HOUSE RESOLUTION 469 OF THE 135TH OHIO GENERAL ASSEMBLY
TESTIMONY OF AMY SPILLER, PRESDIENT OF DUKE ENERGY OHIO, INC.
BEFORE THE OHIO HOUSE ENERGY & NATURAL RESOURCES COMMITTEE

June 12, 2024

Chair Hall, Vice Chair Lear, Ranking Member Rogers, and members of the Ohio House Energy & Natural Resources Committee:

Duke Energy Ohio, Inc., and its predecessor companies have provided safe and reliable energy services and solutions for over 700,000 electric and 450,000 natural gas customers in southwest Ohio for over 185 years. As State President of Duke Energy Ohio, I thank you for the opportunity to offer this testimony, and I urge the favorable reporting of House Resolution 469 (H.R. 469) by the Ohio House Energy & Natural Resources Committee and its swift adoption by the full Ohio House of Representatives.

On May 9, 2024, the U.S. Environmental Protection Agency released its final rule titled "New Source Performance Standards for Greenhouse Gas Emissions from New, Modified, and Reconstructed Fossil Fuel-Fired Electric Generating Units; Emission Guidelines for Greenhouse Gas Emissions from Existing Fossil Fuel-Fired Electric Generating Units; and Repeal of the Affordable Clean Energy Rule," 89 Fed. Reg. 39,798 (GHG Rule). On, May 21, 2024, Duke Energy Ohio submitted a declaration to the State of Ohio's motion for stay pending review in the U.S. Court of Appeals for the District of Columbia Circuit. Duke Energy Ohio confirms and reiterates the comments made within the declaration, a copy of which is attached.

I respectfully urge a favorable reporting of H.R. 469 by this committee, and the swift adoption of this important legislation by the full Ohio House of Representatives.

Sincerely,

Amy Spiller
President, Duke Energy Ohio, Inc.

cc: Rep. Jason Stephens, Speaker of the Ohio House of Representatives
Rep. Scott Oelslager, Speaker Pro Tem of the Ohio House of Representatives
Rep. Bill Seitz, Ohio House Majority Leader
Rep. Jon Cross, Ohio House Assistant Majority Leader
Rep. Jim Hoops, Ohio House Majority Whip
Rep. Sharon Ray, Ohio House Assistant Majority Whip
Rep. Allison Russo, Ohio House Minority Leader
Rep. Dontavius Jarrells, Ohio House Assistant Minority Leader

Rep. Dani Isaacsohn, Ohio House Minority Whip
Rep. Michele Grim, Ohio House Assistant Minority Whip
Rep. Dick Stein, Chair, Ohio House Public Utilities Committee
Rep. Robb Blasdel, Vice Chair, Ohio House Public Utilities Committee

Attachment: Duke Energy Ohio Declaration

DECLARATION OF AMY SPILLER

I, Amy Spiller, declare that the following statements made by me are true and accurate to the best of my knowledge, information, and belief:

1. I am the State President of Duke Energy Ohio, Inc. ("Duke Energy OH"), and Duke Energy Kentucky, Inc., which are subsidiaries of Duke Energy Corporation ("Duke Energy").

2. Duke Energy's utility operations in Ohio and Kentucky serve approximately 910,000 electric customers and approximately 560,000 natural gas customers.

3. Existing fossil generating assets, including coal-fired units, and potential new natural gas-fired generating units are regulated under the U.S. Environmental Protection Agency's ("EPA") final rule titled "New Source Performance Standards for Greenhouse Gas Emissions from New, Modified, and Reconstructed Fossil Fuel-Fired Electric Generating Units; Emission Guidelines for Greenhouse Gas Emissions from Existing Fossil Fuel-Fired Electric Generating Units; and Repeal of the Affordable Clean Energy Rule," 89 Fed. Reg. 39,798 (May 9, 2024) ("GHG Rule").

4. In this declaration, immediate and irreparable harm to Duke Energy OH and its customers is enumerated below if a stay is not granted of the GHG Rule. Duke Energy OH is responsible for the procurement of a standard service offer of electric supply for its Ohio customers who do not switch to competitive retail electric suppliers and is the statutory provider of last resort for all electric customers in its service territory, which obligations are met today through competitive wholesale auctions. The GHG Rule will result in a more rapid retirement of baseload dispatchable generation without a reasonable glide path for replacement, thereby exposing Duke Energy OH's customers to volatility in the wholesale electric markets. The GHG Rule will negatively impact Duke Energy in varying degrees depending on jurisdiction in the following ways:

    a. Requiring significant changes from engineering, construction, and approval process without sufficient compliance timelines;

    b. Basing the GHG Rule's emission limits on the use of carbon capture and sequestration/storage ("CCS") by 2032 on new natural gas and existing coal even though the technology is not proven, and the timeline provided is not sufficient for the adequate analysis, engineering, permitting, construction and implementation of CCS. CCS has never been demonstrated on a natural gas combined cycle, and only one coal-fired facility in the United States has operated with CCS, but only on an intermittent basis; and

    c. Not realistically considering the nation's electric reliability concerns.

5. Under the GHG Rule, covered generating units must either implement an emissions-reduction system that has not been demonstrated anywhere (90% CCS) or shift electricity generation by converting coal units to fire natural gas, retire coal units, or curtail generation at new state-of-the-art natural gas combined cycle units. This plan is not feasible in the timelines provided presenting significant reliability concerns for utility customers'

dependence upon dispatchable base-load generation resources to serve their energy needs and desire for a smooth transition to cleaner resources.

Insufficient Compliance Timelines

6. The GHG Rule requires an expeditious national shift in generation away from coal-fired sources, without an executable plan for replacement baseload power within the mandated compliance schedule. New natural gas generating plants require between seven and eight years to develop, permit, obtain regulatory approval and construct. Even new renewable projects can take five or more years, given delays in transmission interconnection studies and local siting concerns. Substituting either natural gas-fired or renewable generation for reduced coal-fired generation requires intensive planning, permitting and regulatory approval processes. The timelines included in the GHG Rule do not provide sufficient time to plan for and execute on reliable generating resources to replace retiring coal plants.

7. Under the GHG Rule, the state of Ohio likely will not have approved plans to implement the emission guidelines until 2027 but impacted generating assets must begin complying with the rule as early as January 1, 2030. This means there will be less than three years between the time when owners of Ohio-sited generating assets know exactly what their respective regulatory requirements will be and when they must begin complying with those regulatory requirements.

8. As a result, if owners of Ohio-sited fossil generating assets are to comply with the GHG Rule by the required deadlines, these operators must start making decisions now about whether to retire, co-fire with gas, or construct CCS at their coal-fired electric generating units ("EGUs"). Further decisions by such generating asset owners include what gas-fired generation they will have to construct and under what conditions such new gas-fired generation will be able to operate. Once owners of Ohio-sited generation have made these decisions, they will have to start engineering, design, permitting, siting and contracting on any new gas plants needed to replace the power generated by existing coal-fired EGUs in the market that must be retired by January 1, 2032. These decisions will impact Duke Energy OH's service obligations and the cost at which such obligations are met.

Insufficient CCS Timelines

9. Regarding CCS, Duke Energy supports the use of CCS to reduce emissions from the power sector if and when those technologies become cost-effective and available at the scales necessary, including supporting infrastructure, to support widespread application. However, CCS is not feasible in all locations, has not been proven at scale yet, and the timing and risks are still being understood.

10. A U.S. EPA Class VI permit is needed for CCS operations. Class VI well applications can take up to six years to develop and for EPA to process and approve. Of the more than 700,000 well permits issued under the underground injection program, there are only four active Class VI permits as of May 2024. Two pre-operation permits were issued to Wabash Carbon Services, LLC to build CCS for an ammonia fertilizer production facility in Indiana. The permits became effective in March 2024. Wabash Carbon Services submitted the permit application in May 2021, so it took approximately three years to issue after extensive public participation and addressing a plethora of comments. The other two permits are for

operations at Archer Daniel Midland's ethanol plant in Macon County, IL. Similarly, for both, the time from application submission to issuance was approximately three years.

11. At this time, Duke Energy's utility subsidiaries, like many others, have not begun CCS work at gas plants in their territories and it would be nearly impossible to meet the compliance deadline of 2032 because CCS on natural gas combined-cycle power plants has not been demonstrated at the scale proposed and capture technology is not yet commercially available for natural gas turbines in the power generation industry. Additionally, the GHG Rule's compliance deadline – including the extremely constrained possibility of obtaining a one-year extension – does not give enough flexibility for delays such as permitting issues and supply chain constraints.

Reliability Issues

12. Duke Energy OH has the obligation to reliably serve its customer load and is required to meet specific system planning reserve margins above and beyond that system demand. Duke Energy OH purchases capacity from wholesale markets, with state commission approval. However, under the GHG Rule, critical cost considerations relative to construction, new gas generation, operations and maintenance costs, variable fuel costs, onsite fuel blending, pipeline construction, additional labor, training, insurance and bonding have one glaring implication – grossly compromised affordability for American consumers.

13. Ohio, and many other parts of the country, are experiencing unprecedented economic development leading to load growth from the proliferation of data centers, onshoring of manufacturing and growing interest in electrification. Duke Energy OH has an obligation to provide an adequate supply of electricity to serve its increased loads. The timing and stringency of the requirements of the GHG Rule will challenge the reliability and affordability of service to its customers at a time when reliance on electricity at an affordable price is critical to the success of our industry and well-being of its customers. The costs associated with compliance with the GHG Rule will be felt throughout the industry and affected utilities' customers will ultimately bear these costs in utility rates.

14. The unintended consequences of the GHG Rule are obscured by flawed assumptions that EPA uses in assessing the effects on grid reliability, resource adequacy and cost.

15. Duke Energy OH is monitoring the stability of the measured and safe transition from coal to natural gas power and renewable generation while simultaneously promoting the development of other technologies and energy sources. The GHG Rule places at risk the nation's key infrastructure for electricity that is critical to the health, well-being, and security for all citizens of the United States.

Signature Amy B Spiller

Title: State President of Duke Energy Ohio, Inc. and Duke Energy Kentucky, Inc.

Dated: May 20, 2024