

**FILE**

**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

In The Matter of the Application of )  
Duke Energy Ohio, Inc. for an )  
Increase in Electric Distribution Rates )

Case No. 08-709-EL-AIR

In the Matter of the Application of )  
Duke Energy Ohio, Inc. for Tariff )  
Approval )

Case No. 08-710 -EL-ATA

In the Matter of the Application of )  
Duke Energy Ohio, Inc. for Approval )  
to Change Accounting Methods )

Case No. 08-711-EL-AAM

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**MOTION OF DUKE ENERGY OHIO, INC.  
TO SET TEST PERIOD UNDER R.C. 4909.15(C)  
AND FOR WAIVER OF CERTAIN FILING  
REQUIREMENTS UNDER OAC 4901-7-01**

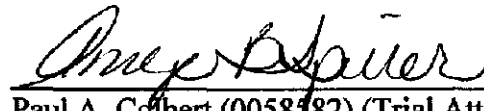
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Now comes Duke Energy Ohio, Inc. (DE-Ohio), Applicant herein, and states that it plans to file an Application for approval of an increase in its electric distribution rates on or about July 25, 2008. In connection with its Application, DE-Ohio moves that the Public Utilities Commission of Ohio (Commission): (1) issue an order allowing DE-Ohio, pursuant to R.C. 4909.15(C), to use a test period from January 1, 2008, through December 31, 2008, with a date certain of March 31, 2008, and (2) grant DE-Ohio a waiver, pursuant to Ohio Administrative Code (OAC) 4901-7-01, from certain filing requirements contained in OAC 4901-7-01, Appendix A.

The grounds for this motion are set forth in the accompanying memorandum.

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Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Amy B. Spiller", is written over a horizontal line.

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## **MEMORANDUM IN SUPPORT**

### **I. TEST PERIOD**

DE-Ohio plans to file an application for an increase in rates for its electric distribution service on or about July 25, 2008. DE-Ohio proposes to use the twelve months ending December 31, 2008, as the test year for the filing. Since DE-Ohio uses a calendar year reporting period for its financial results and DE-Ohio prepares detailed quarterly financial reports, it is reasonable for DE-Ohio to submit three months of actual financial data that coincides with the end of a quarterly reporting period. This quarterly financial data is subject to more rigorous internal review because it is used for various reporting purposes and, therefore, is a better basis for establishing new rates. The quarterly financial data that DE-Ohio would use for a July 25, 2008 application date is the financial data for the quarter ending March 31, 2008.

Under R.C. 4909.15(c), the test period shall be the six months prior to the filing date and the six months after the filing date, unless otherwise ordered by the Commission. DE-Ohio requests that the Commission issue an order providing that, if DE-Ohio files for an increase in rates for its distribution service on or around July 25, 2008, the test period will be the twelve months ending December 31, 2008. This would coincide with DE-Ohio using three months of actual quarterly financial data for the three months ending March 31, 2008, and it will provide DE-Ohio the certainty it needs to prepare the financial data for its application.

### **II. WAIVERS UNDER OAC 4901-7-01**

Under OAC 4901-7-01, the Commission may grant a utility a waiver from the filing requirements for an application for an increase in rates. DE-Ohio requests that the Commission grant DE-Ohio a waiver pursuant to OAC 4901-7-01 from certain filing requirements under OAC 4901-7-01, Appendix A, relating to: (1) Integrated Resource Planning (IRP); (2) generation

and fuel-related information; (3) system maps; and (4) income tax returns.

The Commission's practice for reviewing requests for waivers from its standard filing requirements is as follows:

- (A) A request for waiver of any of the provisions of the standard filing requirements must set forth the specific reasons in support of the request. The commission shall grant the request for a waiver upon good cause shown by the utility. In determining whether good cause has been shown, the commission shall give due regard, among other things to:
  - (i) Whether other information, which the utility would provide if the waiver is granted, is sufficient so that the commission staff can effectively and efficiently review the rate application.
  - (ii) Whether the information, which is the subject of the waiver request, is normally maintained by the utility or reasonably available to it from the information which it maintains.
  - (iii) The expense to the utility in providing the information, which is the subject of the waiver request.<sup>1</sup>

DE-Ohio submits that good cause exists for the aforementioned waivers and requests that the Commission grant DE-Ohio a waiver, pursuant to OAC 4901-7-01, Appendix A, from the filing requirements discussed more fully below.

#### A. IRP RELATED STANDARD FILING REQUIREMENTS

DE-Ohio requests a waiver from the standard filing requirements contained in OAC 4901-7-01, Appendix A, Chapter II, Section I, related to IRP, including but not limited to Schedule S-4.2, as well as detailed information regarding the costs in its rate base and operating income relating to any supply-side or demand-side projects or programs from DE-Ohio's latest Commission-approved IRP. DE-Ohio submits that, to a certain extent, these requirements are moot because the Commission's IRP implementation filing requirements have been repealed.<sup>2</sup> To the extent that DE-Ohio seeks cost recovery for demand-side management services in

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<sup>1</sup> OAC 4901-7-01, Appendix A, Chapter II (A)(4)(c).

<sup>2</sup> See OAC Chapter 4901:5-9.

connection with this proceeding, or any related proceeding, DE-Ohio will submit appropriate information to document any request for recovery of such costs.

**B. GENERATION, TRANSMISSION AND FUEL RELATED INFORMATION**

DE-Ohio requests a waiver from the standard filing requirements under 4901-7-01, Appendix A, Chapter II, regarding information related to DE-Ohio's generation, transmission, and fuel supply. DE-Ohio submits that it intends, in this proceeding, to only request an increase in distribution rates, and it will not request an increase in any rates associated with generation, including fuel, or transmission.<sup>3</sup> Thus, information related to generation is not relevant to DE-Ohio's requested increase in distribution rates. Therefore, in the interest of administrative economy, DE-Ohio requests a waiver from the following standard filing requirements to the extent they call for generation or fuel related information:

- Schedule B-8 - Generation data
- Schedule S2 - Capital Expenditures (generation related);
- Schedule S2.1 - Mix of generation, mix of fuel;
- Appendix A, Chapter II, