Dianne M. Triplett
DEPUTY GENERAL COUNSEL

July 2, 2024

VIA ELECTRONIC MAIL

Mr. Adam J. Teitzman, Commission Clerk
Office of Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: *Docket 20240025-EI, Petition for Rate Increase by Duke Energy Florida, LLC*

Dear Mr. Teitzman,

Please find enclosed for electronic filing on behalf of Duke Energy Florida, LLC ("DEF"), DEF's Rebuttal Testimony of Misty Easton.

Thank you for your assistance in connection with this matter. Please feel free to call me at (727) 820-4692 should you have any questions concerning this filing.

Respectfully submitted,

/s/Dianne M. Triplett

Dianne Triplett

DMT/mh

Attachment

CERTIFICATE OF SERVICE
Docket No. 20240025-EI

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail this 2nd day of July, 2024, to the following:

/s/ Dianne M. Triplett
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Duke Energy Florida, LLC	**Docket No. 20240025-EI** **Submitted for filing: July 2, 2024**

REBUTTAL TESTIMONY

OF

MISTY EASTON

On behalf of Duke Energy Florida, LLC

I. INTRODUCTION AND SUMMARY

Q. Please state your name and business address.

A. My name is Misty Easton. My business address is 525 South Tryon Street, Charlotte, North Carolina, 28202.

Q. By whom are you employed and in what capacity?

A. I am employed by Duke Energy Business Services, LLC ("DEBS") as Director Human Resources ("HR") Special Projects and Integration. DEBS provides various administrative and other services to Duke Energy Florida, LLC ("DEF" or the "Company") and other affiliated companies of Duke Energy Corporation ("Duke Energy").

Q. What are your duties and responsibilities with respect to DEF?

A. After joining Duke Energy in 2001, I have served in a number of HR leadership roles. Currently, as the Director of HR Special Projects and Integration, I am responsible for leading various HR projects that align HR with long-term business objectives, HR regulatory compliance and risk management activities, among other employee management programs. Specific to my rebuttal testimony, prior to becoming the Director of HR Special Projects and Integration, I was the Director of Compensation and was responsible for broad-based compensation design and strategy, administration, and compliance for Duke Energy, including all of Duke Energy's affiliated regulated and non-regulated companies, like DEF. In my role as the Director of HR Special Projects and Integration I must maintain and rely upon my experience with and knowledge of the compensation design, strategy, and administration for all DEF employees.

Q. Please summarize your education and professional qualifications.

A. I received my Bachelor's degree in Business Management from Appalachian State University. I also have a Master's in Business Administration and hold designations as a Certified Compensation Professional and Certified Benefits Professional. I have over 27 years of experience in various HR roles, with 19 of those years focused on Total Rewards (compensation and benefits) responsibilities. I have led the design and integration of compensation programs during several large-scale mergers and acquisitions and developed compensation strategies for expansion into new markets and retention of key talent. I was also a former Total Rewards Steering Committee member for the Electric Utility - HR Community of Practices, established by the Nuclear Human Resources Group ("NHRG"). The NHRG consists of all the electric utility companies in the U.S. and Canada who manage and operate nuclear power facilities, including support organizations, and encompasses several working groups, including the Electric Utility Community of Practice, that share and exchange information in the areas of HR management, organizational effectiveness, employee relations, total rewards, knowledge management, leadership development and talent management.

Q. Did you previously file direct testimony in this proceeding?

A. No, I did not. However, on July 2, 2024, simultaneous with the filing of my rebuttal testimony, I adopted the pre-filed direct testimony and exhibits of Shannon Caldwell, filed in this docket on April 2, 2024, which I refer to throughout my rebuttal as my direct testimony.

Q. Have you previously testified before this Commission?

A. No, I have not.

Q. What is the purpose of your rebuttal testimony?

A. First and foremost, my rebuttal testimony reinforces the reasonableness of Duke Energy's compensation and benefits packages, specifically, the portion of compensation comprised of incentive pay. I explain why these costs should be included in the Company's revenue requirement and recovered in rates, and why accepting the recommendation by the Office of Public Counsel ("OPC") to preclude the Company from recovering expense associated with incentive compensation would ultimately result in rates that do not recover the costs of market-competitive compensation. I discuss how Duke Energy would be unable to attract and retain the types of employees needed to provide customers safe and reliable electric service if it did not offer market competitive compensation packages that include incentive compensation.

Attracting and retaining a competent workforce requires employers like DEF to offer market competitive compensation packages, and market competitive compensation packages include incentive pay. By definition, the costs that must be incurred to attract and retain the employees needed to provide customers safe and reliable electric service are reasonable and prudent and consistent with ratemaking principles and Commission precedent.

Q. What witness testimony does your rebuttal testimony address?

A. The OPC position with respect to incentive compensation is presented by Witness Helmuth W. Schultz, III. In addition to responding to Witness Schultz's adjustments to exclude short and long-term incentive plan expenses, my rebuttal testimony responds to the following OPC adjustments proposed by Witness Schultz:

- Payroll Tax Expense on OPC incentive compensation adjustment,
- Employee Benefit Expense,
- Supplemental Executive Retirement Plan Expense, and
- Directors and Officers Liability Insurance Costs.

I also address the recommendations of League of United Latin American Citizens ("LULAC") and Florida Rising (collectively, "LULAC and Florida Rising") Witness Karl Rábago regarding Duke Energy's compensation plans.

II. RESPONSE TO THE OPC'S ACCOUNTING ADJUSTMENTS

OPC's Proposed Adjustments for Incentive Compensation

Q. Please describe OPC's expense adjustment related to incentive compensation.

A. In its Petition, the Company proposed to recover both short-term and long-term incentive ("STI" and "LTI," respectively) expense at target levels that are directly assigned or allocated to DEF. OPC witness Schultz proposes to exclude all expense associated with incentive pay and he takes particular issue with the portion that results from Duke Energy meeting its financial goals, specifically the "Earnings per Share" ("EPS") goal included in Duke Energy's STI plan. The OPC adjustment seeks to disallow recovery of 100% of the forecasted LTI and STI expenses.

Q. Please summarize the reasons why the Commission should not disallow incentive compensation expense.

A. First, my understanding of Witness Schultz's testimony is that he does not take issue with the amount of compensation paid by the Company to its employees. Instead, he second-guesses the business judgment of the Company – and all other investor-owned electric utilities the Company competes with – in designing its compensation program inclusive of incentive compensation. In other words, Witness Schultz apparently would not object to the total compensation included in the Company's rates for its employees if none of the compensation was identified and paid as incentive compensation.

Second, as explained in my direct testimony, compensation packages for employees in our industry that include incentive pay are similar to other costs related to providing electric service – they are a necessary cost of providing customers safe and reliable service. The OPC wants the Company's customers to have the benefit of the Company employing qualified and well-managed employees productively engaged in providing safe, reliable, and affordable electric service to our customers. However, to provide the Company's customers this benefit the Company must provide incentive compensation to ensure the Company's total compensation programs remain market competitive.

Witness Schultz does not grasp that incentive compensation – like that sought by the Company in base rates – is a necessary and therefore prudent cost of doing business as an electric utility. Having reviewed Witness Schultz's education, training, and employment in his resumé attached to his direct testimony, it reflects that Witness Schultz has never been responsible for developing and implementing compensation programs to hire and retain the types of employees the Company needs to provide safe, reliable, electric service to its customers. As a result, Witness Schultz's views on incentive compensation are simply incorrect, as I demonstrated in my direct testimony, and as I further demonstrate in my rebuttal testimony.

In sum, all incentive expense up to target levels should be recoverable in rates as it is a prudently incurred cost of doing business. The Company's incentive compensation plans do not result in excessive pay levels. Certainly, if the OPC believed the overall pay level was excessive, Witness Schultz would have said so, and he does not. Rather, as discussed in my direct testimony, Duke Energy's compensation philosophy is to target total compensation, consisting of the combination of base pay and incentive pay, at the median of the market when compared to peer companies. Whether it is through base pay or a combination of base pay and incentives, DEF must keep its overall compensation package competitive to attract and retain a competent workforce. The market dictates, however, incentive compensation as part of that overall compensation package in our industry.

Q. Please summarize OPC witness Schultz's views on incentive compensation and the Company's incentive plans.

A. Witness Schultz presents the following critiques of the Company's compensation costs related to incentive pay:

1) STI compensation declined from 2021 to 2023 but the Company is projecting, in his view, the inclusion of "materially" increased amounts in 2025 through 2027 "without justification."

2) The Company proposes to increase the portion of incentive compensation charged to O&M expense (and decrease capitalized amount) despite increases in requested plant additions, as addressed in the rebuttal testimony of DEF witness Michael O'Hara.

3) There is, in Witness Schultz's view, no real incentive for employees to perform above the day-to-day operational requirements because all employees received some incentive compensation from 2018- 2023, and, again in his view, the goal levels set for each year do not create a true incentive for performance or encourage improvement.

4) Witness Schultz dismisses the Company's supporting market data for its incentive compensation plans with the conclusory and unsupported assertion that the data demonstrating that incentive compensation is necessary to attract and retain a competent workforce is based on "circular, self-promotional" surveys.

