

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of)
DE-Ohio for Approval of its RS3P,) Case No. 07-625-EL-ATA
Residential Three-Phase Tariff)

In the Matter of the Application of Duke)
Energy Ohio, Inc. for Approval of Changes) Case No. 07-626-EL-ATA
to its Retail Electric Service (P.U.C.O. No. 19))
to Add New Residential Three-Phase Service.)

FINDING AND ORDER

The Commission finds:

- (1) The Applicant, Duke Energy Ohio (Duke), is a public utility as defined in Section 4905.02, Revised Code, and, as such, is subject to the jurisdiction of this Commission.
- (2) On May 23, 2007, Duke, in Case Nos. 07-625-EL-ATA and 07-626-EL-ATA, filed applications seeking approval of a new rate schedule, RS3P, Residential Three Phase Service.
- (3) On May 31, 2007, Duke filed a motion to withdraw its application in Case No. 07-626-EL-ATA as it was inadvertently filed as a duplicate of Case No. 07-625-EL-ATA.
- (4) Duke's proposed Rate RS3P is to apply to three-phase electric service for all domestic purposes in private residences and single occupancy apartments and separately metered common use areas of multi occupancy buildings in the Applicant's service territory where distribution lines are adjacent to the premises to be served, where the building requires three-phase service, and where Duke has an existing 208y/120V network grid.
- (5) The proposed new service was filed as a result of a partial stipulation filed with this Commission on April 30, 2007, in *James Byerly Jr. v. Duke Energy Ohio, Inc.*, Case Nos. 07-196-EL-CSS, et. al. Those complaint cases involved billing disputes from customers residing in a multi-unit residential condominium complex known as the American Building. Due to the three-phase at the meter wiring configuration in that complex, the tenants did not qualify to receive service under Duke's standard

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Residential Service Rate, RS, which applies exclusively to single-phase use. In the stipulation, Duke agreed to develop a three-phase residential rate that captured the incremental cost difference in providing three-phase residential service over single-phase residential service. The Commission approved the partial stipulation in its Entry of May 16, 2007, in Case Nos. 07-196-EL-CSS, *et. al.* In that Entry, the Commission found that Duke should file, within seven days, an application for tariff amendment (ATA) for a residential three-phase service tariff in a separate docket. In addition, the complainants and the Office of the Ohio Consumers' Counsel (OCC) were given the opportunity to file comments on Duke's proposal within 10 days after Duke's ATA filing.

- (6) On June 4, 2007, OCC filed a motion to intervene in Case Nos. 07-625-EL-ATA and 07-626-EL-ATA and comments on the application of Duke Energy, Inc. for approval of its new residential three-phase service and proposed tariff. OCC's motion to intervene states reasonable grounds for intervention and should be granted. In its comments, OCC states that certain language in RS3P that has been carried over from Duke's existing residential (RS) tariff is vague or inappropriate and that both tariffs need modifications to improve their clarity. Further, OCC believes that the new RS3P tariff should not be limited to a specific geographic area, downtown Cincinnati, and should be available to all eligible residential customers within Duke's service territory. OCC also points out that under the section entitled "Type of Service", the proposed RS3P tariff incorrectly refers to "single-phase" service.
- (7) On June 14, Duke filed its reply comments to the Comments filed by OCC. Duke disagrees with OCC that RS3P needs to be available to all residential customers and that three-phase service is warranted only under unique circumstances, such as the electrical configuration in portions of downtown Cincinnati where older buildings are being refurbished into multi-unit/multi-floored residential dwellings where three-phase is present and where the grid is capable of providing such service. In normal residential settings, three-phase service provides no benefits and the costs of installation far outweigh any possible efficiency gains. However, Duke agrees that the wording in the "Type of Service" should be corrected to read "three-phase."

- (8) In its comments, OCC claimed that certain language in the tariff is vaguely worded and unclear. The language cited by OCC currently is included in the RS tariff and carried over to the RS3P tariff and such language has previously been approved by this Commission. We believe that this language is sufficiently clear as not to warrant delaying approval of the current application. Such matters can be raised when Duke files an application to modify its residential rate schedules.
- (9) In addition to proposing a two-dollar increase in the Customer Charge for the RS3P tariff over the Customer Charge in the RS tariff (from \$4.50 to \$6.50), Duke has also proposed additional language in the "Applicability" section and in the "Terms and Conditions" section to address the availability of three-phase service. To the "Applicability" section it has added "where the building requires three phase service" and "where the Company has an existing 208Y/120V network grid" to the existing language that the service is available "where distribution lines are adjacent to the premises served." To the "Terms and Conditions" section it has added "the Company is not obligated to extend, expand or rearrange its distribution system if it determines that existing distribution facilities are adequate to serve the customer's load." OCC objects to Duke's proposed language to limit the three-phase tariff to areas served by the 208Y/120V grid. OCC maintains that any residential customer living adjacent to three-phase distribution facilities should be eligible for RS3P service, subject to the higher customer charge for the increased meter expense and subject to payment of the incremental cost of extending three-phase service to their residence. OCC further objects to the language added to RS3P leaving solely to Duke the decision to determine if residential customers have adequate distribution services to meet their needs.

