to make effective and appropriate
15 choices. As confirmed by its operation under its current ESP, the Company's
16 proposed ESP will not impact these issues. Duke Energy Ohio can only commit in
17 this Application that it will continue to meet these state policies.

18 **Q. PLEASE EXPLAIN HOW THE COMPANY'S PROPOSED ESP**
19 **ADVANCES THE STATE POLICY TO ENSURE THAT AN ELECTRIC**
20 **UTILITY'S TRANSMISSION AND DISTRIBUTION SYSTEMS ARE**
21 **AVAILABLE TO A CUSTOMER-GENERATOR OR OWNER OF**
22 **DISTRIBUTED GENERATION, SO THAT THE CUSTOMER-**

1 **GENERATOR OR OWNER CAN MARKET AND DELIVER THE**
2 **ELECTRICITY IT PRODUCES.**

3 A. As I previously stated, Duke Energy Ohio's proposed ESP will not cause the
4 Company's tariffs for interconnections or net metering to be withdrawn or altered,
5 other than a clarification discussed by Company witness Ziolkowski.
6 Consequently, customer generators will still have access to Duke Energy Ohio's
7 system. This state policy will continue to be met under the proposed plan.

8 **Q. PLEASE EXPLAIN HOW THE COMPANY'S PROPOSED ESP**
9 **ADVANCES THE STATE POLICY TO RECOGNIZE THE CONTINUING**
10 **EMERGENCE OF COMPETITIVE ELECTRICITY MARKETS**
11 **THROUGH THE DEVELOPMENT AND IMPLEMENTATION OF**
12 **FLEXIBLE REGULATORY TREATMENT.**

13 A. The Company's proposed ESP will continue to enhance the vigorous competitive
14 environment in southwestern Ohio by refining the SSO rate structure, thereby
15 improving upon an already competitive market by further leveling the playing
16 field between those wholesale suppliers responsible for SSO service and those
17 retail suppliers providing CRES offers. Ohio's electric distribution utilities have
18 transferred, or are in the process of transferring, their directly owned generating
19 assets and implementing procedures for procuring SSO supply through
20 competitive processes. Flexible regulatory treatment was necessary to implement
21 the Company's current ESP and that will continue to be the case in the proposed
22 ESP. For example, there are no statutory provisions or Commission rules for

1 conducting wholesale auctions for SSO supply under an ESP.¹¹ Nevertheless, the
2 Commission, exercising flexible regulatory treatment, was able to formulate a
3 process for conducting such auctions and customers benefitted by establishing an
4 SSO service that, at least at the wholesale level, was exclusively priced by market
5 forces.

6 Duke Energy Ohio's ESP also includes an arrangement through which it
7 will mitigate price volatility and thus help stabilize customers' retail rates. As I
8 have discussed earlier in my testimony, this arrangement does not prejudice the
9 development of competitive markets, as it is separate from those provisions
10 related to retail supply and further does not create an unfair subsidy that could
11 impact either the wholesale or retail market.

12 **Q. PLEASE EXPLAIN HOW THE COMPANY'S PROPOSED ESP**
13 **ADVANCES THE STATE POLICY TO ENSURE EFFECTIVE**
14 **COMPETITION IN THE PROVISION OF RETAIL ELECTRIC SERVICE**
15 **BY AVOIDING ANTI-COMPETITIVE SUBSIDIES FLOWING FROM A**
16 **NON-COMPETITIVE RETAIL ELECTRIC SERVICE TO A**
17 **COMPETITIVE RETAIL ELECTRIC SERVICE OR TO A PRODUCT OR**
18 **SERVICE OTHER THAN RETAIL ELECTRIC SERVICE, AND VICE**
19 **VERSA, INCLUDING BY PROHIBITING THE RECOVERY OF ANY**
20 **GENERATION-RELATED COSTS THROUGH DISTRIBUTION OR**
21 **TRANSMISSION RATES.**

¹¹ Section 4928.142 of the Ohio Revised Code establishes guidelines for competitive bid processes under a market rate offer but there is no similar provision under Section 4928.143 for ESPs.