5) Witness Schultz asserts the Company takes an "ostrich head in the sand approach" because the Company ignores (in his opinion) how other jurisdictions have at times, based on specific circumstances to each proceeding, excluded various levels of incentive compensation under other statutory and regulatory requirements applicable to utilities in those other jurisdictions.

6) Witness Schultz takes issue that only a select group of employees receive payment under two plans but does not explain why his view of what is "fair" compensation reflects the market for those groups of employees.

6) Witness Schultz incorrectly claims that incentive compensation is a misnomer because, in his unsupported view, it has evolved over time to collect revenue from customers to pay what he labels as "discretionary" compensation.

Q. How do you respond to OPC witness Schultz's views on incentive

compensation and Duke Energy's incentive plans?

A. First, my direct testimony establishes that the Company's compensation program, including its incentive pay components, is market competitive in its entirety and comparable to programs offered by other utilities, as well as other companies outside of the utility industry. Duke Energy's current compensation program, with its market-competitive incentive component, *is* focused on attracting and retaining qualified employees, and so *has* a customer-focused outcome. That testimony remains undisputed by Witness Schultz and alone supports the Company's compensation plan, including incentive compensation for its employees, as a reasonable and prudent cost.

Second, our focus on long-term sustainable company performance provides a benefit to customers, contrary to Witness Schultz's conclusory opinion otherwise, because a financially strong company will have greater access to capital at a lower cost, which in turn benefits customers through a lower cost structure. In addition, the introduction of long-term incentive pay as a component of overall compensation ensures our leadership is focused on the long term, and not overly focused on the short term, which also inures to the benefit of our customers.

Q. Please elaborate on the customer-focused nature of Duke Energy's compensation programs.

A. As explained in my direct testimony, as well as summarized above, Witness

Schultz's implicit contention that incentive pay metrics based on corporate financial metrics benefit only shareholders is not supported in the real world. The STI program, for example, covers every single one of the Company's employees. Many of Duke Energy's employees – linemen, call center operators, billing, and collection personnel, etc. – are directly customer facing. Other employees spend their time and risk their health and safety to ensure service to customers remains reliable. As these examples highlight, Duke Energy's employees are focused on making sure that the Company and Duke Energy maintain and enhance operational excellence for the benefit of customers.

In addition, alignment amongst shareholders and customers is inherent in the design of Duke Energy's incentive compensation programs - that alignment is not just conveyed in my testimony. Company Witness Newlin explains in his rebuttal testimony the importance of DEF's financial viability. In particular, Witness Newlin describes how the Company's credit ratings impact the cost of operations for DEF, that is, DEF's ability to obtain capital necessary to continue to provide safe and reliable service to its customers., the cost of which is ultimately reflected in customer rates. As DEF Witness Newlin explains, both shareholders and customers benefit from a financially sound utility. OPC Witness Schultz's unsupported supposition to the contrary simply is not true.

This alignment shows the hollowness of the OPC position that financial-based incentive payments should be paid out of earnings. The costs of the incentive pay programs *already* are shared between customers and shareholders, as shareholders would cover any amounts above the target levels proposed to be included in base rates.

Q. Does incentive compensation impact that ability of the Company to hire and retain the types of employees necessary to provide customers safe, reliable, and cost-effective electric service?

A. Yes. The energy industry is a knowledge and experience-intensive industry where the tenure of employees matters. For example, we need to attract, develop, and retain—over the long term—the engineering professionals that design, help build, and operate our plants and system at a reasonable cost, just like we need to attract, develop, and retain our power delivery professionals charged with maintaining and improving our infrastructure necessary to keep the lights on at a reasonable cost. The skills needed for employees to render safe, reliable, and high-quality utility service can take years to develop.

Lineworkers, for example, are highly skilled positions that require five years of training and experience to become fully proficient. If we were to lose such employees to other utilities or other industries because we failed to offer market-based compensation that includes incentive compensation, we would incur additional costs to train replacements for these positions, while experiencing additional risk regarding reliability issues. Thus, if we do not provide our talented employees competitive compensation – base and incentive – consistent with our industry, they are much more likely to seek employment with another utility who does offer competitive pay. At a time when the Company and the overall industry must expand grid operations, while maintaining or improving reliability to meet increasing demand and economic development, interfering with the Company's ability to pay market competitive rates for qualified employees who are vital to success should be the furthest thing from the Commission's mind.

Q. Does this apply to all Duke Energy employees?

A. Yes. The compensation and benefits programs, including incentive compensation, provided to all Duke Energy employees are necessary to attract, engage, and retain the skilled and experienced workforce the Company needs to efficiently and effectively provide electric service to its customers. These programs are market competitive and comparable to programs offered by other utilities, as well as other companies outside of the utility industry. Being market competitive is critical because Duke Energy competes with these other utilities and companies in the labor market for talent. The design and function of Duke Energy's incentive pay programs directly benefit DEF customers through safe and reliable service, customer service quality, and low energy costs. Incentive pay is a key component of Duke Energy's compensation program, and in the competitive market for talent, employees consider the total rewards package, including base pay, incentive pay, and benefits, as a key determinant in deciding whether to work for a particular employer.

Duke Energy must make prudent investments, and while doing so, exercise strong cost management and operational excellence. The measures of our corporate incentive program are designed to drive these results and benefit customers. To achieve strong incentive results, we must operate reliably, we must operate safely, we must deliver strong customer service, we must control our costs and we must grow our company. Including goals for financial performance in our incentive programs ensures that employees pursue cost-effective ways to deliver these results.

For example, EPS is a measure of the Company's financial performance, and that performance is reflective of how certain goals – safety, individual performance, team performance and customer satisfaction (all of which are components of incentive pay) – are met in a cost-effective way. Using this balanced scorecard approach benefits customers by delivering critical services at competitive rates. Employee compensation and incentives tied to metrics such as EPS and Operations & Maintenance ("O&M") expense management benefit customers because those metrics reflect how employees' contributions translate into overall financial performance. Employees directly impact EPS and O&M expense savings by finding efficiencies and cost management measures which ultimately are passed on to customers when new rates reflecting those savings are implemented.

Further, as discussed above, a consistently growing EPS benefits customers by allowing Duke Energy to access the capital markets on reasonable terms, which ultimately lowers the Company's financing costs, which in turn means a lower cost is passed on to customers to collect in rates. Lower financing costs is particularly important in today's environment as DEF continues to invest in the critical infrastructure needed to meet unprecedented load growth and ensure the continued reliability and resiliency of the electric grid while retiring and repurposing aging infrastructure. Disconnecting employee performance from such an important measure of a regulated company's overall health makes no sense and is counterproductive.

In sum, the incentive components of employee compensation do as the name suggests - *incent* employees to be cost conscious, to work efficiently, and to find the least cost solutions to issues and problems posed every day. Finding sustainable cost savings is an important part of achieving our financial targets, and those sustainable cost savings reduce O&M costs. This benefits customers because rates are established utilizing a lower O&M cost than what they would otherwise be. The financial metrics are balanced by operational metrics that include reliability, safety, environmental events, and customer satisfaction that along with the team/individual goals further motivate employees to provide safe and reliable service while reinforcing and strengthening our commitment to our customers. The operational performance measure targets are set at challenging levels to drive long-term growth and success. Stretch performance levels are set to motivate employees to strive for continuous improvement and operational excellence. More simply put, incentive compensation tied to these readily measurable metrics *incent* (contrary to Witness Schultz's contentions otherwise) employees to help DEF deliver safe, reliable, and competitively priced energy to its customers, every day, day in and day out.

Q. Do your remarks apply equally to long term incentive programs?

A. Yes. LTI programs are also a necessary component of Duke Energy's compensation package. In fact, requiring certain leadership to receive a portion of its compensation in stock better aligns those leaders with our customers and ensures our leadership is focused on the long term. As with STI, LTI programs allow the Company to attract and retain high-performing leaders that can carry out Duke Energy's vision of leading the way to cleaner, smarter energy solutions that are valued by our customers. The EPS and TSR measures associated with the performance shares, granted as part of the Executive LTI plan, tie a substantial portion of compensation for executives to both internal and external measures of the Company's long-term financial performance. This encourages eligible employees to reduce expenses, operate efficiently, and conserve financial resources, actions that directly benefit customers by keeping rates low. As with annual cash incentive compensation, the long-term incentive opportunities provided to the certain Company leaders are a necessary component of a market-competitive target level of total compensation for these positions. Customers benefit from attracting and retaining a skilled, motivated, and well managed workforce, and from a management team that makes sound business decisions.

Q. OPC witness Schultz asserts that there is Commission precedent excluding incentive compensation from base rates. Are you aware of any such precedent?

A. No, but I am not a lawyer, and neither is Witness Schultz. Neither of us are in a position to provide this Commission with an understanding of what is or is not binding legal precedent applicable to this proceeding. What I do know and what I am qualified to speak to is that incentive compensation is a necessary cost to hiring and retaining the employees required to provide customers with safe, reliable electric service for all the reasons provided above and in my direct testimony, regardless of whatever reasons Commissions may have had for reaching the results they did on the facts and circumstances before them at a particular point in time. I think it is also relevant to note that the Commission orders referenced by Witness Schultz in his direct testimony were both issued 15 years ago at the height of the Great Recession and the circumstances were very different from the economic circumstances we are currently facing.

Q. How do you respond to Witness Schultz's more specific contention that the amount of STI declined from 2021 to 2023 but the Company is projecting recovery of materially increased amounts for the test years (2025 – 2027)?

A. The amounts of 2021 to 2023 STI that Witness Schultz based his review on were the actual amounts of STI paid for those years, while the 2025-2027 STI amounts are forecasted amounts. The 25.5% increase from 2023 actual STI and the 2025 forecasted amount is explained by the fact that the actual 2023 STI achievement was below target at 66.25% and the 2025-2027 forecasted amounts are based on target achievement. For purposes of calculating the appropriate level of test year expense, the Company included incentives based upon the achievement of target levels, which the Company expects to and has in fact averaged over time, and thus considers a normal (vs. uncertain) level of expense. In fact, the average STI achievement over the last ten years (2014 – 2023) is slightly above target at 106.5%. This demonstrates the reasonableness of the Company's projections.

Q. How do you respond to Witness Schultz's other contention that incentive compensation is not performance-based compensation because all eligible DEF and DEBS employees from 2018-2023 received an incentive payment?

A. Witness Schultz's contention demonstrates his lack of understanding of the actual implementation of incentive compensation plans like the Company's plan. To explain briefly, Duke Energy's STI program is designed with performance goals set at both a corporate level and at a "team" (for non-leadership employees) or individual (for leadership employees) level. It is with the team and individual goals that individual performance is taken into account for the overall STI payment, whereas the achievement level of the *team* goals establishes a pool of dollars that managers have the discretion to allocate among employees based on their individual performance and contributions to the team. This approach allows managers the necessary flexibility to recognize and reward our highest performers by adjusting their team award up. If an employee's performance is unsatisfactory, their team award may be adjusted down.

Each employee's share is unique, based on individual contributions, and employees will not necessarily receive the exact same percentage of the team score. For leadership employees with individual goals, their specific performance is also considered when assessing their achievement for this portion of STI. This approach allows an employee's individual performance to contribute to an employee's final STI payment. Therefore, the fact that all DEF employees received "some" incentive payment does not mean that the Company's incentive compensation plan is not working as intended to achieve the Company's objectives of achieving enhanced employee performance in providing safe, reliable electric service to customers. Final STI determinations for individual employees are made by managers within the Company, which is of course exactly where that determination should be made. Managers have the most knowledge of each individual employee's contribution to the goals of our incentive programs, and thus, they are the best suited to make these decisions.

Q. How do you respond to Witness Schultz's contention that the STI goal levels do not create a true incentive for performance or encourage improvement?

A. Related to the discussion in the previous question, Witness Schultz takes issue with the EPS and O&M goal amounts from year to year and believes that while the goals have changed, they do not create a true incentive for performance. His concern is that the EPS and O&M goal levels do not increase enough from prior year achievement and further, that the EPS goal is set below the true EPS goal set for that year. Again, Witness Schultz's opinion is unsupported by any real-world experience with designing employee incentive plans or understanding of how they are implemented.

When setting financial goals, the Compensation and People Development Committee of the Board of Directors reviews the long-term financial plan, the current economic and regulatory environment, and expectations for investment opportunities and customer satisfaction. In reviewing Mr. Schultz's discussion of EPS, he correctly states that the 2024 Adjusted EPS Guidance Range is $5.85 - $6.10 as reported in the Company's 2023 fourth quarter Earnings Review and Business Update, but he takes issue that the 2024 EPS goal minimum is $5.78, which is below the reported guidance range. The 2024 EPS target level of $5.98 is aligned to the midpoint of the external earnings guidance range ($5.85 - $6.10) that is communicated to investors. The Company's adjusted EPS goal is calibrated with our publicly announced guidance range and industry comparisons, and growth expectations are taken into consideration when establishing the threshold (minimum), target, and maximum performance levels.[1]

Witness Schultz is trying to link setting the current year performance threshold *minimum* values to *prior year achievement* which is not appropriate. When establishing performance thresholds and associated incentive payouts, the Company considers many different factors that influence what an appropriate range of performance could be each year. For example, there may be more planned maintenance work in a given year when compared to a previous year that would appropriately increase the minimum threshold for the O&M incentive metric in that year. Additionally, inflationary pressures are considered when determining O&M performance ranges. With regard to EPS growth, actual company performance is not perfectly linear year over year and the performance thresholds within the incentive plan are not either. For example, 2021 EPS minimum threshold was set at $5.05 as the company continued to navigate the COVID-19 pandemic and the significant challenges faced in 2020 that could possibly continue into 2021. Again, simply taking prior years achievement levels and assuming the company will set minimum performance levels for future years higher than actual achievement is too simplistic and lacks consideration of complexities year over year.

[1] This information was provided in response to OPC's Seventh Set of Interrogatories No. 148.

Another reason to avoid linking target performance levels in a given year to minimum performance levels in another is the consideration of the payout associated with each. Achieving target performance one year and then minimum the next would result in a reduced incentive payment for employees. An incentive does exist to achieve target performance each year so total compensation paid is aligned to the external competitive market.

Q. How do you respond to Witness Schultz's contention that it is unfair that only a select group of employees receive payment under two plans, since only certain employees receive payment under Duke Energy's LTI?

A. This opinion highlights again Witness Schultz's lack of experience designing or managing employee compensation plans. It is customary practice in the industry for certain leadership employees to participate in both short-term and long-term incentive plans. LTI programs are part of the compensation programs offered to executives in the peer groups that Duke Energy benchmarks against for executive compensation as well as other leadership employees of companies with which Duke Energy competes for talent. Therefore, as discussed in my direct testimony, LTI programs are a necessary component of Duke Energy's total market-competitive compensation package for leadership employees. As with STI plans, LTI programs allow the Company to attract and retain high-performing leaders that can carry out Duke Energy's vision of leading the way to cleaner, smarter energy solutions that are valued by our customers.

Q. How do you respond to Witness Schultz's contention that incentive compensation is a misnomer because it has evolved over time to collect revenue from customers to pay discretionary compensation?

A. I disagree with Witness Schultz's opinion. His opinion is based on a false premise as Duke Energy does not base its compensation programs on conjecture, but on review of published surveys to assess whether the compensation programs offered are market competitive. We routinely benchmark total compensation (base pay plus incentives) against other similarly sized companies, both within and outside of the utility industry, and participate in a variety of third-party salary surveys on an annual basis. These surveys contain aggregated compensation data, including base pay and incentive targets, from multiple employers for various job functions and career levels. Duke Energy analyzes this data to determine overall competitiveness of pay for jobs throughout the enterprise.

Witness Schultz states in his testimony that the structure of these surveys is circular and self-promotional in nature, but he has no experience with these surveys, their development, or their application in the industry. Witness Schultz does not supply anything more than his opinion when assessing what is a competitive compensation program for jobs in our industry. I, on the other hand, do have that experience with the use of these surveys in the utility industry to determine that competitive compensation programs must include incentive compensation to attract and retain the skilled employees the Company needs to provide customers safe, reliable electric service.

Q. What is your response to Witness Schultz's claim that Duke Energy ignores how other jurisdictions have treated recovery of incentive compensation?

A. Witness Schultz nowhere explains in his testimony exactly why determinations made in rate proceedings in other jurisdictions at other times and under other circumstances, including different regulatory environments, have any bearing on the development and implementation of incentive compensation as part of the compensation packages that are necessary to attract and retain the skilled employees, we need to serve our customers. I have never referred to such regulatory determinations, nor have I ever seen anyone in the electric utility industry, who like me, is personally involved in developing and implementing such compensation programs, rely on such determinations for that purpose. I have explained in my direct testimony and in this rebuttal testimony above what information is used in the industry to develop and implement incentive compensation programs as part of competitive compensation packages for employees in our industry.

Q. Do you have any concluding remarks on the subject of incentive compensation?

A. Yes. The financial performance of a capital intensive, public service corporation is essential to consumers receiving reliable and safe service efficiently at a reasonable price. Modern utility systems are complex and require highly developed skills maintained over many years and adept management of human and capital resources. The great divide that OPC Witness Schultz assumes to exist between the interests of consumers and the need for effective attraction, retention and management of capital and human resources does not exist. To the contrary, the great divide is in fact a great alignment. The costs excluded by Witness Schultz are legitimate costs of service that benefit customers and should be allowed, not disallowed.

OPC's Proposed Adjustments for Incentive Compensation Payroll Tax Expense

Q. Please describe OPC'S adjustment to payroll tax expense.

A. Witness Schultz seeks to adjust payroll tax expense associated with the OPC incentive compensation adjustment.

Q. Please explain why DEF objects to the OPC'S adjustment to payroll tax expense on incentive compensation.

A. As previously discussed in my rebuttal testimony, the Company believes all incentive compensation is a prudently incurred expense and therefore, payroll tax expense associated with incentive compensation expense should also be recoverable.

