

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke)	
Energy Ohio, Inc., for the Establishment of a)	Case No. 12-2400-EL-UNC
Charge Pursuant to Revised Code Section)	
4909.18.)	

In the Matter of the Application of Duke)	Case No. 12-2401-EL-AAM
Energy Ohio, Inc., for Approval to Change)	
Accounting Methods.)	

In the Matter of the Application of Duke)	Case No. 12-2402-EL-ATA
Energy Ohio, Inc., for the Approval of a)	
Tariff for a New Service.)	

DIRECT TESTIMONY
Of
J. RICHARD HORNBY

(PUBLIC VERSION)

On Behalf of the
Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215
(614) 466-8574

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1 **I. INTRODUCTION**

2

3 ***Q1. PLEASE STATE YOUR NAME AND OCCUPATION.***

4 ***A1.*** My name is J. Richard Hornby. I am a Senior Consultant at Synapse Energy
5 Economics, 485 Massachusetts Avenue, Cambridge, MA 02139.

6

7 ***Q2. PLEASE DESCRIBE SYNAPSE ENERGY ECONOMICS.***

8 ***A2.*** Synapse Energy Economics (“Synapse”) is a research and consulting firm
9 specializing in energy and environmental issues. Its primary focus is on
10 electricity resource planning and regulation including computer modeling, service
11 reliability, resource portfolios, financial and economic risks, transmission
12 planning, renewable energy portfolio standards, energy efficiency, and
13 ratemaking. Synapse works for a wide range of clients including attorneys
14 general, offices of consumer advocates, public utility commissions, and
15 environmental groups, U.S. Environmental Protection Agency, Department of
16 Energy, Department of Justice, Federal Trade Commission and National
17 Association of Regulatory Utility Commissioners. Synapse has over twenty
18 professional staff with extensive experience in the electricity industry.

19

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

21 ***A3.*** I have a Bachelor of Industrial Engineering from the Technical University of
22 Nova Scotia, now the School of Engineering at Dalhousie University, and a

1 Master of Science in Energy Technology and Policy from the Massachusetts
2 Institute of Technology (MIT).

3
4 ***Q4. PLEASE SUMMARIZE YOUR WORK EXPERIENCE.***

5 ***A4.*** I have over thirty years of experience in the energy industry, primarily in utility
6 regulation and energy policy. Since 1986, as a regulatory consultant I have
7 provided expert testimony and litigation support on natural gas and electric utility
8 resource planning, cost allocation and rate design issues in over 120 proceedings
9 in the United States and Canada. During that period my clients have included
10 utility regulators, consumer advocates, environmental groups, energy marketers,
11 gas producers, and utilities. Prior to 1986, I served as Assistant Deputy Minister
12 of Energy for Nova Scotia where I helped prepare the province's first
13 comprehensive energy plan and served on a federal-provincial board responsible
14 for regulating exploration and development of offshore oil and gas reserves.
15 My resume is presented in Attachment JRH-1.

16
17 ***Q5. ON WHOSE BEHALF ARE YOU TESTIFYING IN THIS CASE?***

18 ***A5.*** I am testifying on behalf of the Office of the Ohio Consumers' Counsel ("OCC").
19

20 ***Q6. WHAT IS THE PURPOSE OF YOUR TESTIMONY?***

21 ***A6.*** The OCC retained Synapse to assist in their review of the application by Duke
22 Energy Ohio, Inc. ("Duke," "Duke Energy Ohio" or "Company"). Duke's

1 application is for establishment of an amount (the revenue requirement) and
2 corresponding charge (the capacity cost deficiency), for the Company's provision
3 of capacity services. And Duke is proposing a new tariff (rider DR-CO) to be
4 filed at a later date, to allow it to collect deferred portions of that amount in the
5 future. My testimony presents the results of my review of the Company's
6 rationale underlying its application. In addition, I present recommendations
7 regarding cost allocation and rate design in the event that the Public Utilities
8 Commission of Ohio ("Commission" or "PUCO") decides to approve the
9 Company's application.

10
11 ***Q7. WHAT DATA SOURCES DID YOU RELY UPON TO PREPARE YOUR***
12 ***REVIEW OF THE COMPANY'S REQUEST?***

13 ***A7.*** My review relies primarily upon the direct testimonies and Exhibits of Company
14 witnesses Trent, Niemann and Wathen and their responses to various data
15 requests. I also reviewed Stipulations and Commission Opinions and Orders from
16 other relevant proceedings, which I cite throughout my testimony.

17
18 The specific data request responses I cite in this testimony are provided in
19 Attachment JRH-5.

1 ***Q8. PLEASE SUMMARIZE THE COMPANY'S REQUEST AND UNDERLYING***
2 ***RATIONALE.***

3 ***A8.*** Duke Energy Ohio, as a fixed resource requirement ("FRR") entity in PJM, is
4 obligated to ensure adequate capacity in its service territory for the duration of its
5 FRR plan, which expires May 31, 2015. The Company is requesting Commission
6 approval of a charge that would enable it to collect revenues equal to the
7 difference between the embedded cost of this capacity, net of credits for margins
8 from sales of energy and ancillary services, and the revenues the Company
9 receives for furnishing that capacity. The Company is proposing to collect that
10 amount, \$729 million for the period August 2012 through May 2015, from all
11 jurisdictional retail distribution customers on a deferred basis. The Company
12 proposes to collect these revenues under a new tariff, Rider Deferred Recovery –
13 Capacity Obligation ("DR CO").

14
15 Duke Energy Ohio maintains that it is not receiving just and reasonable
16 compensation for this capacity, which the Company is furnishing to the
17 Competitive Retail Electric Service ("CRES") providers within its service
18 territory and to the wholesale supply auction winners who supply the Standard
19 Service Offer "SSO." The Company also argues that it is eligible for this cost-
20 based ratemaking treatment because it is similar to a state compensation
21 mechanism the Commission approved for Ohio Power (in 2012). Ohio Power is
22 also an FRR entity in PJM.

1 ***Q9. WHAT IS YOUR PRIMARY RECOMMENDATION IN THIS CASE?***

2 ***A9.*** My primary recommendation is for the Commission to grant the Joint Motion to
3 Dismiss Duke's application that OCC and numerous signatories to the Duke
4 Energy Ohio ESP Stipulation filed on October 4, 2012.¹

6 ***Q10. WHAT IS THE BASIS FOR YOUR PRIMARY RECOMMENDATION?***

7 ***A10.*** In their Motion to dismiss, as well as in their Joint Comments and Joint Reply
8 Comments, the signatories present numerous reasons to support their
9 recommendation that the Commission reject the Company's Application by
10 granting the Motion to Dismiss. My review of the Company's Application
11 supports that recommendation.

12
13 First, my review indicates that, in October 2011, Duke Energy Ohio voluntarily
14 agreed to a stipulation to its Electric Security Plan proceeding (Case No. 11-3549-
15 EL-SSO, et al.) knowing that the compensation it would receive for its capacity
16 would be less than the embedded cost of its capacity. Under that stipulation,
17 which the Commission approved, the Company agreed to provide the capacity
18 required to serve all retail load in its service territory--both shopping load served
19 by CRES and SSO load supplied by wholesale supply auction winners. It agreed

¹ *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 an Electric Security Plan, Accounting Modifications and Tariffs for Generation Service, Case No. 11-3549-EL-SSO, et al., ("Duke ESP"), Stipulation and Recommendation (Oct. 24, 2011). Approved, Opinion and Order (Nov. 22, 2011).*

1 to do so in exchange for compensation based on market-based rates. These
2 market-based rates are set through the PJM Reliability Pricing Model (“RPM”).
3 The agreement also provided for customers to pay the Company a non-bypassable
4 Electric Service Stability Charge (“ESSC”).² Retail customers have been
5 fulfilling, and continue to fulfill, their commitment under the stipulation by
6 paying for the capacity as well as paying the ESSC. The Commission should
7 require Duke Energy Ohio to also continue fulfilling its commitment under that
8 stipulation agreement to provide its capacity at market-based.

9
10 Second, Duke Energy Ohio’s positions that it is not receiving just and reasonable
11 compensation for the capacity it furnishes as an FRR entity and that its financial
12 integrity is dire are not consistent with its numerous decisions since June 2010.
13 When it applied to join PJM it chose not to pursue a capacity charge to collect its
14 full claimed embedded costs. That is a different course than Ohio Power has
15 taken. Ohio Power pursued establishment of a cost-based capacity charge at the
16 Federal Energy Regulatory Commission (“FERC”) and at the PUCO. Duke
17 Energy Ohio, however, voluntarily decided to not pursue such cost-based charges
18 either at FERC or at the Commission—until it filed its application in this
19 proceeding. The Company made those decisions even though it knew, or should
20 have known then, that the embedded cost of its capacity would exceed the
21 revenues it would receive for that capacity at market-based rates.

² Id.

1 ***Q11. WHAT IS YOUR RECOMMENDATION IF THE COMMISSION DOES NOT***
2 ***GRANT THE MOTION TO DISMISS DUKE'S APPLICATION?***

3 ***A11.*** The Company's proposal to collect one-hundred percent of additional capacity
4 costs from its distribution service customers (both shopping and non-shopping),
5 on a dollar-for-dollar basis, via a true-up, is not reasonable.

6
7 Under the current ESP the Company is providing one portion of its capacity to
8 CRES providers and the remaining portion to the wholesale supply auction
9 winners who supply its SSO. The Company should be required to collect the
10 additional costs of capacity the Commission approves (if any) from the parties in
11 each of those two groups since they are the parties to whom the Company is
12 furnishing its capacity. The Company should collect those additional costs, if
13 any, from CRES providers and from wholesale supply auction winners in direct
14 proportion to the quantity of capacity the Company furnishes to each party in each
15 group. This allocation is consistent with the ratemaking principle of allocating
16 costs on the basis of cost causation since the amount of additional capacity costs
17 allocated to each party will be directly proportional to the physical quantity of
18 capacity that party is being furnished. Also, this approach is competitively
19 neutral; it will not harm retail competitors in Ohio. The Company will be
20 collecting the capacity charge from each group (CRES providers and wholesale
21 supply auction winners) in proportion to the quantity of capacity consumed by the
22 group.

1 In addition, if the Commission determines to grant the application in whole or
2 part, it should only provide the Company the opportunity to collect whatever
3 amount of additional capacity costs the Commission approves. The Commission
4 should not guarantee the collection from customers of that full amount by
5 approving a true-up. Therefore, I recommend that the charge through which the
6 Company collects these costs not be subject to a true-up.

7
8 **II. REVIEW OF RATIONALE UNDERLYING THE COMPANY'S**
9 **APPLICATION**

10
11 **A. Additional Capacity Costs the Company is Requesting**
12

13 ***Q12. PLEASE SUMMARIZE THE COMPANY'S CURRENT PROVISION OF***
14 ***CAPACITY TO PARTIES IN ITS SERVICE TERRITORY.***

15 ***A12.*** As an FRR entity in PJM, Duke Energy Ohio must hold or control sufficient
16 capacity to satisfy PJM's capacity resource requirement for all load in its service
17 territory, i.e. shopping load plus non-shopping load. The Company has been
18 meeting this requirement since January 1, 2012 using its legacy generating assets
19 supplemented by resources it acquired through bilateral transactions.
20 Duke Energy Ohio is furnishing this capacity to wholesale supply auction winners
21 who supply its SSO and to CRES providers Duke Energy Ohio agreed to furnish
22 its capacity to parties in each of these two groups under the stipulation of its

1 current ESP, in provisions II-B and IV-A respectively.³ The Company is being
2 compensated for this capacity at wholesale market prices, referred to as Final
3 Zonal Capacity Prices ("FZCP"). It agreed to these prices under the ESP
4 stipulation.⁴

5
6 Under this arrangement the Company does not receive a direct payment from
7 these parties for this capacity. (See response to OCC-INT-12-100). Instead, PJM
8 bills these parties for this capacity and PJM remits the revenue for this capacity to
9 the Company. (See response to OCC-INT-14-142). The Company has not
10 provided the quantities of capacity that it is furnishing to wholesale supply
11 auction winners who supply its SSO and to CRES providers respectively. Nor has
12 it provided the amounts that PJM has billed each of those two groups for that
13 capacity. (See responses to OCC-INT-14-145, OCC-POD-03-22 b, OCC-INT-
14 07-061 and OCC-INT-09-067 in Attachment JRH-5).

15
16 ***Q13. DO THE COSTS THAT CRES PROVIDERS AND WHOLESALE SUPPLY***
17 ***AUCTION WINNERS PAY FOR THIS CAPACITY ULTIMATELY FLOW***
18 ***THROUGH TO SHOPPING AND NON-SHOPPING CUSTOMERS,***
19 ***RESPECTIVELY?***

³ Id.

⁴ FZCP are calculated from the results of Base Residual Auctions ("BRAs") and incremental auctions that PJM conducts through its Reliability Pricing Model ("RPM") for each of its June to May planning years.

1 **A13.** Yes. It is reasonable to conclude that CRES providers ultimately collect all, or
2 most, of the costs they pay for capacity from their retail customers, i.e., from
3 shopping customers. In addition, wholesale supply auction winners collect the
4 costs they pay for capacity from the Company who in turn passes it through to
5 non-shopping customers through its SSO rates.

6
7 **Q14. PLEASE SUMMARIZE THE ADDITIONAL COSTS THE COMPANY IS**
8 **REQUESTING TO COLLECT FOR THIS CAPACITY.**

9 **A14.** Duke Energy Ohio is requesting Commission approval to collect revenues equal
10 to the difference between its embedded cost of capacity and the revenues it
11 receives for providing that capacity as well as the revenues for selling energy and
12 ancillary services associated with that capacity. The Company is requesting to
13 collect these additional capacity costs for the thirty-four month period beginning
14 August 2012 through May 2015.

15
16 Company witness Wathen estimates that these additional capacity costs will
17 amount to \$257 million per year on average and total \$729 million over the
18 August 2012 through May 2015 period. This is the amount of additional capacity
19 costs that the Company is seeking to collect from its jurisdictional customers
20 through Rider DR-CO.

1 ***Q15. PLEASE DESCRIBE HOW THE COMPANY HAS ESTIMATED THOSE***
2 ***ADDITIONAL CAPACITY COSTS.***

3 ***A15.*** Company witness Wathen describes the Company's estimate of these additional
4 capacity costs in his Direct Testimony and presents an overview on pages 1 and 3
5 of Attachment WDW-1. Attachment JRH-2 replicates Mr. Wathen's overview.
6 Column (a) presents his estimate of average annual amounts and column (b)
7 presents his estimates of the capacity daily rates corresponding to those average
8 annual amounts.

9
10 Mr. Wathen begins by providing the Company's estimate of its total embedded
11 cost of capacity over the thirty-four month period August 2012 through May
12 2015. He chooses a thirty-four month period starting in August 2012 because that
13 is the first month that the state compensation mechanism for Ohio Power was in
14 effect. But as OCC Witness Effron notes, the Company is requesting to be
15 compensated prospectively for losses incurred in the past which he maintains
16 constitutes retroactive ratemaking. Mr. Wathen estimates that for the thirty-four
17 month period the total cost is \$1,578 million, based upon the Company's costs for
18 the year ending December 2011. That total equates to an annual average amount
19 of \$526.2 million per year over the thirty-four month period.

1 Mr. Wathen then describes the amounts the Company expects to collect from the
2 two existing revenue streams generated by that capacity, which he estimates will
3 average \$270.2 million per year. The Company's first existing revenue stream is
4 margins it receives for selling energy and ancillary services produced by that
5 capacity into the relevant PJM wholesale markets for those products. Mr. Wathen
6 estimates that the value of that revenue stream will average [REDACTED] million per
7 year. The Company's second existing revenue stream is the compensation it
8 receives from providing its capacity to CRES and to wholesale supply auction
9 winners supplying its SSO. The Company's compensation for that capacity is
10 based on market-based prices that PJM establishes for capacity in its wholesale
11 capacity market. Mr. Wathen estimates that second revenue stream will average
12 \$107.5 million per year.

13
14 The \$257.3 million per year Duke Energy Ohio is requesting Commission
15 approval to collect through Rider DR-CO is the difference between the estimate
16 of its total embedded cost of capacity, i.e., \$526.2 million per year, and the
17 amount being collected from the two existing revenue streams, i.e., \$270.2 million
18 plus a commercial activity tax of \$1.4 million. In other words the Company
19 estimates that the total market value of its capacity, at \$270.2 million, will be only
20 about 50 percent of the total embedded costs of \$526.2 million per year between
21 August 2012 and May 2015.

1 ***Q16. HAS THE COMPANY ALSO EXPRESSED THESE AMOUNTS AS DAILY***
2 ***CAPACITY RATES?***

3 ***A16.*** Yes. In addition to estimating the absolute dollar amounts of its embedded costs
4 and existing revenue streams, the Company expressed those amounts as daily
5 capacity rates. These daily capacity rates, which are expressed in dollars per
6 MW-day, are equal to each of the respective amounts divided by the aggregate
7 demand of all jurisdictional retail customers (4459.85 MW) and 365 days per
8 year. Attachment JRH-2 presents the Company's estimate of these capacity rates
9 in column (b).

- 10
- 11 ○ The capacity rate corresponding to the Company's total annual
12 average embedded costs of \$526 million per year is \$323.26 per
13 MW-day.⁵
- 14 ○ The capacity rate corresponding to the Company's total annual
15 average embedded costs, net of credits for margins from sales of
16 energy and ancillary service plus a commercial activity tax is
17 \$224.15 per MW-day. That rate is equal to the total capacity rate of
18 \$323.26 per MW-day minus [REDACTED] per MW-day from selling
19 energy and ancillary services produced by that capacity plus the
20 commercial activity tax of \$0.84/MW-day.

⁵ \$323.26 per MW-day = \$526,225,031 / (4459.85 MW * 365 days).

- 1 ○ The capacity rate corresponding to the \$257 million per year Duke
2 Energy Ohio is requesting Commission approval to collect through
3 Rider DR-CO is \$158.08 per MW-day. That rate equals the total
4 capacity rate, net of credits from energy and ancillary service
5 revenues, minus \$66.06 per MW-day the Company receives for
6 providing its capacity at market rates to CRES providers and to
7 wholesale supply auction winners providing wholesale supply for
8 SSO.

9
10 Again, the Company's request to collect \$158.08 per MW-day indicates that it
11 estimates the total market value of its capacity will be only about 50 percent of its
12 total embedded cost of capacity, \$323.16 per MW-day between August 2012 and
13 May 2015.

14
15 **B. Rationale underlying Company application**

16
17 ***Q17. PLEASE SUMMARIZE THE RATIONALE UNDERLYING THE***
18 ***COMPANY'S REQUEST TO COLLECT THESE ADDITIONAL CAPACITY***
19 ***COSTS.***

20 ***A17.*** Company witness Trent presents the rationale underlying the Company's request
21 to collect these additional capacity costs. He states on page 4 of his Testimony
22 that Duke Energy Ohio is not receiving just and reasonable compensation for the

1 capacity it furnishes as an FRR entity. In fact, Mr. Trent states on page 11 that
2 "...Duke Energy Ohio's financial integrity is in a dire and precarious position."

3
4 Mr. Trent goes on to explain that the Company is providing a noncompetitive
5 wholesale capacity service consistent with its FRR obligations. And he states
6 that Duke is requesting essentially the same ratemaking treatment for that service
7 as under the state compensation plan the Commission approved for Ohio Power in
8 Case No. 10-2929-EL-UNC (referred to as the "Ohio Power Capacity Case").
9 Mr. Trent maintains that the Company is eligible for the same ratemaking because
10 it, like Ohio Power, is an FRR entity in PJM.

11
12 ***Q18. DO YOU AGREE THAT THE COMPANY IS AN FRR ENTITY IN PJM?***

13 ***A18.*** Yes.

14
15 ***Q19. DO YOU AGREE THAT THE NONCOMPETITIVE WHOLESALE***
16 ***CAPACITY SERVICE THE COMPANY SAYS IT IS PROVIDING IS***
17 ***DISTINCT FROM THE CAPACITY SERVICE IT PROVIDES TO CRES***
18 ***PROVIDERS AND WHOLSALE SUPPLY AUCTION WINNERS?***

19 ***A19.*** No.

20
21 On page 5 of his Testimony Mr. Trent states that the Company is providing a
22 "noncompetitive wholesale capacity service" consistent with its FRR obligations.

PUBLIC VERSION
Testimony of J. Richard Hornby
On Behalf of the Ohio Consumers' Counsel
PUCO Case Nos. 12-2400-EL-UNC, et al.

1 He maintains that this noncompetitive wholesale service is a separate and distinct
2 service from the competitive services it is providing under its ESP, which
3 includes the capacity it is providing to CRES providers and wholesale supply
4 auction winners. Thus, he maintains that the Company is entitled to charge a rate
5 for its noncompetitive wholesale capacity service distinct from the rate it is
6 charging for its competitive service.

7
8 My opinion is that the Company is not providing two different services but is
9 instead providing a single service under which it is furnishing capacity to CRES
10 providers and to wholesale supply auction winners from a single set of assets.

11 The Company has not indicated that it is providing two different sets of capacity
12 assets under two different services. Nor is it providing two different quantities of
13 capacity under two different services. Further, the Company is not providing
14 capacity to two different groups of CRES providers and wholesale supply auction
15 winners under two different services. (See responses to OCC-INT-136 and OCC-
16 INT-137 in Attachment JRH-5).

17
18 Essentially the Company is requesting approval to collect two sets of revenues for
19 the same capacity. First it wants to continue collecting compensation for the
20 capacity it furnishes at market-based rates to CRES providers and wholesale
21 supply auction winners, which it estimates to be \$66.06 per MW-day. Second it
22 is requesting to collect \$158 per MW-day in additional compensation for the same

1 capacity by charging Rider DR-CO rates to all jurisdictional distribution
2 customers, i.e. shopping customers and non-shopping customers.

3
4 ***Q20. WOULD A STATE COMPENSATION MECHANISM FOR AN FRR ENTITY***
5 ***ADDRESS THE COLLECTION OF ALL THE ADDITIONAL CAPACITY***
6 ***COSTS THAT DUKE ENERGY OHIO IS REQUESTING TO COLLECT?***

7 ***A20.*** No. A state compensation plan for an FRR entity is limited to the collection of
8 the costs of capacity that an FRR entity provides to Load Serving Entities
9 (“LSEs”). Company witness Niemann makes this point in his Direct Testimony,
10 from line 10 on page 13 through line 3 on page 14. Thus, a state compensation
11 plan for Duke Energy Ohio would be limited to the collection of only those costs
12 associated with the capacity the Company provides to CRES providers. (CRES is
13 the term used for LSEs in Ohio). In fact, in response OCC-INT-01-031 the
14 Company indicates that Rider DR-CO does not enable it to collect costs it incurs
15 to fulfill its obligation as an FRR entity.

16
17 As a result, in this proceeding Duke Energy Ohio is effectively seeking to amend
18 its existing state compensation plan as well as collect additional capacity costs for
19 the capacity it provides to the winners of wholesale supply auctions. (The
20 Company appears to have an existing state compensation plan since it is currently
21 collecting costs for the capacity it provides to CRES providers under a stipulation
22 approved by the Commission in its ESP proceeding, as noted earlier).

1 ***Q21. DOES THE COMPANY INDICATE WHEN IT CONCLUDED THAT IT WAS***
2 ***NOT EARNING FAIR AND REASONABLE COMPENSATION FOR ITS***
3 ***CAPACITY SERVICE?***

4 ***A21.*** Yes, on July 2, 2012 according to response OCC-INT-1-27.
5

6 ***Q22. DOES MR. TRENT INDICATE WHEN THE COMPANY'S FINANCIAL***
7 ***INTEGRITY FIRST BECAME DIRE?***

8 ***A22.*** No. Mr. Trent did not identify when the Company's financial integrity became
9 dire in his Direct Testimony or in response to data request FES-INT-02-026.
10

11 ***Q23. ARE MR. TRENT'S POSITIONS--THAT THE COMPANY'S FINANCIAL***
12 ***INTEGRITY IS DIRE AND THAT IT IS NOT RECEIVING JUST AND***
13 ***REASONABLE COMPENSATION FOR THE CAPACITY IT FURNISHES***
14 ***AS AN FRR ENTITY--CONSISTENT WITH THE COMPANY'S APPROACH***
15 ***TO COLLECTING THE FULL EMBEDDED COSTS OF THAT CAPACITY***
16 ***SINCE JOINING PJM?***

17 ***A23.*** No. Duke Energy Ohio's position that it is not receiving just and reasonable
18 compensation for the capacity it furnishes as an FRR entity is inconsistent with its
19 numerous decisions to not pursue a charge for capacity based on its full embedded
20 costs of that capacity. On the contrary, the Company's approach to the collection
21 of those capacity costs, and in particular to the additional capacity costs it is

1 requesting in this proceeding, has been materially different from the approach
2 taken by Ohio Power.

3
4 ***Q24. HAS OHIO POWER FILED FOR RATES TO COLLECT ITS TOTAL***
5 ***EMBEDDED COSTS OF CAPACITY AT BOTH FERC AND THE PUCO?***

6 ***A24.*** Yes. On November 1, 2010 Ohio Power filed an application at FERC (Docket
7 ER11-1995) requesting authorization to change its capacity charges from market-
8 based rates to charges that would enable it to collect the total embedded cost of
9 that capacity. Similarly, in its proceeding to establish a second ESP, Case 11-
10 346-EL-SSO, Ohio Power sought to collect capacity charges that would collect
11 more than market-base rates, allowing it to collect a larger portion of its
12 embedded costs.

13
14 ***Q25. SINCE APPLYING TO JOIN PJM, HAS DUKE ENERGY OHIO PURSUED***
15 ***RATES TO COLLECT ITS TOTAL EMBEDDED COSTS OF CAPACITY AT***
16 ***BOTH FERC AND PUCO?***

17 ***A25.*** No. Duke Energy Ohio did not pursue the establishment of a charge to collect its
18 full embedded costs at FERC. And it did not pursue it to the point of a hearing at
19 PUCO until its filing in this proceeding. Since applying to join PJM in June
20 2010, the Company has never filed for a cost-based charge at FERC. Duke
21 Energy Ohio did file for charges to cover the embedded costs of its capacity in its

1 second ESP proceeding, but ultimately entered a stipulation agreeing to be
2 compensated at market-based rates.

3
4 As summarized on page 1 of Attachment JRH-3 and described below, at various
5 points in time the Company voluntarily chose to not pursue the capacity charges
6 based on its embedded costs. My analysis indicates that at those points in time
7 the Company knew, or should have known, that the embedded cost of its capacity
8 would exceed the revenues it would receive for that capacity at market-based
9 rates.

10
11 In this proceeding the Company is requesting to collect \$158 per MW-day
12 between August 2012 and May 2015 on the grounds that without those revenues it
13 will under-collect its total embedded cost of capacity by that amount. However,
14 as summarized on page 1 of Attachment JRH-3, my analysis indicates that as of
15 June 2010, when it applied to join PJM, the Company knew or should have
16 known that its embedded cost of its capacity would exceed the revenues it would
17 receive for that capacity at market-based rates between January 2012 and May
18 2014 by the same order of magnitude, e.g., \$208 per MW-day.

19
20 Similarly, in October 2011, when it agreed to the stipulation in its ESP
21 proceeding, the Company knew or should have known that the embedded cost of
22 its capacity would exceed the revenues it would receive for that capacity at

1 market-based rates between January 2012 and May 2015 by the same order of
2 magnitude, e.g., \$179 per MW-day.

3
4 ***Q26. PLEASE BEGIN YOUR REVIEW OF THE COMPANY'S DECISIONS TO***
5 ***NOT PURSUE A CHARGE TO COLLECT ITS EMBEDDED COST OF***
6 ***CAPACITY WITH ITS APPLICATION TO JOIN PJM AS AN FRR ENTITY.***

7 ***A26.*** Duke Energy Ohio applied to join PJM on June 25, 2010, requesting that its entry
8 take effect on January 1, 2011. In its application Duke Energy Ohio applied to
9 join PJM under a FRR Integration Plan for the period January 1, 2012 through
10 May 31, 2014.⁶ In that application the Company indicated its intent to transition
11 from being an FRR entity to participating in BRAs as of PJM's 2014-15 Planning
12 Year. The Company stated that its FRR Integration Plan would describe the
13 capacity arrangements that Duke Energy Ohio would make for the period January
14 1, 2012 through May 31, 2014.⁷ (PJM later approved a change in the date on
15 which the Company would convert from FRR status to BRA participant status
16 from June 1, 2014 to June 1, 2015).

⁶ FERC Docket No. ER10-1562-000. Application of Duke Energy Ohio, Inc. and Duke Energy Kentucky, Inc., June 25, 2010.

⁷ Id., page 22.

1 ***Q27. DOES YOUR ANALYSIS INDICATE THAT AS OF JUNE 2010 DUKE***
2 ***ENERGY OHIO KNEW, OR SHOULD HAVE KNOWN, THAT ITS***
3 ***EMBEDDED COSTS OF CAPACITY WOULD EXCEED ITS MARKET***
4 ***VALUE?***

5 ***A27.*** Yes. Although the Company would not provide its estimate as of that point in
6 time, (see response to OCC-INT-14-143 of Attachment JRH-5), my analysis
7 indicates that as of June 2010 the Company knew, or should have known, that the
8 embedded cost of its capacity over the period January 1, 2012 to May 31, 2014
9 would exceed the revenues it would receive for that capacity by approximately
10 \$208 per MW-day if it was compensated at market based prices set by PJM. That
11 shortfall is greater than the \$158 per MW-day that the Company is requesting in
12 this proceeding. Nevertheless the Company still decided to apply to join PJM as
13 an FRR entity.

14
15 My analysis is summarized on page 2 of Attachment JRH-3 in column (b). This
16 is a high level approximation, or order of magnitude estimate, of the amount by
17 which the Company's embedded costs exceeded their market value that the
18 Company should have been aware of at that time. It is based upon the Company's
19 embedded cost of capacity for 2010, and my estimates of the two revenue streams
20 discussed earlier over the period January 2012 to May 2014. First, as of June
21 2010 the Company had, or should have had, an estimate of its embedded costs
22 through May 2014. My analysis uses the Company's embedded costs for the year

1 ending December 31, 2010. Second, the Company had, or should have had, an
2 estimate of the revenue it would receive for its capacity at market prices during
3 that period. My analysis estimates that revenue stream using prices from the
4 BRA's that PJM had conducted for planning years 2011, 2012 and 2013 in May
5 2008, May 2009 and May 2010 respectively. Third, the Company had, or should
6 have had, an estimate of the revenue it would receive from margins from energy
7 and auxiliary services produced by that capacity based on projections from its
8 Commercial Business Model (CBM). My analysis estimates that revenue stream
9 using energy price data for 2012 through 2014 that Company Witness Judah Rose
10 presented in Exhibit R of his Direct Testimony in the Company's second ESP
11 proceeding.⁸ These calculations are presented on page 5 of Attachment JRH-3.

12
13 ***Q28. WAS DUKE ENERGY OHIO FORCED TO APPLY TO JOIN PJM IN JUNE***
14 ***2010?***

15 ***A28.*** No. Despite being aware that compensation at market prices would not be
16 sufficient to collect its total embedded costs, the Company voluntarily chose to
17 join PJM in June 2010 knowing it would have to join as an FRR entity through at
18 least May 2014.

19

⁸ Direct Testimony of Judah Rose, June 20, 2011; Case No. 11-345-EL-SSO et al.

1 ***Q29. DID DUKE ENERGY OHIO MAKE ANY SUBSEQUENT FILINGS AT***
2 ***FERC FOR RATES TO COLLECT ITS TOTAL EMBEDDED COSTS OF***
3 ***CAPACITY?***

4 ***A29.*** No. On August 16, 2010, Duke Energy Ohio filed its FRR Integration Plan with
5 PJM and FERC. In that filing, the Company proposed to provide capacity to
6 Load Serving Entities (LSEs) at wholesale capacity market prices. In that plan
7 filing the Company reserved its right to amend its proposed rates to seek
8 authorization for cost based rates per Section 205 of the Federal Power Act.
9 However, Duke Energy Ohio chose not to seek authorization to collect the
10 embedded costs of its capacity. In fact, in April 2011 the Company voluntarily
11 agreed to give up its right to seek a wholesale cost based capacity charge from
12 FERC under its Stipulation in PUCO Case No. 11-2641, which the PUCO
13 approved in May 2011.⁹

14
15 ***Q30. DID DUKE ENERGY OHIO EVENTUALLY AGREE TO NOT MAKE ANY***
16 ***FILINGS AT FERC FOR RATES TO COLLECT ITS TOTAL EMBEDDED***
17 ***COSTS OF CAPACITY?***

⁹ *In the Matter of the Application of Duke Energy Ohio, Inc. for Approval of the Establishment of Rider BTR and Rider RTO and Associated Tariffs*, Case No. 11-2641, et al., Stipulation and Recommendation at ¶20 (Apr. 26, 2011) (approved, Opinion and Order at 14-16 (May 25, 2011)).

1 **A30.** Yes. In April 2011 Duke Energy Ohio agreed to not seek FERC approval for a
2 wholesale capacity charge based on cost in a Stipulation filed at the PUCO, in
3 Case No. 11-2641.¹⁰
4

5 **Q31. PRIOR TO ITS APPLICATION IN THIS PROCEEDING, DID DUKE**
6 **ENERGY OHIO MAKE ANY FILINGS AT THE PUCO REQUESTING**
7 **RATES THAT WOULD COLLECT ITS TOTAL EMBEDDED COSTS OF**
8 **CAPACITY?**

9 **A31.** Yes. In its application for a second ESP, filed on June 20, 2011 in PUCO Case
10 No. 11-3549-El-SSO, the Company requested that the Commission establish a
11 charge that would enable it to collect the full embedded costs of its capacity. That
12 application proposed an ESP covering a nine-year and four-month period from
13 January 2012 through May 31, 2021. In his testimony in that proceeding, Mr.
14 Wathen estimated the Company's annual embedded cost of capacity over that
15 period would average \$566 million per year. He further estimated that eighty
16 percent of the margins from energy and revenues from ancillary services, the
17 portion the Company proposed to credit its customers, would average \$144
18 million per year.
19

¹⁰ *In the Matter of the Application of Duke Energy Ohio, Inc. for Approval of the Establishment of Rider BTR and Rider RTO and Associated Tariffs*, Case No. 11-2641, et al., Stipulation and Recommendation at ¶20 (Apr. 26, 2012) (approved, Opinion and Order at 14-16 (May 25, 2011).

1 My analysis, assuming no sharing of offsetting revenues between the Company
2 and its customers, indicates that the Company was estimating its embedded costs
3 of capacity net of credits for margins from sales of energy and ancillary services
4 to be about \$224 per MW-day on average. This amount is equal to the estimate
5 Mr. Wathen has presented for the corresponding amount in this proceeding
6 (Attachment WDW-1, page 1, line 9). However, those two estimates are for two
7 different time periods, January 2012 to May 2021 and August 2012 through May
8 2015 respectively. My analysis is summarized in Column b on page 3 of
9 Attachment JRH-3.

10
11 ***Q32. DID DUKE ENERGY OHIO ENTER A STIPULATION IN THAT ESP***
12 ***PROCEEDING UNDER WHICH IT AGREED TO BE COMPENSATED FOR***
13 ***ITS CAPACITY AT MARKET BASED RATES.***

14 ***A32.*** Yes. On October 24, 2011, Duke Energy Ohio entered a stipulation in its second
15 ESP proceeding. There it agreed to provide its capacity to CRES providers, as
16 well as to wholesale supply auction winners who provide supply for SSO load, in
17 exchange for compensation at market prices. The stipulation addresses the
18 compensation the Company would receive for its capacity over the period January
19 2012 through May 2015. Also as part of the stipulation the Company agreed to
20 corporately separate by December 31, 2014. The stipulation specifies that the
21 market prices paid for its capacity through May 2015, referred to as FZCP, would

1 be based upon the results of its Base Residual Auctions and incremental auctions
2 for the relevant planning years.

3
4 One might consider it surprising that the Company agreed to that stipulation given
5 the estimate of embedded costs net of credits for margins from sales of energy and
6 ancillary services that it had projected in its initial application, which I estimate
7 above at \$224 per MW-day. Although the Company would not provide its
8 estimate as of that point in time, (see response to OCC-INT-14-143), it is
9 reasonable to assume that the Company considered numerous factors before
10 deciding to agree to the stipulation. My analysis identifies two of those factors -
11 the compensation the Company would receive under the ESSC established in the
12 stipulation and the Company's expectation that the market value of the underlying
13 legacy assets from June 2015 onward would be materially higher than their
14 embedded costs.

15
16 ***Q33. PLEASE DESCRIBE YOUR ANALYSIS OF THOSE TWO FACTORS.***

17 ***A33.*** In order to understand how those two factors would affect the Company's
18 decision to enter the stipulation in October 2011, I began by estimating its outlook
19 regarding the collection of embedded costs for the period covered by the
20 stipulation and for the period after the stipulation. Those two periods are January
21 1, 2012 to May 31, 2015 and June 2015 to May 2021 respectively.

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1 In the ESP filing Company witness Wathen presented a projection of average
2 embedded costs of capacity, and of credits for margins from sales of energy and
3 ancillary services, for the period 2012 to 2021. My analysis separates that
4 aggregate average estimate into two time periods, January 1, 2012 to May 31,
5 2015 and June 2015 to May 2021. Page 4 of 6 of Attachment JRH-3 presents my
6 estimates for those two periods in columns (b) and (c) respectively.

7
8 My analysis uses the Company's estimate of its average embedded costs for both
9 time periods. My analysis estimates the revenue stream the Company would
10 receive from selling its capacity at market prices from January 2012 through May
11 2015 using capacity prices in Attachment B of the stipulation in its ESP
12 proceeding. For the June 2015 through May 2012 period I use forecast capacity
13 prices from Exhibit T of the testimony of Company witness Mr. Judah Rose. In
14 that testimony Mr. Rose estimated that average capacity prices from 2016 through
15 2021 would be approximately five times higher on average than from 2012 to
16 2015. Finally, my analysis derives estimates of the revenue streams from sales of
17 energy and ancillary services in each of the two periods. These are derived from
18 Mr. Wathen's estimate using energy price data and projections for the two periods
19 that Mr. Judah Rose presented in Exhibit R of his Direct Testimony in the ESP
20 proceeding. In that testimony Mr. Rose projected that wholesale market prices for
21 energy from 2016 through 2021 would be approximately 35 percent higher from

1 between 2012 and 2015. Pages 5 and 6 of Attachment JRH-3 present the
2 workpapers underlying my estimates on page 4 of Attachment JRH-3.

3
4 Based upon those projections, my analysis indicates that as of October 2011 the
5 Company would have estimated its under-collection of embedded costs at
6 approximately \$179 per MW-day on average during the stipulation period,
7 January 2012 through May 2015. In contrast, the Company would have estimated
8 that the market value of that capacity would be greater than the embedded cost of
9 those assets by approximately \$139 per MW-day on average from June 2015
10 through May 2021.

11
12 ***Q34. PLEASE DESCRIBE THE REVENUES FROM THE ESSC UNDER THE***
13 ***STIPULATION.***

14 ***A34.*** The stipulation, in provision VII.A, established the ESSC to provide stability and
15 certainty regarding the Company's provision of retail electric service "...as an
16 FRR entity while continuing to operate under an ESP." Under that provision the
17 Company was allowed to collect \$110 million for three years beginning January
18 1, 2012. My analysis indicates that the revenues collected under the ESSC would
19 reduce the Company's annual under-collection of embedded capacity costs from
20 \$179 per MW-day to \$115 per MW-day, as shown on page 4 of Attachment JRH-
21 3 at line 8 of column (b).

1 ***Q35. DO YOU BELIEVE THAT DUKE ENERGY OHIO EXPECTED THE***
2 ***MARKET VALUE OF ITS LEGACY CAPACITY ASSETS TO EXCEED***
3 ***THEIR EMBEDDED COSTS FROM JUNE 2015 ONWARD?***

4 ***A35.*** Yes. My review of the Company's outlook for June 2015 onward, presented in
5 column (c) on page 4 of Attachment JRH-3, indicates it is reasonable to conclude
6 that Duke Energy Ohio, as of October 2011, would have been projecting that the
7 market revenues of its legacy capacity assets from June 2015 onward would
8 exceed their embedded costs by approximately \$139 per MW-day on average
9 through 2021. The Company would have considered this projected market value
10 from June 2015 onward when deciding whether to agree to the October 2011
11 stipulation in its second ESP proceeding because, under provision VIII-A of that
12 stipulation the Company was going to transfer those assets to its unregulated
13 affiliates at net book value no later than December 31, 2014. As a result, the
14 profit from market revenues in excess of embedded costs from June 2015 onward
15 would accrue to those unregulated affiliates.

16
17 ***Q36. PLEASE COMMENT ON THE DECISION BY DUKE ENERGY OHIO TO***
18 ***NOT FILE AN APPLICATION TO COLLECT ADDITIONAL CAPACITY***
19 ***COSTS IMMEDIATELY AFTER ENTERING THE ESP STIPULATION.***

20 ***A36.*** Mr. Trent makes three points on pages 4 and 5 of his Direct Testimony. First, he
21 states that the Company is not receiving just and reasonable compensation for the
22 capacity services it must furnish as an FRR entity. Second, he maintains that the

1 Company is providing a noncompetitive, wholesale capacity service, which is
2 distinct from the retail capacity services the Company is providing under the ESP.
3 Third, he states that nothing in the ESP Stipulation prevented the Company from
4 filing an application to collect additional capacity costs. I do not agree with any of
5 those three points.

6
7 Nevertheless, if Duke Energy Ohio held those positions as of November 2011, it
8 is surprising that the Company did not seek to collect such costs before now.
9 Under its view, it could have applied to collect such costs immediately after
10 entering that Stipulation. Instead, the Company waited approximately ten months
11 before filing its request on August 29, 2012. The Company was apparently
12 prompted to file its application by the Ohio Power capacity case decision, as
13 indicated in response OCC-INT-1-27.

14
15 **III. COST ALLOCATION AND RATE DESIGN**

16
17 ***Q37. PLEASE SUMMARIZE THE COST ALLOCATION AND RATE DESIGN***
18 ***THE COMPANY IS PROPOSING IN ORDER TO COLLECT THESE***
19 ***ADDITIONAL CAPACITY COSTS.***

20 ***A37.*** The Company is proposing to collect these costs from its distribution service
21 customers, i.e. shopping customers and non-shopping customers, via a new rider,
22 DR-CO. It is proposing that Rider DR-CO have a true-up; thus, it is proposing to

1 collect those costs dollar-for-dollar. In his Direct Testimony, at page 17, Mr.
2 Wathen states that the Company will file the actual rates it proposes to charge
3 within sixty days after a Commission order approving the collection of additional
4 capacity costs.

5
6 ***Q38. HAS THE COMPANY PROVIDED THE COMMISSION SUFFICIENT***
7 ***INFORMATION TO DETERMINE IF ITS PROPOSED RATES ARE JUST***
8 ***AND REASONABLE?***

9 ***A38.*** No. It will be difficult for the Commission to determine whether the rates under
10 proposed Rider DR-CO will be just and reasonable because the Company has not
11 calculated what those rates will be if the Commission were to approve its request.
12 First, the Company has stated that it is not seeking an increase in rates through
13 these proceedings. (See response OCC-INT-03-039). Second, OCC has served
14 discovery seeking details on cost allocation, but was told that the Company had
15 not designed the rates. (See response to OCC-INT-1-8).

16
17 In addition, the Company has not described key elements of its proposed Rider
18 DR-CO. In particular the Rider refers to a “recovery period” but that recovery
19 period is not defined. It also refers to a filing the Company will make subsequent
20 to the recovery period to true-up amounts collected during the recovery period.
21 The Company has not indicated the portion of its requested \$729 million that it

1 proposes to recover by May 2015 and the portion it proposes to cover after May
2 2015. (See response to OCC-INT-03-037).

3
4 Thus, the Company has not presented its proposed rates and has not described
5 how the collection of the rates will be structured during the undefined recovery
6 period and after that undefined recovery period. Also, the Company has not
7 provided estimates of bill impacts by rate class.

8
9 ***Q39. IS THE COMPANY'S PROPOSAL TO COLLECT THESE ADDITIONAL***
10 ***CAPACITY COSTS FROM JURISDICTIONAL DISTRIBUTION***
11 ***CUSTOMERS REASONABLE?***

12 ***A39.*** No. The Company's proposal to collect these costs from its distribution service
13 customers is not reasonable.

14
15 As noted earlier, the Company is providing a portion of its capacity to CRES
16 providers who use it to provide competitive supply service to shopping customers.
17 And the Company is providing a portion of its capacity to wholesale supply
18 auction winners from whom the Company acquires supply for the SSO it provides
19 to non-shopping customers. In the event the Commission decides to allow the
20 Company to collect some amount of additional capacity costs, it should require
21 the Company to collect those approved additional costs of its capacity from the
22 parties in each of those two groups, i.e. CRES providers and wholesale supply

1 auction winners. The Company should collect any additional capacity costs in
2 direct proportion to the quantity of capacity the Company provides to each party
3 in each of those groups. For example, if the Commission were to allow the
4 Company to collect the \$158 per MW-day that it is requesting, I am
5 recommending that the Company charge \$158 per MW-day for every MW that it
6 provides every day to each CRES provider and wholesale supply auction winner.
7 Requiring the Company to collect these costs from these two groups is fair and
8 will not harm retail competition in Ohio as the Company will be collecting the
9 same charge from each party in each group. This recommendation is consistent
10 with the allocation of capacity costs under the Company's ESP as well as with the
11 Commission order in the Ohio Power capacity case.

12
13 As noted earlier, Duke Energy Ohio has not provided the relative quantities of
14 capacity that it is providing to CRES and to wholesale supply auction winners
15 supplying its SSO.

16
17 ***Q40. IF THE COMMISSION AUTHORIZES THE COMPANY TO COLLECT A***
18 ***PORTION OF ADDITIONAL CAPACITY COSTS FROM WHOLESALE***
19 ***SUPPLY AUCTION WINNERS, HOW DO YOU RECOMMEND THOSE***
20 ***COSTS BE ALLOCATED AMONG STANDARD SERVICE OFFER***
21 ***CUSTOMERS?***

1 **A40.** I recommend that any portion of additional capacity costs the Commission allows
2 the Company to collect from wholesale supply auction winners, and hence from
3 customers on the SSO, be allocated among rate schedules according to the
4 allocation method and factors for Rider RC capacity costs under the Company's
5 current ESP. Under that approach the allocation to Primary Distribution and
6 Transmission Voltage is based on a 1 Coincident Peak (CP) allocator and the
7 allocation to the remaining rate schedules is based on annual energy.¹¹ As noted
8 earlier, the Company, PUCO Staff, the OCC and various other parties agreed to
9 this allocation of capacity costs as part of the stipulation.

10

11 **Q41. HAVE YOU ESTIMATED WHAT THE RATES FOR CUSTOMERS ON THE**
12 **STANDARD SERVICE OFFER MIGHT BE IF THE COMMISSION**
13 **APPROVES THE COMPANY'S REQUEST, AS FILED, TO COLLECT**
14 **ADDITIONAL CAPACITY COSTS?**

15 **A41.** Yes. I have estimated what the rates for customers on the SSO might be if the
16 Commission approves the Company's filed request to collect a portion of
17 additional capacity costs from wholesale supply auction winners. My estimate is
18 an approximation based upon data from Attachment B to the Company's
19 stipulation in its ESP proceeding. I have prepared this estimate for the amount the
20 Company has requested to collect through Rider DR-CO. My estimate is based

¹¹ Duke Energy Ohio Case No. 11-3549-EL-SSO et al., October 24, 2011 Stipulation Attachment B, Exhibit 2, page 1.

1 on the Company's 34 month period of accrual, even though this period is not
2 appropriate per OCC witness Effron's testimony. Attachment JRH-4 provides my
3 estimates.

4
5 The last column in Attachment B, Exhibit 2, page 4 of the Company's stipulation
6 presents an estimate of rates by customer class for the period June 2014 to May
7 2015. Those rates are set to collect capacity costs of \$125.99 per MW-day. The
8 Company's requested amount before considering ESSC revenues is \$158 per
9 MW-day, which is 25 percent higher than \$125.99. All else being equal, the rates
10 to collect the Company's full request will be 25 percent higher than those in the
11 last column in Attachment B, Exhibit 2, page 4 of the Company's stipulation in its
12 ESP proceeding.¹² For example the Company would collect an additional
13 \$0.0166 per kWh on each of the first 1,000 kWh a residential customer on rate RS
14 used, or \$199 annually from a customer using 1,000 kWh per month.

15
16 ***Q42. SHOULD THE LENGTH OF TIME DURING WHICH THE COMPANY IS***
17 ***ALLOWED TO COLLECT THESE COSTS BE LIMITED TO THE LENGTH***
18 ***OF TIME OVER WHICH IT INCURRED THESE COSTS?***

19 ***A42.*** Yes. The Company's proposed Rider DR-CO refers to a "recovery period" but
20 does not define that period. I recommend that the Commission require the

¹² In his March 22 deposition Mr. Wathen acknowledged that the capacity rates in WDW-1 are based on a demand of 4,460 MW while the rates in Attachment B, Exhibit 2, page 4 are based on 4,472 MW. My understanding is not a source of material difference for these illustrative rate calculations.

1 Company to set the recovery period in Rider DR-CO equal to the length of time
2 over which the Company incurred these costs. For example, if the Commission
3 were to allow the Company to recover some amount of the costs it incurred over
4 the 34-month period August 2012 to May 2015, the Commission should require
5 the Company to limit its recovery period in Rider DR-CO to 34 months. But, as
6 indicated earlier, it is OCC's position that the Company should not receive
7 compensation for incurred costs that precede the issuance of a PUCO Order in
8 this case.

9
10 ***Q43. IS THE COMPANY'S PROPOSAL TO COLLECT THESE ADDITIONAL***
11 ***CAPACITY COSTS DOLLAR FOR DOLLAR REASONABLE?***

12 ***A43.*** No. The Company's proposal to collect these additional capacity costs through a
13 rate that is subject to true-up is not reasonable because the true-up gives the
14 Company a guarantee of collecting this amount. Under generally accepted
15 ratemaking a utility is given an opportunity to collect its costs and earn a
16 reasonable return. It is not given a guarantee of dollar-for-dollar recovery.

17
18 Therefore, I recommend that the charge through which the Company collects
19 these costs not be subject to a true-up. The Commission applied this generally
20 accepted ratemaking principle in its August 8, 2012 order in Case No. 11-346-EL-
21 SSO and required Ohio Power to establish a tariff with no true-up through May
22 2015.

1 **IV. SUMMARY**

2

3 ***Q44. PLEASE SUMMARIZE YOUR CONCLUSION AND RECOMMENDATION***
4 ***REGARDING THE COMPANY'S REQUEST TO COLLECT ADDITIONAL***
5 ***CAPACITY COSTS.***

6 ***A44.*** It is OCC's position that approval of a cost based capacity charge is inconsistent
7 with Stipulation approved in Duke's ESP proceeding. Duke should fulfill its
8 commitments under the Stipulation, just as its customers have fulfilled their
9 commitments to pay an ESSC and pay for market-based capacity. Approval of a
10 cost based capacity charge would not be appropriate in light of the ESP
11 Stipulation.

12

13 Additionally, I conclude that there is no inherent linkage between this Company's
14 case and the Ohio Power capacity case. The Company's circumstances are
15 materially different from Ohio Power with respect to pursuit of a charge for
16 capacity based upon embedded costs. Since June 2010 the Company knew, or
17 should have known, that its estimated embedded cost of capacity would exceed
18 the market value of that capacity, as summarized in Table 1 drawn from page 1 of
19 Attachment JRH-3.