1 A. Duke Energy Ohio is proposing a CBP plan pursuant to which it will fulfill its
2 statutory obligation of providing an SSO of competitive retail electric service.¹²
3 Thus, Duke Energy Ohio will, in the first instance, rely upon third parties – the
4 successful wholesale auction winners – to provide sufficient supply for our SSO
5 customers. Furthermore, as Duke Energy Ohio witness Lee explains, in the event
6 an SSO supplier should default, the Company will procure the necessary supply
7 through the wholesale markets to fulfill its statutory obligations and thereafter
8 offer the tranches of the defaulting supplier to other suppliers. Consequently,
9 there will be no subsidies flowing from non-competitive retail electric service to
10 competitive retail electric generation services. Furthermore, no generation-related
11 costs will be recovered through transmission or distribution rates.

12 Through his testimony, Duke Energy Ohio witness Mark E. Hollis also
13 explains how the Company’s Corporate Separation Plan is consistent with this
14 state policy.

15 **Q. PLEASE EXPLAIN HOW THE COMPANY’S PROPOSED ESP**
16 **ADVANCES THE STATE POLICY TO ENSURE RETAIL ELECTRIC**
17 **SERVICE CONSUMERS PROTECTION AGAINST UNREASONABLE**
18 **SALES PRACTICES, MARKET DEFICIENCIES, AND MARKET**
19 **POWER.**

20 A. The Commission has adequate consumer protection rules that guard against
21 unreasonable sales practices and revises those rules as it deems necessary.¹³ There

¹² R.C. 2928.141(A).

¹³ See, e.g., *In the Matter of the Commission’s Review of its Rules for Competitive Retail Electric Service Contained in Chapters 4901:1-21 and 4901:1-24 of the Ohio Administrative Code*, Case No. 12-1924-EL-ORD.

1 are rules that are applicable specifically to utilities and other rules applicable
2 specifically to CRES providers. Duke Energy Ohio will continue to comply with
3 those rules that are applicable to it. Duke Energy Ohio further observes that the
4 Commission may initiate investigations into the retail market or the practices of
5 CRES providers.¹⁴ The Company will continue to participate in such
6 investigations, as appropriate, to provide comments to the Commission as it
7 completes its deliberative review.

8 Additionally, Duke Energy Ohio is currently a member of PJM, a regional
9 transmission organization (RTO) approved by the FERC. PJM has an independent
10 market monitor whose primary responsibilities are to ensure there is no market
11 power and to take actions to mitigate the development of any such market power.
12 Duke Energy Ohio will continue to be subject to the Commission's jurisdiction
13 and will continue to be a member of a FERC-approved RTO after the ESP is
14 approved.

15 At the state level, the Commission will continue to have oversight of the
16 CBP plan proposed by Duke Energy Ohio and, thus, will continue to be in a
17 position to remedy any unreasonable sales practices that it may observe. Further,
18 Duke Energy Ohio will continue to use an independent third party to serve as the
19 auction manager, thereby creating a level playing field for all auction participants.
20 Finally, the proposed ESP will have no impact on the Commission's continuing
21 jurisdiction over CRES providers' sales practices.

¹⁴ See, e.g., *In the Matter of the Commission's Investigation of Ohio's Retail Electric Service Market*, Case No. 12-3151-EL-COI, Entry (December 12, 2012) and *In the Matter of the Commission-Ordered Investigation of Marketing Practices in the Competitive Retail Electric Services Market*, Case No. 14-568-EL-COI, Entry (April 9, 2014).

1 Q. PLEASE EXPLAIN HOW THE COMPANY'S PROPOSED ESP
2 ADVANCES THE STATE POLICY TO PROVIDE COHERENT,
3 TRANSPARENT MEANS OF GIVING APPROPRIATE INCENTIVES TO
4 TECHNOLOGIES THAT CAN ADAPT SUCCESSFULLY TO
5 POTENTIAL ENVIRONMENTAL MANDATES.