OPC's Proposed Adjustments for Employee Benefit Expense

Q. Please describe OPC'S adjustment to employee benefit expense.

A. Witness Schultz seeks to adjust other O&M expenses as a flowthrough from the recommended payroll adjustment based on the percentage of benefit expense to payroll expense. Witness Schultz's testimony expressed concern that the Pension & Benefits expense increases for years 2025-2027 were significantly higher than 2024 budget figures and that the forecast lacked support and rigor in the projection. Per his analysis, the expense increases for 2025-2027 were primarily related to a lower forecasted credit for pension non-service costs in 2025-2027 from the 2024 budgeted credit and increased costs in the forecast years for medical active and employee savings active.

Q. Please explain why DEF objects to the OPC'S adjustment to remove part of forecasted employee benefit expense.

A. Witness Schutz's adjustment for 2025-2027 forecasted Pension & Benefits expense is overstated. Explanations for his main three concerns (lower forecasted credit for pension non-service costs in 2025-2027 from the 2024 budgeted credit and increased costs in the forecast years for medical active and employee savings active) are explained below.

<u>Decrease in non-pension service costs credit</u>: This decrease was addressed in the response to Marcia Olivier Late-Filed Deposition Exhibit 7 where it was explained that the decrease in income recorded to non-service costs was driven primarily by the amortization of deferred 2022 asset losses based on the actuarial

study available at the time the budget was prepared.

Increase in 2024 forecasted amount of medical active: This increase was addressed in the response to Marcia Olivier Late-Filed Deposition Exhibit 8 where it was explained that the medical budget is prepared based on pricing determined by actuaries, who look at historical claims experience and make an assumption around year-over-year inflation. The actuaries estimate the impact of all plan design and program changes as they develop a price for each medical plan option. The 2024 forecast was initially prepared in 2022 and was based on actuarial data using available claims history from February 2021 through January 2022. An updated 2024 forecast was prepared in 2023 using updated claims history from February 2022 through January 2023. Each forecasted year after 2024 includes an increase of 6.5% based on actuarial data.

Increase in 2024 forecasted amount of employee savings active: This increase was not addressed in an OPC interrogatory or in Marcia Olivier's deposition. The Company has reviewed the 2024 budget compared to 2023 actuals addressed in Witness Schutz's testimony. The two main drivers of the referenced increase are: (1) the 2023 STI payment was below target, which resulted in lower employer 401(k) contributions and match while the 2024 budget is based on STI accrued at target levels; and (2) the non-pension eligible headcount increases each year due to new hires, which correlates to a higher employee savings budget (new hires and rehires are generally eligible for a 4% employer contribution to the employer 401(k) plan versus a pension plan. The offset is in lower pension expense).

<u>OPC's Proposed Adjustments for Supplemental Executive Retirement Plan ("SERP") Expense</u>

Q. Please describe OPC'S adjustment to SERP expense.

A. Witness Schultz seeks to adjust other O&M expenses to reflect the removal of non-qualified retirement benefits. The OPC's opinion is that the limits imposed by the IRS are an appropriate maximum for what customers should pay for regarding retirement expenses and that these plans provide no benefits to customers.

Q. Please explain why DEF objects to the OPC'S adjustment to remove SERP costs.

A. A SERP is a standard program, offered by other utilities and companies with which the Company competes for talent, that are offered to executive leadership as part of a competitive total rewards package. SERPs are offered to employees whose eligible pay exceeds the IRS tax code annual compensation limit and who would not otherwise be able to contribute the same proportional amounts to their tax-deferred retirement savings as other employees or, for employees participating in the retirement cash balance plan, receive the same cash balance pay credits. These non-qualified plans are offered to supplement the Company's 401(k) plan and retirement cash balance plan by taking all eligible pay into consideration, including eligible employee earnings above annual IRS caps. In addition, they allow Duke Energy to attract and retain high-performing leaders who carry out its vision of leading the way to smarter energy solutions that are valued by customers and benefit customers. As such, the Commission should reject the OPC's adjustment to remove SERP costs.

<u>OPC's Proposed Adjustments for Director & Officer Liability Insurance Costs</u>

Q. Please describe OPC'S adjustment to Director & Officer ("D&O") Liability insurance expense.

A. The OPC seeks to disallow up to 100% of expenses associated with D&O liability insurance on the incorrect basis that "this cost provides no benefit to customers."[2]

Q. Do you agree with OPC witness Schultz's proposed adjustment to remove D&O insurance expense?

A. No. D&O insurance is an essential and prudent cost for publicly traded companies and is appropriately included in the Company's determination of revenue requirements in this case. D&O insurance is a necessary part of conducting business for a large corporation. In light of the growing risk of exposures related to corporate governance, it would be impossible to attract and retain experienced directors and officers without the protections offered by D&O coverage.