1

Table 1 Summary of Estimates of Difference between Duke Energy Ohio Embedded Cost of Capacity and Market Value of that Capacity			
Estimate as of	Event / Filing	Period covered by Estimate	Estimated Annual under (over) collection of embedded cost of capacity (\$/MW-day)
6/25/2010	Company application to join PJM as FRR	January 1, 2012 - May 31, 2014	\$208
6/20/2011	Company filing for second ESP	January 1, 2012 - May 31, 2021	\$224
10/24/2011	Stipulation in ESP case	January 1, 2012 - May 31, 2015	\$179

2

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1

10/24/2011	Stipulation in ESP case	June 1, 2015 - May 31, 2014	\$(139)
8/29/2012	Company filing to collect additional capacity costs	August 1, 2012 - May 31, 2015	\$158

2

3 Despite those expectations, the Company chose to not pursue establishment of a
4 charge to collect its full embedded costs at FERC. In fact it agreed not to do so in
5 a stipulation in April 2011. Moreover the Company entered a stipulation in its
6 ESP proceeding in which it agreed to furnish its capacity in exchange for
7 compensation at market base prices. This conclusion provides another reason why
8 the Commission should not approve the Company's request for a charge to collect
9 additional capacity costs

10

1 ***Q45. PLEASE SUMMARIZE YOUR CONCLUSION AND RECOMMENDATIONS***
2 ***REGARDING COST ALLOCATION AND RATE DESIGN IN THE EVENT***
3 ***THE COMMISSION DECIDES TO APPROVE THE COMPANY'S***
4 ***REQUEST FOR A CHARGE TO COLLECT ADDITIONAL COSTS OF ITS***
5 ***CAPACITY.***

6 ***A45.*** In the event the Commission does not grant the Motion to Dismiss filed by OCC
7 and other intervening parties, my conclusion is that the Company's proposal to
8 allocate one-hundred percent of these costs to its distribution service customers
9 and collect those costs through Rider DR-CO is not reasonable. I recommend that
10 the Company allocate any approved additional costs of capacity between CRES
11 providers and wholesale supply auction winners supplying its SSO according to
12 the quantities of its capacity it is providing to the parties in each group. And I
13 recommend that the charge through which the Company collects these costs from
14 customers not be retroactive or subject to a true-up.

15

16 ***Q46. DOES THIS COMPLETE YOUR DIRECT TESTIMONY?***

17 ***A46.*** Yes.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Direct Testimony of J. Richard Hornby (Public Version) was served on the persons stated below via electronic transmission this 26th day of March 2013.

/s/Maureen R. Grady

Maureen R. Grady
Assistant Consumers' Counsel

PARTIES SERVED

John.jones@puc.state.oh.us
Steven.beeler@puc.state.oh.us
sam@mwncmh.com
fdarr@mwncmh.com
joliker@mwncmh.com
mpritchard@mwncmh.com
cmooney2@columbus.rr.com
dhart@douglasshart.com
haydenm@firstenergycorp.com
jlang@calfee.com
lmcbride@calfee.com
tallexander@calfee.com
bojko@carpenterlipps.com
mohler@carpenterlipps.com
joseph.strines@DPLINC.com
judi.sobecki@DPLINC.com
randall.griffin@DPLINC.com

Devin.parram@puc.state.oh.us
dakutik@jonesday.com
aehaedt@jonesday.com
jbentine@ampppartners.org
jouett.brenzel@cinbell.com
mjsatterwhite@aep.com
kosterkamp@ralaw.com
asonderman@keglerbrown.com
mkimbrough@keglerbrown.com
wmassey@cov.com
asonderman@keglerbrown.com
mkimbrough@keglerbrown.com

Amy.spiller@duke-energy.com
Jeanne.kingery@duke-energy.com
Elizabeth.watts@duke-energy.com
Rocco.DAscenzo@duke-energy.com
dboehm@BKLawfirm.com
mkurtz@BKLawfirm.com
jkylercohn@BKLawfirm.com
tobrien@bricker.com
tsiwo@bricker.com
mwarnock@bricker.com
jejadwin@aep.com
yalami@aep.com
mhpetricoff@vorys.com
smhoward@vorys.com
stnourse@aep.com
Rdc_law@swbell.net
dakutik@jonesday.com
lfloyd@jonesday.com

Gary.A.Jeffries@dom.com
aaragona@eimerstahl.com
dstahl@eimerstahl.com
ssolberg@eimerstahl.com
BarthRoyer@aol.com

Christine.pirik@puc.state.oh.us
Katie.stenman@puc.state.oh.us

James Richard Hornby

Senior Consultant

Synapse Energy Economics, Inc.

485 Massachusetts Ave., Suite 2, Cambridge, MA 02139

(617) 453-7043 • fax: (617) 661-0599

www.synapse-energy.com

PROFESSIONAL EXPERIENCE

Synapse Energy Economics, Inc., Cambridge, MA.

Senior Consultant, 2006 to present.

Provides analysis and expert testimony regarding planning, market structure, ratemaking and supply contracting issues in the electricity and natural gas industries. Planning cases include evaluation of resource options for meeting tighter air emission standards (e.g. retrofit vs. retire coal units) in Kentucky, West Virginia and U.S. Midwest as well as development of long-term projections of avoided costs of electricity and natural gas in New England. Ratemaking cases include electric utility load retention rate in NS, various gas utility rate cases and evaluation of proposals for advanced metering infrastructure (smart grid or AMI) and dynamic pricing in MD, PA, NJ, AR, ME, NV, DC and IL.

Charles River Associates (formerly Tabors Caramanis & Associates), Cambridge, MA.

Principal, 2004-2006, Senior Consultant, 1998-2004.

Expert testimony and litigation support in energy contract price arbitration proceedings and various ratemaking proceedings. Productivity improvement project for electric distribution companies in Abu Dhabi. Analyzed market structure and contracting issues in wholesale electricity markets.

Tellus Institute, Boston, MA.

Vice President and Director of Energy Group, 1997-1998.

Manager of Natural Gas Program, 1986-1997.

Presented expert testimony on rates for unbundled retail services, analyzed the options for purchasing electricity and gas in deregulated markets, prepared testimony and reports on a range of gas industry issues including market structure, strategic planning, market analyses, and supply planning.

Nova Scotia Department of Mines and Energy, Halifax, Canada.

Member, Canada-Nova Scotia Offshore Oil and Gas Board, 1983-1986.

Assistant Deputy Minister of Energy 1983-1986.

Director of Energy Resources 1982-1983

Assistant to the Deputy Minister 1981-1982

Nova Scotia Research Foundation, Dartmouth, Canada, Consultant, 1978-1981.

Canadian Keyes Fibre, Hantsport, Canada, Project Engineer, 1975-1977.

Imperial Group Limited, Bristol, England, Management Consultant, 1973-1975.

EDUCATION

M.S., Technology and Policy (Energy), Massachusetts Institute of Technology, 1979.

B.Eng., Industrial Engineering (with Distinction), Dalhousie University, Canada, 1973

Jurisdiction	Company	Docket	Date	Issue
Hawaii	Hawaii Electric Light Company and Hawaiian Electric Company	2012-0185	March 2013	Biofuel supply contract
Michigan	Consumers Energy	U-17087	February 2013	Retrofit of five coal units
Hawaii	Hawaiian Electric Company	2011-0369	January 2013	Biofuel supply contract
Illinois	Ameren Illinois	12-0244	August 2012	Advanced metering infrastructure (AMI)
Nova Scotia	Nova Scotia Power	NSPI -P-203/M04862	June 2012	Load retention rate
Illinois	Commonwealth Edison	12-0298	May 2012	Advanced metering infrastructure (AMI)
Kentucky	Kentucky Power Company	2011-00401	March 2012	CPCN for Big Sandy Unit 2
Nova Scotia	Heritage Gas	NG-HG-R-11	September 2011 and May 2012	Cost allocation and rate design
Arkansas	Oklahoma Gas & Electric	10-109-U	May 2011 and June 2011	Advanced metering infrastructure (AMI)
Texas	Texas-New Mexico Power	PUC 38306	April 2011	Advanced metering infrastructure (AMI)
Arkansas	Oklahoma Gas & Electric	10-067-U	March 2011	Windspeed transmission line

Jurisdiction	Company	Docket	Date	Issue
Pennsylvania	PECO Energy	M-2009-2123944	December 2010 and January 2011	Dynamic Pricing
Arkansas	Oklahoma Gas & Electric	10-073-U	November 2010	Wind power purchase agreement
Indiana	Vectren Energy Delivery of Indiana	Cause No. 43839	July 2010	Sales Reconciliation Adjustment
Alaska	Enstar Natural Gas	U-09-069 and U-09-070	March 2010	Rate Design
Pennsylvania	Allegheny Power	M-2009-2123951	March 2010 and October 2009.	Smart meters / advanced metering infrastructure (AMI)
Massachusetts	All Massachusetts regulated electric and gas utilities	D.P.U. 09-125 et al.	December 2009	Avoided Energy Supply Costs in New England
Pennsylvania	Metropolitan Edison Company	M-2009-2123950	October 2009.	Smart meters / AMI
Maryland	Potomac Electric Power	No. 9207	October 2009 and July 2011.	Smart meters / AMI
Maryland	Baltimore Gas and Electric	No. 9208	October 2009 and July 2010.	Smart meters / AMI
New Jersey	Jersey Central Power & Light	EO08050326 and EO08080542	July 2009	Demand response programs
Minnesota	CenterPoint Energy	G-008/GR-08-1075	June 2009.	Conservation Enabling Rider

Jurisdiction	Company	Docket	Date	Issue
South Carolina	Progress Energy Carolinas	2008-251-E	January 2009.	Compensation for efficiency programs
North Carolina	Progress Energy Carolinas	No. E-2 sub 931	December 2008.	Compensation for efficiency programs
Maine	Central Maine Power	2007 – 215	October 2008.	Smart meters / AMI
North Carolina	Duke Energy Carolinas	E-7 Sub 831	June 2008	Compensation for efficiency programs (save-a-watt)
Indiana	Duke Energy Indiana	No. 43374	May 2008.	Compensation for efficiency programs (save-a-watt)
Pennsylvania	PECO Energy Company	P-2008-2032333	June 2008.	Residential Real Time Pricing pilot
Arkansas	Entergy Arkansas	06-152-U Phase II A	October 2007	Interim tolling agreement and proposed allocation of Ouachita Power capacity
Washington	Avista Utilities	UE-070804 and UG-070805	September 2007.	Cost allocation, rate design
Arkansas	Entergy Arkansas	06-152-U	January 2007.	Need for load-following capacity
Michigan	Consumers Energy Company	U-14992	December 2006.	Proposed sale of Palisades nuclear plant and associated power purchase
Connecticut	Connecticut Natural Gas Corporation	06-03-04PH01	November 2006.	Gas supply strategy and proposed rate recovery
Michigan	Consumers Energy Company	U-14274-R	October 2006.	Purchases from Midland Cogeneration Venture Limited Partnership

Jurisdiction	Company	Docket	Date	Issue
Illinois	WPS Resources and Peoples Energy Corporation	Docket No. 06-0540	October and December 2006.	Service quality metrics and benchmarks
Arizona	Arizona Public Service	E-01345A-05-0816	August 2006 and September 2006.	Hedging strategy and base fuel recovery amount
Ontario	Transalta Energy Corporation versus Bayer Inc.	Private arbitration	January 2006.	Price for steam under a 20-year contract
Nova Scotia	Nova Scotia Power vs Shell	Private arbitration	October 2005.	New natural gas price under a 10-year supply contract
New York	Consolidated Edison of New York, New York State Electric and Gas	Case 00-M-0504	September and October 2002.	Rates for unbundled supply, distribution, metering and billing services
New Jersey	Public Service Electric and Gas	BPU Docket GM00080564	April 2001.	Proposed transfer of gas contracts to an unregulated affiliate and supply contract associated with that transfer.
Nova Scotia	Semptra	NSUARB-NG-SEMPRA-SEM-00-08	February 2001.	Proposed distribution service tariff rates including market-based rates
New Jersey	Generic proceeding	BPU Docket EX99009676	March 2000.	Design and pricing of unbundled customer account services
United States of America	Bonneville Power Administration	BPA Docket WP-02	November 1999.	Functionalization of communication plant

Jurisdiction	Company	Docket	Date	Issue
South Carolina	South Carolina Electric and Gas	99-006-G	October 1999.	Purchased gas costs
New Jersey	Public Service Electric & Gas, South Jersey Gas, New Jersey Natural Gas and Elizabethtown Gas	GO99030122- GO99030125	July and September 1999.	Service unbundling policies and rates
Maine	Northern Utilities Inc.	Docket 97-393	September and December 1998.	Rate redesign and partial unbundling
Pennsylvania	Peoples Natural Gas	R-00984281; A-12250F0008	May 1998.	Purchased gas costs and proposal to transfer production assets to affiliate
New Jersey	Rockland Electric Company	BPU E09707 0465 OAL PUC-7309-97 BPU E09707 0464 OAL PUC-7310-97	January and March 1998.	Rate unbundling
New Jersey	Jersey Central Power & Light d/b/a GPU Energy.	BPU E09707 0459 OAL PUC- 7308-97 BPU E09707 0458 OAL PUC-7307-97	November 1997.	Rate unbundling
Pennsylvania	Equitable Gas Company	R-00963858	June and July 1997.	Rate structure proposals
Pennsylvania	Peoples Natural Gas Company	R-00973896 and A-0012250F-0007	May 1997.	Purchased gas costs, proposal to transfer producing assets to CNG Producing Company

Jurisdiction	Company	Docket	Date	Issue
				and proposed Migration Rider
South Carolina	South Carolina Pipeline Corporation	97-009-G	April 1997.	Reasonableness of proposal to acquire additional pipeline capacity
FERC	Transcontinental Gas Pipeline	RP95-197-001; RP97-71-000	March 1997.	Review of proposed rolled-in ratemaking for Leidy Line incremental facilities
Arkansas	Arkla	95-401-U	September 1996.	Gas purchasing and transportation plan
Maine	Northern Utilities Inc. and Granite State Gas Transmission	95-480; 95-481	April 1996	Precedent Agreement for LNG Storage Service and PNGTS Transportation Service
Rhode Island	ProvGas	2025	November 1995	Settlement Agreement
Pennsylvania	T.W. Phillips Gas and Oil	R-953406	October 1995	Cost allocation, rate design
Illinois	Northern Illinois Gas	95-0219	August 1995	Cost allocation, rate design
Pennsylvania	Columbia Gas of Pennsylvania	R-953316	May 1995	Purchased gas costs
Pennsylvania	Peoples Natural Gas	R-943252	May 1995	Cost allocation, rate design
South Carolina	South Carolina Pipeline Corporation.	94-007-G	April 1995	1994 purchased gas costs
Pennsylvania	National Fuel Gas Distribution Corp	R-943207	March 1995	1995 Purchased Gas Adjustment filing