6 A. Duke Energy Ohio's proposed ESP continues to provide for an open and
7 unfettered competitive marketplace for purchasing generation. By eliminating
8 non-market-based influences on customer behavior, the proposed ESP removes
9 any barriers to market participants, whether suppliers or customers, to promote
10 advanced technologies to address environmental mandates. Following the
11 overarching directive established under Chapter 4928, customers should only be
12 motivated in the choice of supply by competitive market forces.

13 Q. PLEASE EXPLAIN HOW THE COMPANY'S PROPOSED ESP
14 ADVANCES THE STATE POLICY TO ENCOURAGE
15 IMPLEMENTATION OF DISTRIBUTED GENERATION ACROSS
16 CUSTOMER CLASSES THROUGH REGULAR REVIEW AND
17 UPDATING OF ADMINISTRATIVE RULES GOVERNING CRITICAL
18 ISSUES SUCH AS, BUT NOT LIMITED TO, INTERCONNECTION
19 STANDARDS, STANDBY CHARGES, AND NET METERING.

20 A. As discussed above, customer choices for demand or supply resources, including
21 a choice to build distributed generation must be based on competitive market
22 forces. The Company's proposed ESP creates no barriers whatsoever to customers
23 who choose to build distributed generation. The Company supports the

1 Commission's goals of establishing sensible and constructive policies that support
2 distributed generation, while recognizing the fixed costs of the distribution
3 system.

4 Duke Energy Ohio will continue to participate in reviews and updating of
5 administrative rules relating to interconnection standards, standby charges, and
6 net metering. However, such administrative processes will not be impacted by the
7 ESP proposal.

8 **Q. PLEASE EXPLAIN HOW THE COMPANY'S PROPOSED ESP**
9 **ADVANCES THE STATE POLICY TO PROTECT AT-RISK**
10 **POPULATIONS, INCLUDING, BUT NOT LIMITED TO, WHEN**
11 **CONSIDERING THE IMPLEMENTATION OF ANY NEW ADVANCED**
12 **ENERGY OR RENEWABLE ENERGY RESOURCE.**

13 A. Duke Energy Ohio's ESP proposal undeniably protects at-risk populations. The
14 playing field for SSO suppliers and CRES providers will be level. Such
15 competition is what S.B. 221 sought to encourage, to the benefit of at-risk
16 populations. The ESP also includes a proposal that will provide all customers –
17 including our most at-risk customers – with stability in an otherwise volatile
18 market. And it enables a proactive approach to distribution system maintenance
19 and reliability, recognizing our customers' evolving dependence upon electricity.

20 **Q. PLEASE EXPLAIN HOW THE COMPANY'S PROPOSED ESP**
21 **ADVANCES THE STATE POLICY TO ENCOURAGE THE EDUCATION**
22 **OF SMALL BUSINESS OWNERS IN THIS STATE REGARDING THE**
23 **USE OF, AND ENCOURAGE THE USE OF, ENERGY EFFICIENCY**

1 **PROGRAMS AND ALTERNATIVE ENERGY RESOURCES IN THEIR**
2 **BUSINESSES.**

3 A. Chapter 4928 includes requirements for energy efficiency and alternative energy
4 resources. To my knowledge, these requirements are independent of whether a
5 utility operates under a market rate offer or an ESP. Nevertheless, Duke Energy
6 Ohio has been, and continues to be, subject to those requirements. Under the ESP,
7 Duke Energy Ohio will continue to work with small business owners regarding
8 energy efficiency programs and alternative energy resources as it has in the past,
9 unaffected by the change in how its rates are developed. Duke Energy Ohio has
10 implemented a successful energy efficiency cost recovery model with a robust
11 portfolio of programs available to both residential and non-residential customers.