Duke replies that Rate RS3P recognizes a new class of consumers, designed to accommodate installations similar to those of the American Building, where a building formerly used as a commercial enterprise is refurbished into multi-unit condominiums and/or apartments and where three-phase service was necessary and already available due to the total building load. The proposed "Applicability" section takes into account the instances where there may be a cost savings to a developer in installing three-phase service at the residential

meter. Further, Duke, under its Commission-approved Line Extension policy, already provides terms and conditions under which it will modify its distribution system to meet individual customer needs and the level of incremental costs the customer must pay for such extensions.

- (10) The Commission finds that the proposed RS3P, with the correction noted in finding (7) above, complies with the Commission Entry of May 16, 2007 in Case Nos. 07-196-EL-CSS, *et. al.*, is consistent with the terms of the partial stipulation approved in that Entry, and addresses the concerns of the American Building tenants, similarly situated customers and future developers. The application has been filed pursuant to Section 4909.18, Revised Code, and the Commission finds, as the applicant alleges, that it is not for an increase in any rate, joint rate, toll, classification, charge, or rental and does not appear to be unjust or unreasonable and should be approved. Therefore, the Commission finds it unnecessary to hold a hearing in this matter.

It is, therefore,

ORDERED, That OCC's motion to intervene is granted. It is, further,

ORDERED, That Duke's motion to withdraw Case No. 07-626-EL-ATA is granted. It is, further,

ORDERED, That the application of the RS3P tariff is approved consistent with the correction noted in finding (7). It is, further,

ORDERED, That the Applicant is authorized to file in final form four complete copies of the tariff consistent with this Finding and Order. Applicant shall file one copy in its TRF docket (or may make such filing electronically as directed in case No 06-900-AU-WVR) and one copy in this case docket. The remaining two copies shall be designated for distribution to the Rates and Tariffs, Energy and Water Division of the Commission's Utilities Department. It is, further,

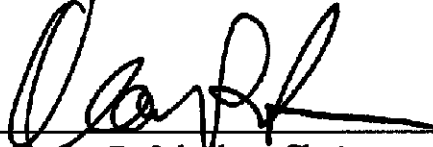
ORDERED, That the effective date of the new tariff shall be applicable to bills rendered beginning with the first billing cycle after the final tariff is docketed. It is, further,

ORDERED, That the Applicant shall notify all customers via a bill message or via a bill insert within 30 days of the effective date of the tariff. A copy of the customer notice shall be submitted to the Commission's Service Monitoring and Enforcement Department, Reliability and Service Analysis Division at least 10 days prior to its distribution to customers. It is, further,

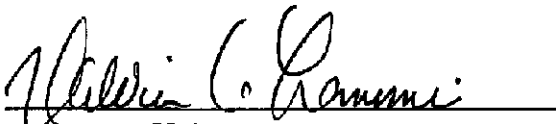
ORDERED, That nothing in this Finding and Order shall be binding upon this Commission in any future proceeding or investigation involving the justness or reasonableness of any rate, charge, rule or regulation. It is, further,

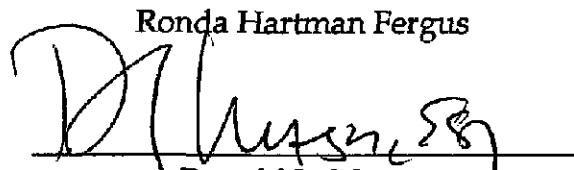
ORDERED, That a copy of this Finding and Order be served upon the Applicant and all parties of record.

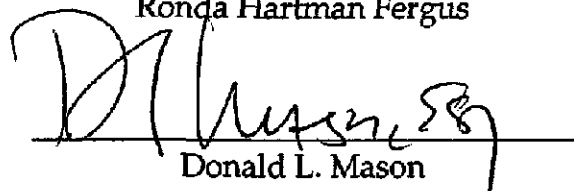
THE PUBLIC UTILITIES COMMISSION OF OHIO



Alan R. Schriber, Chairman

Paul A. Centolella

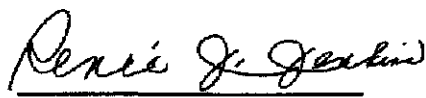
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JUL 25 2007



Renee J. Jenkins
Secretary