

**REBUTTAL TESTIMONY OF SHAWN SHULTZ
DIRECTOR, COAL LOGISTICS
DUKE ENERGY PROGRESS, LLC
ON BEHALF OF DUKE ENERGY INDIANA, LLC
CAUSE NO. 38707-FAC134 BEFORE THE
INDIANA UTILITY REGULATORY COMMISSION**

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

2 A. My name is Shawn Shultz, and my business address is 526 South Church Street,
3 Charlotte, NC 28202.

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

5 A. I am employed as Director, Coal Logistics, Duke Energy Progress, LLC, a utility
6 affiliate of Duke Energy Indiana, LLC (“Duke Energy Indiana” or “Company”).
7 In that capacity, I also provide services for Duke Energy’s other affiliate utility
8 companies, including Duke Energy Indiana, LLC.

9 **Q. ARE YOU THE SAME SHAWN SHULTZ WHO SPONSORED DIRECT**
10 **TESTIMONY IN THIS PROCEEDING?**

11 A. Yes, I am.

12 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

13 A. The purpose of my rebuttal testimony is to respond to the testimony filed by Mr.
14 Mike Eckert on behalf of the Indiana Office of Utility Consumer Counselor
15 (“OUCC”).

16 **Q. MR. SHULTZ, HAVE YOU READ THE TESTIMONY OF MR. ECKERT?**

17 A. Yes, I have.

SHAWN SHULTZ

1 **Q. MR. ECKERT STATES THAT THE COMPANY HAS NOT TRIED TO**
2 **“ENFORCE ANY NON-COMPLIANCE OPTIONS IN ITS RAIL**
3 **CONTRACTS”, HOW DO YOU RESPOND?**

4 A. As it pertains to the current set of circumstances, no. The Company’s rail
5 transportation agreements do not contain provisions governing non-performance
6 by the railroads. While Duke Energy Indiana actively negotiates with its rail
7 transportation providers to ensure that customers are receiving the lowest
8 reasonably possible transportation rates, the contractual terms and conditions
9 supporting those rates are standard, and it is common railroad practice to not
10 negotiate or amend these terms and conditions, especially the performance
11 language. Despite terms and conditions being standard and being captive to
12 specific rail providers, the Company, during its negotiations, regularly discusses
13 opportunities to include performance language in its rail contracts but the
14 railroads have been unwilling to negotiate on this point. It is worth noting that
15 performance language would potentially expose the Company’s customers to
16 damages resulting from supply and demand factors outside the Company’s
17 control. With that said, the Company actively communicates with its rail
18 providers and seeks improved performance from its rail transportation providers,
19 including asking what the Company could do to help incentivize or facilitate
20 better performance.

IURC CAUSE NO. 38707-FAC134
REBUTTAL TESTIMONY OF SHAWN SHULTZ
FILED DECEMBER 12, 2022

1 **Q. MR. ECKERT STATES THAT THE COMPANY HAS NOT “FILED A**
2 **COMPLAINT” WITH THE STB, HOW DO YOU RESPOND?**

3 A. The Company was proactively communicating with its rail transportation
4 providers for improved rail performance prior to complaints being filed with the
5 STB. While the Company did not file its own complaint with the STB, we
6 instead participated through our membership in the NCTA. Additionally, the
7 Company decided to maintain pressure on the rail providers through frequent
8 direct communications, including at the leadership level. As a member of the
9 National Coal Transportation Association (“NCTA”), the Company was a party to
10 the written submission and in person presentation documenting the rail
11 transportation service disruptions presented to the STB on behalf of its members.

12 **Q. WHAT IS THE STATUS OF THE STB PROCESS?**

13 A. The STB held hearings regarding “inconsistent and unreliable rail service” on
14 April 26 and 27, in Washington, D.C.¹ The hearings were focused on recent rail
15 service problems as well as recovery efforts of the Class I railroads. CSX
16 Transportation, Inc., Norfolk Southern Railway Company, and Union Pacific
17 Railroad Company all presented testimonies during the hearings.

18 **Q. WHAT WAS THE RESULT OF THE STB HEARINGS?**

¹ <https://www.argusmedia.com/en/news/2320157-us-regulator-plans-hearing-on-rail-services-woes#:~:text=US%20rail%20regulators%20will%20hold,involving%20several%20Class%20I%20railroads.>

IURC CAUSE NO. 38707-FAC134
REBUTTAL TESTIMONY OF SHAWN SHULTZ
FILED DECEMBER 12, 2022

1 A. The STB issued its decision in this matter on May 5, 2022, which included the
2 following statement: “The Board has ordered service recovery plans and progress
3 reports from the four largest U.S. rail carriers and is directing those carriers to
4 participate in biweekly conference calls to further explain efforts to correct
5 service deficiencies. The Board is also requiring all Class I rail carriers to report
6 more comprehensive and customer-centric performance metrics and employment
7 data for a six-month period.”² As a member of the NCTA and a party to their
8 comments, actions from the STB will be applicable to Duke Energy Indiana.
9 Regardless of the STB process, the Company is continuing to work with its rail
10 providers to promote increased performance.

11 **Q. WILL THE COMPANY CONTINUE TO PROVIDE UPDATES ABOUT**
12 **RAIL PERFORMANCE?**

13 A. Yes. The Company will continue to provide updates regarding rail performance
14 in subsequent FAC proceedings. Additionally, the Company will continue to
15 explain its efforts to encourage rail providers to improve their performance. The
16 Company will also continue to review its rail performance along with the STB
17 required performance reporting with the OUCC during the audit process. Finally,
18 the Company agrees with Mr. Eckert’s recommendation to continue to keep the
19 Commission updated on the Company’s coal transportation issues.

² <https://www.stb.gov/news-communications/latest-news/pr-22-28/>

1 **Q. MR. ECKERT TESTIFIES THAT DEI’S COAL INVENTORY ISSUES**
2 **CAUSED DEI TO DIVERT COAL FROM EDWARDSPORT TO**
3 **CAYUGA. DID THE COMPANY MODIFY THE OPERATIONS OF**
4 **EDWARDSPORT TO SUPPORT COAL DELIVERIES TO CAYUGA**
5 **DURING THIS FAC PERIOD?**

6 A. No, the Company did not modify the operations of Edwardsport to support coal
7 deliveries to Cayuga during this FAC period. Mr. Eckert is correct that from
8 January through March 2022, Edwardsport was operated on approximately half
9 natural gas and half gasified coal to provide the flexibility to allocate deliveries of
10 coal between Edwardsport and Cayuga to help ensure Cayuga maintained reliable
11 fuel supply.

12 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

13 A. Yes, it does.

VERIFICATION

I hereby verify under the penalties of perjury that the foregoing representations are true to the best of my knowledge, information, and belief.

Signed: Shawn Shultz

Date: December 12, 2022