Jurisdiction	Company	Docket	Date	Issue
Pennsylvania	UGI Utilities	R-00943063	December 1994	FERC Order 636 transition cost tariff
South Carolina	South Carolina Electric and Gas Co.	94-008-G	October 1994	1994 Purchased Gas Adjustment
Oklahoma	Public Service of Oklahoma	PUD 920 001342	September and November 1994	Gas supply strategy, transportation and agency services and rate mechanism
Pennsylvania	Pennsylvania Gas and Water	R-943078	September 1994	Market Sensitive Sales Service
Massachusetts	Generic proceeding	D.P.U. 93-141-A	September 1994	Policies on interruptible transportation and capacity release
Hawaii	HELCO	7259	August 1994	DSM programs for competitive energy end-use markets, multi-attribute analysis
Pennsylvania	Pennsylvania Gas and Water	R-00943066	July 1994	1994 Purchased Gas Adjustment
Pennsylvania	Pennsylvania Gas and Water	R-942993; R-942993 C0001-C0004	May 1994	Take-or-Pay Cost Recovery
Pennsylvania	Columbia Gas of Pennsylvania	R-943001	May 1994	Cost allocation, rate design
Pennsylvania	Columbia Gas of Pennsylvania	R-943029	May 1994	1994 Purchased Gas Adjustment; Negotiated Sales Service
Pennsylvania	Peoples Natural Gas	R-932866; R-932915	March 1994	Cost allocation, rate design

Jurisdiction	Company	Docket	Date	Issue
Kansas	Generic proceeding	180; 056-U	February 1994	IRP rules for gas utilities
Arizona	Citizens Utility Company Arizona Gas Division	E-1032-93-111	December 1993	Cost allocation, rate design
Hawaii	HECO	7257	December 1993	Residential sector water heating program
Hawaii	GASCO	7261	September 1993	IRP
Pennsylvania	Pennsylvania Gas and Water	R-932655; R-932655 C001; R-932655 C002	September 1993	Balancing service
Pennsylvania	Pennsylvania Gas and Water	R-932676	July 1993	1993 Purchased Gas Adjustment filing
Rhode Island	Providence Gas Company	2025	April 1993	IRP
Pennsylvania	Equitable	I-900009; C-913669	March 1993	Charges for transportation service and cost allocation methods in general
Arkansas	Arkla Energy Resources, Arkansas Louisiana Gas	92-178-U	August 1992	Gas cost and purchasing practices
Colorado	Generic proceeding	91R-642EG	August 1992	Gas integrated resource planning rule
Pennsylvania	Pennsylvania Gas and Water	R-00922324	July 1992	1992 Purchased Gas Adjustment filing
Pennsylvania	Peoples Natural Gas Company	R-922180	May 1992	Cost allocation, rate design
Michigan	Consumers Power Company	U-10030	April 1992	Gas Cost Recovery Plan, role of demand-side management as a resource in five-year forecast

Jurisdiction	Company	Docket	Date	Issue
Pennsylvania	T.W. Phillips	R-912140	March 1992	and supply plan
FERC	Columbia Gas Transmission and Columbia Gulf Transmission	RP91-161-000 et al RP91-160-000 et al.	February 1992	1992 Purchased Gas Adjustment
Arkansas	Arkla Energy Resources	91-093-U	February 1992	Cost allocation, rate design
New Hampshire	Energy North Natural Gas	DR90-183	January 1992	Base cost of gas
Arizona	Southwest Gas Corporation	U-1551-89-102 & U-1551-89-103; U-1551-91-069	September 1991	Cost allocation, rate design
Maryland	Baltimore Gas and Electric	8339	July 1991	Gas Procurement Practices and Purchased Gas Costs
Rhode Island	Bristol and Warren Gas	1727	June 1991	Cost allocation, rate design
New Mexico	Gas Company of New Mexico	2367	June 1991	Gas procurement
Pennsylvania	T.W. Phillips	R-911889	March 1991	Gas transportation policies
Michigan	Michigan Gas Company	U-9752	March 1991	Gas supply
Arkansas	Arkla	90-036-U	August and September 1990	Gas Cost Recovery Plan
				Gas supply contracts, including Arkla-Arkoma transactions

Jurisdiction	Company	Docket	Date	Issue
Arizona	Southern Union Gas	U-1240-90-051	August 1990	Cost Allocation and Rate Design
Utah	Mountain Fuel Supply	89-057-15	July 1990	Cost Allocation and Rate Design
Pennsylvania	Equitable Gas Company	R-901595	June 1990	Cost Allocation and Rate Design
West Virginia	APS	90-196-E-GI ; 90-197-E-GI	May 1990	Coal supply strategy
Pennsylvania	T.W. Phillips Gas and Oil Co.	R-891572	March 1990	Purchased Gas Costs
Colorado	Generic proceeding	89R-702G	January 1990	Policies and rules for gas transportation service
Arizona	Generic proceeding	U-1551-89-102 and U-1551-89-103	October 1989	Regulatory Oversight of Purchased Gas Costs
Rhode Island	Narragansett Electric Company	1938	October 1989	Sales Forecast, Cost Allocation, rate design
Pennsylvania	Pennsylvania Gas and Water	R891293	July 1989	Purchased Gas Costs
Pennsylvania	Columbia Gas of Pennsylvania	R891236	May 1989	Take-or-Pay Cost Recovery
New Jersey	Elizabethtown Gas Company	GR 88081-019	December 1988 and February 1989	Take-or-Pay Cost Recovery

Jurisdiction	Company	Docket	Date	Issue
Montana	Montana-Dakota Utilities	87.7.33; 88.2.4; 88.5.10; 88.8.23	December 1988	Gas Procurement, Transportation Service Gas Adjustment Clause
New Jersey	South Jersey Gas Company	GR 88081-019 and GR 88080-913-	November 1988 and February 1989	Take-or-Pay Cost Recovery
New Jersey	Public Service Electric and Gas	GR 88070-877	October 1988 and February 1989	Take-or-Pay Cost Recovery
District of Columbia	District of Columbia Natural Gas	Formal Case 874	September 1988	Gas Acquisition, Gas Cost Allocation, take or pay-costs; Regulatory Oversight
Illinois	Generic proceeding	88-0103	July 1988	Take-or-Pay Cost Recovery
West Virginia	Generic proceeding	240-G	June 1988	Gas Transportation Rate Design
Pennsylvania	Pennsylvania Gas & Water	R-880958	June 1988	Purchased Gas Adjustment
Utah	Mountain Fuel Supply	86-057-07	March 1988	Gas Transportation Rate Design
South Carolina	South Carolina Electric & Gas	87-227-G	September 1987	Gas Supply and Rate Design
Arizona		U-1345-87-069	September 1987	Fuel Adjustment Clause

REDACTED

Attachment JRH - 2

Estimated Difference between Duke Energy Ohio Embedded Cost of Capacity and Market Value

Estimate as of August 2012 for August 2012 through May 2016

Estimate expressed as Capacity Daily Rates (\$ per MW-day)

		Duke Energy Ohio filing to collect additional capacity costs	
Filing date		29-Aug-12	
Case / Docket		Case No. 12-2400-EL-UNC et al	
Time Period For Calculation of Capacity Costs		August 1, 2012 - May 31, 2016	
		Annual Amounts (\$)	Capacity Daily Rates (\$/MW-day)
	Line / Column	a	b = a / (4459.85 * 365)
Embedded costs of legacy capacity assets	1	\$ 476,751,738	
Cost of capacity purchased to fulfill FRR Obligation	2	\$ 49,473,293	
Sub-total - Capacity Costs	3 = 1 + 2	\$ 526,226,031	\$ 323.26
annual margin from energy sales at market prices	4		
annual revenue from ancillary services at market prices	5		
Sub-total - energy & AS market revenue	6 = 4 + 5		
Commercial Activities Tax	7	\$ 1,371,762	\$ 0.84
	8 = 3 + 6 + 7	\$ 364,876,432	\$ 224.15
annual Revenue from sale of capacity at market prices	9	\$ (107,639,227)	\$ (66.06)
annual Revenue from sale of capacity at embedded cost	10	0	
Annual under (over) collection of embedded cost of capacity	11 = 8+9=10	\$ 257,337,205	\$ 158.08

Source / Notes

Data

Average demand, 5 highest peaks (MW)

Duke Energy Ohio, Application, August 29, Attachment B, pages 1 & 3
4459.85

Summary of Estimates of Difference between Duke Energy Ohio Embedded Cost of Capacity and Market Value

Estimates expressed as Capacity Daily Rates (\$ per MW-day)

	Estimate as of	Event / Filing	Period covered by Estimate	Estimated Annual under (over) collection of embedded cost of capacity
1	6/25/2010	Duke application to join PJM as FRR	January 1, 2012 - May 31, 2014	\$ 208.22
2	6/20/2011	Duke filing for second ESP	January 1, 2012 - May 31, 2021	\$ 224.31
3	10/24/2011	Stipulation in ESP case	January 1, 2012 - May 31, 2015	\$ 178.97
4	10/24/2011	Stipulation in ESP case	June 1, 2015 - May 31, 2021	\$ (138.94)
5	8/29/2012	Duke filing to collect additional capacity costs	August 1, 2012 - May 31, 2015	\$ 158.08

Sources

- 1 Attachment JRH-3, page 2, estimate by Synapse Energy Economics
- 2 Attachment JRH-3, page 3, estimate per Duke Energy Ohio
- 3 Attachment JRH-3, page 4, estimate by Synapse Energy Economics
- 4 Attachment JRH-3, page 4, estimate by Synapse Energy Economics
- 5 Attachment JRH-2, estimate by Duke Energy Ohio

REDACTED

Attachment JRH - 3
Page 2 of 6

Estimated Difference between Duke Energy Ohio Embedded Cost of Capacity and Market Value

Estimate as of June 2010 for January 2012 through May 2014

Estimate expressed as Capacity Daily Rates (\$ per MW-day)

		Duke filing to collect additional capacity costs	Duke application to join PJM as FRR
Filing date		29-Aug-12	25-Jun-10
Case / Docket		Case No. 12-2400-EL-UNC	FERC Docket ER10-1562-000
Time Period For Calculation of Capacity Costs		August 1, 2012 - May 31, 2015	January 1, 2012 - May 31, 2014
	Line / Column	a	b
Annual Revenue requirement	1	\$ 323.26	\$ 327.90
Annual margin from energy sales + revenue from ancillary services	2		\$ (83.27)
Commercial Activities Tax	3	\$ 0.84	\$ 0.84
annual Revenue from sale of capacity at market prices	4	\$ (66.06)	\$ (37.25)
annual Revenue from capacity at embedded cost	5	\$ -	
Annual under (over) collection of embedded cost of capacity	6 = Sum 1 to 5	\$ 158.08	\$ 208.22

Source / Notes

a
b 1
b 2 & b4

Attachment JRH-2
Attachment JRH-3, page 3, column b
Attachment JRH-3, page 5

REDACTED

Attachment JRH - 3
Page 3 of 6

Estimated Difference between Duke Energy Ohio Embedded Cost of Capacity and Market Value

Estimate as of June 2010 for January 2012 through May 2014

Estimate expressed as Capacity Daily Rates (\$ per MW-day)

		Duke filing to collect additional capacity costs	Duke filing for second ESP
Filing date		29-Aug-12	20-Jun-11
		Case No. 12-2400-EL-UNC	Case No. 11-3549-EL-SSO
Time Period For Calculation of Capacity Costs		August 1, 2012 - May 31, 2015	January 1, 2012 - May 31, 2021
	Line / Column	a	b
Annual Revenue requirement	1	\$ 323.26	\$ 327.90
Annual margin from energy sales + revenue from ancillary services	2		\$ (104.43)
Commercial Activities Tax	3	\$ 0.84	\$ 0.84
annual Revenue from sale of capacity at market prices	4	\$ (66.06)	\$ -
annual Revenue from capacity at embedded cost	5	\$ -	
Annual under (over) collection of embedded cost of capacity	6 = Sum 1 to 5	\$ 158.08	\$ 224.31

Source / Notes

a
b1 & b4

Attachment JRH-2
Attachment JRH-3, page 5

REDACTED

Attachment JRH - 3
Page 4 of 6

Estimated Difference between Duke Energy Ohio Embedded Cost of Capacity and Market Value

Estimate as of June 2010 for January 2012 through May 2014

Estimate expressed as Capacity Daily Rates (\$ per MW-day)