Q. Do you believe this disallowance is appropriate?

A. No. By law, the Company is required to have a Board of Directors ("Board"). We

[2] Direct Testimony of Helmuth W. Schultz III on behalf of the Office of Public Counsel, page 62, lines 8-9.

cannot pretend that an investor-owned utility is not an investor-owned utility. The costs of being one, including D&O insurance, are in fact costs of service. It is not fair or reasonable to penalize the Company for merely being an investor-owned utility with attendant requirements to that corporate structure. To be a successful investor-owned utility requires a competent Board, and D&O insurance is a part of doing business and necessary to attract qualified candidates to serve on Duke's Energy's Board. Having a strong Board benefits all stakeholders, including customers, by providing independent guidance and helping Duke Energy, including DEF, achieve its long-term goals.

Q. Should the Commission include DEF's requested expense for D&O liability insurance in its revenue requirement calculation?

A. Yes. For these reasons articulated above, D&O liability insurance directly benefits customers and is a necessary and reasonable expense for DEF to provide service to its customers. As such, I disagree with the OPC's adjustment and urge the Commission to allow recovery of this expense.

III. <u>LULAC & FLORIDA RISING WITNESS RÁBAGO'S COMPENSATION-RELATED RECOMMENDATIONS</u>

Q. How do you respond to LULAC & Florida Rising Witness Rábago's compensation-related recommendations?

A. LULAC & Florida Rising witness Rábago makes two compensation-related recommendations. First, he suggests that Duke Energy should add a performance metric that addresses customer affordability, and second, he recommends that the Company submit a revised employee compensation plan that revises earnings-based performance metrics to ensure that only earnings improvements that reflect measurable customers qualify for inclusion.

Regarding Witness Rábago's first point - that Duke Energy should add a performance metric that addresses customer affordability in a revised compensation plan - is undefined beyond his assertion that it should "improve" customer affordability in a way that does not "require other customers to pay low-income customer bills,"[3] which seems both to be unworkable and have nothing to do with the purpose of incentive compensation, which is explained in my direct and rebuttal testimony. Indeed, even Witness Rábago cannot define what this "essential performance metric" should be despite his claimed 33 years of experience in the utility industry "and related fields."[4]

Witness Rábago further ignores DEF's low income and affordability programs which address his general concern regarding data on income levels for all Floridians from 2020. These programs help DEF ensure that its provision of reliable electric service is affordable for the very customers. Witness Rábago expresses his concerns but never explains what, if anything, he believes is inadequate with DEF's existing low income and affordability programs. Please refer to the testimony of Company

[3] Direct Testimony of Karl Rábago, Docket No. 20240025 page 35, lines 17-18 (June 11, 2024).
[4] *Id.* at 35, lines 13-14; *id.* at 1, line 18.

witness Lesley Quick for a discussion and overview of some of the Company's programs.

My response to Witness Rábago's suggestion that the Company should submit an employee compensation plan that revises earnings-based performance metrics is similar to how I responded above to OPC witness Schultz's criticisms of the Company's compensation plans. As I have already previously discussed in great detail (both in my rebuttal and direct testimony), the Company's compensation plans are market competitive and designed to attract and retain qualified employees. All of the performance metrics, including those tied to financial metrics, are designed, and intended to provide customer benefits. Therefore, for the same reasons that I urge the Commission to reject OPC witness Schultz's recommendations, I request that the Commission likewise disregard Witness Rábago's suggestion that the Company revise the design of its compensation plan.

IV. <u>CONCLUSION</u>

Q. What are you asking the Commission to do in this case?

A. For all the reasons provided in my direct testimony and this rebuttal testimony, we are asking the Commission to reject the OPC's recommendations and LULAC & Florida Rising's recommendations as they relate to compensation and benefits, and that the Commission accept DEF's proposal on these matters as filed with its Petition in this docket on April 2, 2024. Our corporate incentive programs are designed to drive results. To achieve strong incentive results, we must operate reliably, we must operate safely, we must deliver strong customer service, we must control our costs and we must grow our company. Including a goal for financial performance in our incentive programs ensures that employees pursue cost-effective ways to deliver these measures. Using this balanced scorecard approach benefits customers by delivering critical services at competitive rates. EPS and TSR measure overall financial performance, and overall financial performance in turn can reflect how employees take action on a routine basis to support the efficient delivery of safe and reliable energy to customers. In addition, finding sustainable cost savings is an important part of achieving our financial targets, and those sustainable cost savings benefit our customers. Incenting employees to work diligently to ensure costs are responsibly and prudently incurred is critical. These actions provide benefits to customers through reasonable rates.

Q. Does this conclude your rebuttal testimony?

A. Yes, it does.