12 As part of the current ESP, the Company agreed to file for Commission
13 approval of a rider to decouple revenue for customers that are not billed based on
14 demand. On May 30, 2012,¹⁵ the Commission approved Rider DDR, which acts to
15 remove much of the negative impact the Company experiences from reduced
16 volumetric sales from certain customer classes. As Company witness Ziolkowski
17 discusses in his testimony, Rider DDR has been successful to date and Duke
18 Energy Ohio is proposing to extend the rider. This constructive recovery model
19 and a robust portfolio of programs are essential to allowing Duke Energy Ohio to
20 continue to meet its energy efficiency requirements under Chapter 4928.

21 **Q. PLEASE EXPLAIN HOW THE COMPANY’S PROPOSED ESP**
22 **ADVANCES THE STATE POLICY TO FACILITATE THE STATE’S**

¹⁵ *In the Matter of the Application of Duke Energy Ohio, Inc., for Approval to Adjust Rider DDR*, Case No. 11-5905-EL-RDR, Opinion and Order (May 30, 2012).

1 **EFFECTIVENESS IN THE GLOBAL ECONOMY AND HOW IT**
2 **CORRESPONDS WITH THE REQUIREMENT THAT, IN CARRYING**
3 **OUT THE STATE’S POLICY, THE COMMISSION MUST CONSIDER**
4 **RULES AS THEY APPLY TO THE COSTS OF ELECTRIC**
5 **DISTRIBUTION INFRASTRUCTURE, INCLUDING, BUT NOT LIMITED**
6 **TO, LINE EXTENSIONS, FOR THE PURPOSE OF DEVELOPMENT IN**
7 **THIS STATE.**

8 A. This state policy requires the Commission to take certain actions with regard to
9 administrative rules that it has promulgated. In addition, it explains that it is a
10 state policy to facilitate its own effectiveness in the global economy. Global
11 effectiveness is fostered by many factors, one of which is reasonable power
12 prices. Thus, a pricing plan that will result in a reasonable, stable, and transparent
13 price structure will result in positive changes in global effectiveness. The
14 proposed ESP incorporates such a pricing plan. Further, it provides for stability in
15 retail rates via an arrangement using Ohio-based generating assets, thereby
16 mitigating customers’ exposure to uncertainty and volatility in generation rates.

17 Duke Energy Ohio has implemented its SmartGrid distribution
18 modernization program. This program and an associated rider (Rider DR-IM)
19 were approved as part of the Company’s initial ESP and Rider DR-IM is subject
20 to an annual review and true-up for costs spent to modernize the distribution
21 delivery system in the Company’s service territory. The SmartGrid program
22 continues to be a cornerstone of the Company’s efforts toward improving its
23 electric delivery infrastructure and for providing new service and pricing

1 opportunities for customers in southwest Ohio through advanced metering
2 technology. Duke Energy Ohio is not seeking to amend or change its SmartGrid
3 implementation initiative or the mechanism for recovery in this filing.

4 As discussed in the testimony of Company witness Arnold, the Company
5 is endeavoring to accelerate its efforts to improve the reliability and efficiency of
6 its aging distribution infrastructure through a number of capital spending
7 programs. Mr. Arnold discusses these various programs, including the expected
8 costs and benefits in his testimony. Company witnesses Wathen and Laub discuss
9 the proposed recovery mechanism for this program.

10 The Commission has enacted a regulation regarding creation of uniform
11 line extension policies among the electric distribution utilities throughout the
12 state. Duke Energy Ohio has a line extension tariff that was approved by the
13 Commission and is consistent with that policy. The Company is not seeking to
14 change or amend that policy.

15 Finally, the proposed ESP is an economic development tool insofar as it
16 enables customers to take advantage of unfettered market-based competition for
17 the supply of capacity and energy.