		Duke filing to collect additional capacity costs	Stipulation in ESP case		
Filing date		29-Aug-12	24-Oct-11		
		Case No. 12-2400-EL-UNC	Case No. 11-3549-EL-SSO		
Time Period For Calculation of Capacity Costs		August 1, 2012 - May 31, 2015	January 1, 2012 - May 31, 2015	June 1, 2015 - May 31, 2021	
	Line / Column	a	b	c	
Annual Revenue requirement	1	\$ 323.26	\$ 327.90	\$ 327.90	
Annual margin from energy sales + revenue from ancillary services	2		\$ (85.80)		
Commercial Activities Tax	3	\$ 0.84	\$ 0.84	\$ 0.84	
annual Revenue from sale of capacity at market prices	4	\$ (66.06)	\$ (63.97)		
annual Revenue from capacity at embedded cost	5	\$ -	\$ -	\$ -	
Annual under (over) collection of embedded cost of capacity	6 = Sum 1 to 5	\$ 158.08	\$ 178.97	\$ (138.94)	
Annual Revenue from Electric Service Stability Charge (ESSC)	7		\$ (63.69)	\$ -	
Annual under (over) collection of embedded cost of capacity after ESSC	8 = 6 + 7		\$ 115.28	\$ (138.94)	

Source / Notes

a
b 1 & c 1
b2, c2, b4, c4, b7

Attachment JRH-2
Attachment JRH-3, page 3, column b
Attachment JRH-3, page 5

Values and Projections derived from filings in Duke ESP proceeding Case No. 11-3549-EL-SSO

	Annual Amounts (\$)	Demand (MW)	Capacity Daily Rates (\$/MW- day)
Duke ESP filing, June 2011	a	b	c = a / (b * 365)
Annual Revenue requirement	1	4,732	\$ 327.90
Annual margin from energy sales + revenue from ancillary services - 80%	2	4,732	\$ 83.54
Annual margin from energy sales + revenue from ancillary services - 100%	3		\$ 104.43
ESP Settlement, October 2011			
Annual Revenue from Electric Service Stability Charge (ESSC)	4	\$ 110,000,000	4,732 \$ 63.69

Sources / Notes

a1, a2 Attachment WDW-1, page 1, lines 8 and 10.
b1 ESP stipulation attachment b, exhibit 1, page 2
c3 c2 / 80%

REDACTED

PJM CAPACITY PRICES

	Time Period / Units	2012 Jan - May	2012 / 2013	2013 / 2014	2014 / 2015	2015 June - Dec	averages calculated by Synapse		Averages calculated by Rose	
							Jan 1, 2012 to May 31, 2014	Jan 1, 2012 to May 31, 2015	Jan 1, 2012 to Dec 31, 2015	Jan 1, 2016 to May 31, 2021
PJM BRA Auction results for RTO	1 \$/MW-day	\$ 110.00	\$ 16.46	\$ 27.73			\$ 37.25			
Testimony of Judah Rose Synapse conversion	2 \$/kw-yr	\$ 40.20	\$ 6.00	\$ 10.10	\$ 46.00	\$ 50.70			\$ 25.60	
	3 \$/MW-day	\$ 110.14	\$ 16.44	\$ 27.67	\$ 126.03	\$ 136.90				
ESP settlement Synapse conversion	4 days	152	365	365	365	213		1247		
	5 \$/MW-day	\$ 116.15	\$ 16.46	\$ 27.73	\$ 125.99			\$ 63.97		
	6 \$/kw-yr	\$ 42.39	\$ 6.01	\$ 10.12	\$ 45.99			\$ 23.35		

PJM ELECTRIC ENERGY PRICES

Testimony of Judah Rose, Case No. 11-3649-EL-SSO	6	Year						Averages calculated by Synapse		Averages calculated by Rose	
		\$/MWh						2012 to 2014	2012 - 2016	2012-2021	2016-2021
		\$ 36.70	\$ 38.30	\$ 40.30	\$ 43.10	\$ 48.20	\$ 38.43	\$ 39.60	\$ 48.20		

Estimation of 100% of annual margin from energy sales + revenue from ancillary services for various period

		Average Energy Price	annual margin from energy sales + revenue from ancillary services
		\$/MWh	\$ / MW-day
Estimate for 2012 - 2021	7	\$ 48.20	\$ 104.43
Estimate for 2012 - 2014	8	\$ 38.43	\$ 83.27
Estimate for 2012 - 2016	9	\$ 39.60	\$ 85.80
Estimate for 2016 - 2021	10	-	-

Sources, Notes

- 1 <http://www.pjm.com/markets-and-operations/rpm/rpm-auction-user-info.aspx>
 - 2 Testimony of Judah Rose, Exhibit T
 - 3 \$/MW-day = \$/kw-yr * 1000 / 365
 - 4 Attachment B, Exhibit 1, Page 2
 - 5 \$/kw-yr = \$/MW-day * 365 / 1000
 - 6 Testimony of Judah Rose, Exhibit R
- Testimony of Judah Rose, Exhibit R
Synapse calculation from data in Testimony of Judah Rose, Exhibit R
a7, a9, a10
a8
b 8 to b10
a8, or a9 or a10 * (b7 / a10)

Illustration of Rates for Residential Customers required to collect Additional Capacity Costs

			Stipulation in ESP case	Duke Energy Ohio filing to collect additional capacity costs
			24-Oct-11	29-Aug-12
			Case No. 11-3549-EL-SSO	Case No. 12-2400-EL-UNC
	Units	Line / Column	a	b
Annual under (over) collection of embedded cost of capacity		1		\$ 257,337,205.00
Capacity Rate	\$ / MW-day	2	\$ 125.99	\$ 158.08
Rate RS, Residential Service				
Summer, First 1000 kWh	\$/kWh	3	\$ 0.013258	\$ 0.016635
Summer, Additional kWh	\$/kWh	4	\$ 0.017617	\$ 0.022105
Winter, First 1000 kWh	\$/kWh	5	\$ 0.013258	\$ 0.016635
Winter, Additional kWh	\$/kWh	6	\$ 0.003059	\$ 0.003838
Annual bill at 1,000 kWh / month	\$ / year	7	\$ 159.10	\$ 199.62

Source / Notes

Annual under (over) collection of embedded	cell b1 Attachment WDW-1, page 1, Testimony of William Wathen
Capacity rate	cell a2 - Attachment B, Exhibit 1, Page 2 cell b2 = cell b1 / (4459.8 * 365)
Rate RS	cells a3 to a6 - Attachment B, Exhibit 2, Page 4 cells b3 to b6 = cells a3 to a6 * \$158.08 / \$ 125.99
Annual Bill	cells a7 to b7 = cells a3 to b3 * 1000 * 12

RESPONSES TO DATA REQUESTS

OCC-INT-01-8

OCC INT-01-27

OCC-INT-01-031

OCC-POD-03-22

OCC-INT-03-037

OCC-INT-03-039

OCC- INT-07-061

OCC- INT-09-067

OCC-INT-12-100

OCC-INT-14-136

OCC-INT-14-137

OCC-INT-14-142

OCC-INT-14-143,

OCC-INT-14-145

FES-INT-02-026

**Duke Energy Ohio
Case No. 12-2400-EL-UNC
OCC First Set of Interrogatories
Date Received: December 21, 2012**

OCC-INT-01-008

REQUEST:

Referring to the proposed Rider DR-CO as presented in Attachment D of this Application, has Duke Energy Ohio decided on a method for allocating the annual revenue requirement among different rate classes, including Residential Service, Optional residential Service with Electric Space Heating, and other rate classes?

RESPONSE:

Not at this time.

PERSON RESPONSIBLE: William Don Wathen Jr.

Duke Energy Ohio
Case No. 12-2400-EL-UNC
OCC First Set of Interrogatories
Date Received: December 21, 2012

OCC-INT-01-027

REQUEST:

When did the Company come to the conclusion that it was not earning fair and reasonable compensation for its services?

RESPONSE:

Objection. This Interrogatory seeks information protected by the attorney-client privilege and/or work product doctrine. Without waiving said objection, to the extent discoverable, and in the spirit of discovery, Duke Energy Ohio states that its FRR obligations began on January 1, 2012, and consistent with the new state compensation mechanism that was approved on July 2, 2012, ascertained that it was not being fairly and justly compensated for the capacity services it provides as an FRR entity.

PERSON RESPONSIBLE: As to objection- Legal
As to response- William Don Wathen Jr.

Duke Energy Ohio
Case No. 12-2400-EL-UNC
OCC First Set of Interrogatories
Date Received: December 21, 2012

OCC-INT-01-031

REQUEST:

Does the Company agree that Rider RC enables it to collect costs incurred by it to fulfill its obligation as an FRR entity to provide capacity pursuant to the state compensation mechanism?

RESPONSE:

No.

PERSON RESPONSIBLE: William Don Wathen Jr.

Duke Energy Ohio
Case No. 12-2400-EL-UNC
OCC Third Set Production of Documents
Date Received: January 17, 2013

OCC-POD-03-022 Supplemental
PUBLIC

REQUEST:

Application of Duke Energy Ohio ("the Company") dated August 27, 2012. Pages 3 to 5 and Attachment B, page 3.

- a. Please provide the Company's calculation of its actual production fixed cost for the year ending December 31, 2012 in the same format as Attachment B page 3 with all supporting calculations.
- b. Please provide the Company's calculation of the actual revenues it collected in 2012 towards the recovery of its production fixed cost. Please report the amount of these revenues collected by tariff or rider from each major source including Standard Service Offer (SSO), Competitive Retail Energy Service (CRES), Load Serving Entities (LSE) and any other major source, with all supporting calculations.

RESPONSE:

CONFIDENTIAL PROPRIETARY TRADE SECRET

This response will be provided to all parties in this case upon execution of a confidentiality agreement.

PERSON RESPONSIBLE: N/A

OCC-POD-03-22 REDACTED

**Duke Energy Ohio
Case No. 12-2400-EL-UNC
OCC Third Set of Interrogatories
Date Received: February 27, 2013**

OCC-INT-03-037 Supplemental

REQUEST:

Application of Duke Energy Ohio ("the Company") dated August 27, 2012. Provisions 9 and 10 and Attachment D. The Company is requesting approval to collect an additional \$729,122,082 to recover the fixed cost of its capacity between August 2012 and May 2015.

- a. Please identify the portion of the \$729,172,082 the Company is proposing to collect during the period August 2012 and May 2015, and the basis for that proposed amount.
- b. If the Company is proposing that Rider DR-CO be set at \$1/MWh or more through May 2015 please explain the basis for that proposal and why the Company believes its proposal is consistent with the Commission August 2012 Order in Case. 11-346-EL-SSO.
- c. Please identify any tariffs other than Rider DR-CO through which the Company is proposing to collect that portion during the period August 2012 and May 2015, and the basis for using those other tariffs.
- d. Please identify the portion of the \$729,172,082 the Company is proposing to collect from June 2015 onward, and the basis for that proposed amount.

RESPONSE:

Objection. This Interrogatory this Interrogatory is unduly burdensome and confusing in that it misinterprets the content of paragraphs 9 and 10 of the Company's application. Neither paragraph 9 nor 10 identifies any process for implementing recovery of deferred amounts. Rather, those paragraphs unambiguously confirm that Duke Energy Ohio is seeking, in these proceedings, authority to defer certain amounts for subsequent recovery through its proposed Rider DR-CO. It is further proposed that Rider DR-CO be set at zero in these proceedings. Without waiving said objection, to the extent discoverable, and in the spirit of discovery, the Company responds as follows:

- a. The Company has made no proposal for collection of the amount to be deferred.
- b. The Company has made no proposal to set Rider DR-CO at any amount other than zero.

- c. None.
- d. The Company has made no proposal for collection of the amount to be deferred.

PERSON RESPONSIBLE: Legal, as to objection
William Don Wathen Jr.

**Duke Energy Ohio
Case No. 12-2400-EL-UNC
OCC Third Set of Interrogatories
Date Received: January 17, 2013**

OCC-INT-03-039

REQUEST:

Application of Duke Energy Ohio ("the Company") dated August 27, 2012. Provision 11.

- a. Is it the Company position, according to the first sentence in this provision, that it is not currently collecting any revenue to recover any of its production fixed costs, other than the revenue it collects to recover FZCP costs? If so, please provide the basis for that position.
- b. Is it the Company position, according to the second sentence in this provision, that its Application is not seeking to ever increase the amounts its customers pay? If so, please provide the basis for that position.

RESPONSE:

- a. Objection. This Interrogatory is overly broad, unduly burdensome, vague and confusing. It's reference to recovery of "FZCP costs" is not a term subject to accurate interpretation or understanding as the FZCP is a market-based price for capacity as determined by PJM and not indicative of an FRR entity's actual cost of providing noncompetitive capacity service. Further, this Interrogatory infers that Duke Energy Ohio is currently being compensated by its retail customers for noncompetitive capacity service provided pursuant to its FRR obligations. Without waiving said objection, to the extent discoverable, and in the spirit of discovery, yes.
- b. Objection. This Interrogatory is predicated upon an incorrect interpretation of the Application. The Application, at ¶11, provides that, through these proceedings, the Company is not seeking an increase in rates. This Interrogatory is further objectionable in that it requires Duke Energy Ohio to engage in impermissible speculation and guesswork with respect to the effect of a mechanism to recover deferred amounts.

PERSON RESPONSIBLE: As to objection: Legal
As to response (a): William Don Wathen Jr.

Duke Energy Ohio
Case No. 12-2400-EL-UNC
OCC Seventh Set of Interrogatories
Date Received: February 22, 2013

OCC-INT-07-061

REQUEST:

Referring to the response to OCC-INT-04-043, does the Company assign or allocate its legacy generation to competitive retail electric service and noncompetitive capacity service? If the response is affirmative, please provide documentation supporting such assignment or allocation.

RESPONSE:

No. At this time, all energy from the legacy generating assets is sold into the day-ahead markets or under bilateral arrangements. All capacity is supplied to PJM consistent with the Company's FRR obligations.

PERSON RESPONSIBLE: William Don Wathen, Jr.

**Duke Energy Ohio
Case No. 12-2400-EL-UNC
OCC Ninth Set of Interrogatories
Date Received: February 27, 2013**

OCC-INT-09-067

REQUEST:

In its application and its February 1 comments the Company indicates that it is selling all of its capacity to PJM, and that wholesale supply auction winners and competitive retail electric service (CRES) providers are buying capacity from PJM.

- a. Please indicate the quantity of capacity that the Company has sold to PJM for the 2012/ 2013 power year, i.e., June 1, 2012 through May 31, 2013.
- b. Please indicate the quantity of capacity that wholesale supply auction winners providing SSO in the Company's service territory have bought from PJM for the 2012/ 2013 power year.
- c. Please indicate the quantity of capacity that CRES providers serving load in the Company's service territory have bought from PJM for the 2012/ 2013 power year.

RESPONSE:

Objection. The Interrogatory is vague and unreasonably burdensome, in that it fails to provide even page references to support the effort to describe what the Company has "indicated." Thus, the Company is unable to evaluate the premise of the three specific questions.

PERSON RESPONSIBLE: Legal

Duke Energy Ohio
Case No. 12-2400-EL-UNC
OCC Twelfth Set of Interrogatories
Date Received: March 8, 2013

OCC-INT-12-100

REQUEST:

Referring to the Direct Testimony of Nieman:

Page 18 line 10:

- a. Please confirm that Duke is currently recovering a **portion** of the embedded costs of capacity included in its FRR plan from CRES providers and parties who won auctions to provide wholesale supply for its SSO load. If not, explain why not.
- b. Please confirm that Duke is currently recovering a **second portion** of the embedded costs of capacity included in its FRR plan from margins received on sale of energy and ancillary services. If not, explain why not.
- c. Please confirm that Duke estimates that the total portion of the embedded costs it expects to recover through those mechanisms is \$175.18 per MW-day, which is the difference between \$ 323.26 per MW-day, per Wathen testimony page 13 line 16 and \$158.08 per MW-day per Wathen testimony page 15 line 9. If not, explain why not.
- d. Please confirm that the statement on page 18 line 10 is not accurate since Duke has mechanisms through which it is currently recovering a portion of its embedded costs. If not, explain why not.

RESPONSE:

- a. No. Duke Energy Ohio receives no direct payment from CRES providers or parties that won tranches to provide supply for its SSO load.
- b. No. Duke Energy Ohio receives no direct payments for FRR capacity service from sales of energy margins and ancillary services.
- c. No. Duke Energy Ohio's embedded cost of service is \$323.26 per MW-day. The Company's formula rate, based on a formula rate approved by the Commission in Case No. 10-2929-EL-UNC, uses projected sales of capacity, energy, and ancillary services to PJM as an offset to the cost-based capacity rate.

- d. The statement on page 18, line 10, is accurate, because the amount that Duke Energy Ohio is currently paid for capacity supplied to meet its FRR service obligation is independent of its embedded costs and, as explained by Witness Wathen, the payment currently received by Duke Energy Ohio is not sufficient for recovery of embedded costs.

PERSON RESPONSIBLE:

Legal, as to objection
William Don Wathen Jr., as to a., b., and c.
Scott Niemann, as to d.

**Duke Energy Ohio
Case No. 12-2400-EL-UNC
OCC Fourteenth Set of Interrogatories
Date Received: March 12, 2013**

OCC-INT-14-136

REQUEST:

Referring to the testimony of Witness Trent a page 5, lines 10-11:

- a. Please identify each of the wholesale suppliers to whom the Company refers in line 11.
- b. Please identify each of the competitive retail suppliers to whom the Company refers in line 11.

RESPONSE:

Objection. This Interrogatory misinterprets the testimony of B. Keith Trent. The cited passages of the testimony refer to provisions in the Stipulation and Recommendation in Case No. 11-3549-EL-SSO, *et al.*, which refer to wholesale and retail suppliers generally.

PERSON RESPONSIBLE: Legal

**Duke Energy Ohio
Case No. 12-2400-EL-UNC
OCC Fourteenth Set of Interrogatories
Date Received: March 12, 2013**

OCC-INT-14-137

REQUEST:

Referring to the testimony of Witness Trent at page 5, line 13,

- a. Please indicate the date on which the Company first began providing noncompetitive wholesale capacity service.
- b. Please identify each customer currently on the Company's noncompetitive wholesale capacity service.
- c. Please describe the process through which the Company enrolled customers to its noncompetitive wholesale capacity service.

RESPONSE:

- (a) Duke Energy Ohio became an FRR entity effective January 1, 2012, and began providing noncompetitive capacity service at that time.
- (b) Objection. This Interrogatory is vague, ambiguous and confusing in its reference to "customers...on the...service." Furthermore, the request to identify specific customers is objectionable in that it seeks the disclosure of personal information pertaining to private citizens.
- (c) Objection. This Interrogatory is vague, confusing, and ambiguous. The term, "enrolled" is susceptible to multiple interpretations and Duke Energy Ohio cannot reasonably ascertain the intended meaning of the Interrogatory absent engaging in impermissible speculation and guesswork.

PERSON RESPONSIBLE:

Legal
B. Keith Trent

**Duke Energy Ohio
Case No. 12-2400-EL-UNC
OCC Fourteenth Set of Interrogatories
Date Received: March 12, 2013**

OCC-INT-14-142

REQUEST:

Referring to the Testimony of Witness Trent at page 5, lines 10 to 11.

- a. Is PJM acting as an agent for the Company when it charges these wholesale and competitive retail suppliers for the capacity they hold to supply load in the Company's service territory. If not, please explain why not.
- b. Does he agree that PJM provides the Company revenues equivalent to the revenues PJM collects from these wholesale and competitive retail suppliers for this capacity they hold to supply load in the Company's service territory. If not, please explain why not.

RESPONSE:

Objection. This Interrogatory seeks to elicit a narrative response and thus is better suited for deposition. See generally, *Penn Central Transportation Co. v. Armco Steel Corp.*, 27 Ohio Misc. 76 (Montgomery Cty. 1971). Moreover, it is vague and confusing, given its reference to suppliers holding capacity. Furthermore, it is vague and ambiguous in its use of the word, "agent," as said term has specific legal meaning and its intending meaning in this Interrogatory is unknown. Without waiving said objection, to the extent discoverable, and in the spirit of discovery, PJM bills suppliers for capacity and PJM remits to the Company revenue for capacity.

PERSON RESPONSIBLE: Legal

**Duke Energy Ohio
Case No. 12-2400-EL-UNC
OCC Fourteenth Set of Interrogatories
Date Received: March 12, 2013**

OCC-INT-14-143

REQUEST:

Referring to the Testimony of Witness Trent at page 5, lines 14 to 15:

- a. Please confirm that on June 25, 2010 Duke applied to join PJM effective January 1, 2011 as an FRR entity for the period January 1, 2012 through May 31, 2014 (Application at page 22);
- b. Was this decision made voluntarily?
- c. Was Duke forced to apply to join PJM at that point in time?
- d. Could Duke have decided to request to join at a later effective date thereby avoiding the need to enter under an FRR? If not, please explain why not.
- e. Please confirm that as of June 25, 2010 Duke knew, or should have known, that the compensation it would receive from sales of capacity to LSEs for the period January 1, 2012 through May 31, 2014, if it decided to sell at RPM prices, would be less than the embedded costs of its capacity based on the clearing prices from the Base Residual Auctions that PJM had conducted for that period (page 22 of application). If not, please explain why not.
- f. Please confirm that on August 16, 2010 Duke filed its FRR plan with PJM and FERC.
- g. Please confirm that, in that August 16, 2010 filing, Duke proposed to provide capacity to LSEs at the RPM price, (pages 12 to 16) but reserved

its right per section 205 of the FPA to seek authorization to amend its proposed rates to cost based rates.

RESPONSE:

Objection. This Interrogatory is duplicative of OCC-INT-12-099 and must, therefore, be interpreted as intended solely to harass. Without waiving said objection, to the extent discoverable, and in the spirit of discovery:

- (a) Objection. This Interrogatory seeks to elicit information that is of public record for the captioned proceeding and thus is equally accessible to the Office of the Ohio Consumers' Counsel. Without waiving said objection, to the extent discoverable and in the spirit of discovery, Duke Energy Ohio applied on June 25, 2010, to join PJM effective January 1, 2012.
- (b) - (d) Objection. This Interrogatory contains an incorrect hypothetical in that it refers to facts not in evidence and thus seeks information that is irrelevant and/or not reasonably calculated to lead to the discovery of admissible evidence. Whether Duke Energy Ohio could have possibly identified some future date on which to realign is immaterial to the issues in these proceedings as Duke Energy Ohio did, in fact, complete its RTO realignment and become an FRR entity effective January 1, 2012, and is seeking just and reasonable compensation for the services provided thereunder as of August 1, 2012. Moreover, this Interrogatory seeks to elicit a narrative response and is thus properly suited for deposition. See generally, *Penn Central Transportation Co. v. Armco Steel Corp.*, 27 Ohio Misc. 76 (Montgomery Cty. 1971). Without waiving said objection, to the extent discoverable, and in the spirit of discovery, denied. The only FERC precedent since the advent of RPM was for a utility to join PJM as an FRR entity. Duke Energy Ohio declined to speculate on whether the FERC would have permitted another path.
- (e) Objection. This Interrogatory seeks information that is irrelevant and/or not reasonably calculated to lead to the discovery of admissible evidence. This Interrogatory also seeks to elicit a narrative response and is thus properly suited for deposition. See generally, *Penn Central Transportation Co. v. Armco Steel Corp.*, 27 Ohio Misc. 76 (Montgomery Cty. 1971). Without waiving said objection, to the extent discoverable, and in the spirit of discovery, denied. On June 25, 2010, Duke Energy Ohio had not applied for, much less received a FERC decision, regarding compensation.
- (f) Objection. This Interrogatory seeks to elicit information that is of public record for the captioned proceeding and thus is equally accessible to the Office of the Ohio Consumers' Counsel. Without waiving said objection, to the extent discoverable and in the spirit of discovery, confirmed.

(g) Objection. This Interrogatory seeks to elicit information that is of public record for the captioned proceeding and thus is equally accessible to the Office of the Ohio Consumers' Counsel. Without waiving said objection, to the extent discoverable and in the spirit of discovery, confirmed that Duke Energy Ohio proposed to charge LSEs the RPM price. Denied that Duke Energy Ohio's reservation of rights was limited to cost-based rates. Duke Energy Ohio broadly preserved its rights to amend the rates, terms, and conditions proposed in the filing.

PERSON RESPONSIBLE: Legal

Duke Energy Ohio
Case No. 12-2400-EL-UNC
OCC Fourteenth Set of Interrogatories
Date Received: March 12, 2013

OCC-INT-14-145

REQUEST:

Referring to the Testimony of Witness Trent at page 11 lines 2 to 7:

- a. Please confirm that Duke is currently recovering a **portion** of the embedded costs of the capacity it uses to provide noncompetitive, wholesale capacity service from revenues that it receives via PJM for the capacity it is providing the wholesale and competitive retail suppliers noted on page 5 line 11. If not, please explain why not.
- b. Please confirm that Duke is currently recovering a **second portion** of the embedded costs of capacity it uses to provide noncompetitive, wholesale capacity service from revenues that it receives from the sale of energy and ancillary services in the PJM wholesale markets for those services. (See Testimony of Wathen, page 13 line 18 to page 14, line 8). If not, please explain why not.

RESPONSE:

- a. Objection. This Interrogatory is duplicative of OCC-INT-12-100(d), or, alternatively, unnecessarily cumulative. As such, this Interrogatory must be interpreted as intended solely to harass. Without waiving said objection, to the extent discoverable, and in the spirit of discovery, the amount that Duke Energy Ohio is currently paid for capacity supplied to meet its FRR service obligation is independent of its embedded costs and, as explained by Company witness Wathen, the payment currently received by Duke Energy Ohio is not sufficient for recovery of embedded costs.
- b. Objection. This Interrogatory is duplicative of OCC-INT-12-100 or, alternatively, unnecessarily duplicative. As such, this Interrogatory must be interpreted as intended solely to harass. Without waiving said objection, to the extent discoverable, and in the spirit of discovery, see response to OCC-INT-12-100.

PERSON RESPONSIBLE:

As to objection, Legal
William Don Wathen Jr.

ObDuke Energy Ohio
Case No. 12-2400-EL-UNC
FES Second Set of Interrogatories
Date Received: March 8, 2013

FES-INT-02-026

REQUEST:

Regarding the testimony of Keith Trent, page 11, lines 19-20. On what date did DEO's financial integrity first become "dire" as Mr. Trent uses the term?

RESPONSE:

Objection. This Interrogatory is overly broad and unduly burdensome, given that it seeks a specific date in response to a characterization that is not able to be so delineated. Answering further, the Interrogatory seeks to elicit a narrative response and thus is properly suited for deposition. See generally, *Penn Cent. Transp. Co. v. Armco Steel Corp.* (1971), 27 Ohio Misc. 76, 271 N.E.2d 877.

PERSON RESPONSIBLE: Legal

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Summary: Testimony Direct Testimony of J. Richard Hornby (Public Version) on Behalf of the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Kern, Kyle L.