IV. INTRODUCTION OF WITNESSES

18 **Q. PLEASE INTRODUCE THE OTHER WITNESSES IN THESE**
19 **PROCEEDINGS.**

20 **A.** I identify below the other individuals who will present testimony on behalf of
21 Duke Energy Ohio, as well as the subject matters of their respective testimony:

- 1 • Robert J. Lee, Principal, CRA International, Inc. d/b/a Charles River
2 Associates
- 3 ○ Mr. Lee will present testimony on the CBP plan to be administered
4 under the ESP; including, but not limited to, the auction design,
5 parameters, and the selection of winning bids.
- 6 • William Don Wathen Jr., Director, Rates and Regulatory Strategy, Ohio and
7 Kentucky
- 8 ○ Mr. Wathen provides an overview of the proposed ESP. He testifies
9 about the new riders included therein, as well as those that will remain
10 unchanged by this Application. Mr. Wathen also addresses the “better
11 in the aggregate test” and governmental aggregation.
- 12 • James E. Ziolkowski, Director, Rates and Regulatory Planning
- 13 ○ Mr. Ziolkowski offers testimony regarding proposed new riders, riders
14 to be withdrawn, riders to be modified, and continuing riders, as well
15 as additional tariff changes. As a part of those discussions, he also
16 discusses bill impacts.
- 17 • Peggy A. Laub, Director, Rates and Regulatory Planning
- 18 ○ Ms. Laub provides testimony supporting the methodology for
19 calculating certain riders and the methodology being proposed for the
20 Company’s significantly excessive earnings test.
- 21 • Marc W. Arnold, Director, Distribution Design Engineering
- 22 ○ Mr. Arnold provides testimony on the Company’s proposed
23 Distribution Capital Investment Rider.

- 1 • Patricia W. Mullins, Director, Regional Financial Forecasting
- 2 ○ Ms. Mullins, through her testimony, provides the financial projections
- 3 required in connection with the ESP proposal.
- 4 • Mark E. Hollis, Manager Compliance
- 5 ○ Mr. Hollis provides testimony concerning the corporate separation
- 6 plan and how it is consistent with applicable state policy.
- 7 • Daniel L. Jones, Senior Account Manager, Customer Choice
- 8 ○ Mr. Jones offers testimony regarding the Company’s operational
- 9 support plan and the proposed revisions to its Certified Supplier Tariff.
- 10 • Jonathan L. Byrd, Manager, Renewable Strategy and Compliance
- 11 ○ Mr. Byrd offers testimony demonstrating that the proposed ESP is
- 12 consistent with certain state policies.

V. ATTACHMENTS SPONSORED BY WITNESS

13 **Q. PLEASE DESCRIBE ATTACHMENT A OF THE APPLICATION.**

14 A. Attachment A of the Application is a list of the filing requirements for the ESP as

15 set forth in O.A.C 4901:1-35-03(C) and confirmation of how the Company has

16 met those requirements as part of this Application.

17 **Q. PLEASE DESCRIBE ATTACHMENT H OF THE APPLICATION.**

18 A. Attachment H of the Application is a copy of the notice of the Application that

19 Duke Energy Ohio has provided, concurrently with the filing of the Application,

20 to each party in its most recent SSO proceeding. Attached to that notice is the

21 service list, showing all parties upon whom the notice was served. There are no

22 waiver requests. The notice states that a copy of the Application is available

1 through the Duke Energy Ohio website and the Commission's website, at Duke
2 Energy Ohio's main office, and at the Commission's offices.

3 **Q. PLEASE DESCRIBE ATTACHMENT I OF THE APPLICATION.**

4 A. Attachment I of the Application is a copy of a proposed notice for newspaper
5 publication. The proposed notice fully discloses the substance of the Application,
6 including projected rate impacts, and prominently states that any person may
7 request to become a party to the proceeding.

VI. CONCLUSION

8 **Q. WERE ATTACHMENTS A, H, AND I PREPARED BY YOU OR UNDER**
9 **YOUR SUPERVISION?**

10 A. Yes.

11 **Q. IS THE INFORMATION YOU SPONSORED IN ATTACHMENTS A, H,**
12 **AND I TRUE AND ACCURATE TO THE BEST OF YOUR KNOWLEDGE**
13 **AND BELIEF?**

14 A. Yes.

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

16 A. Yes.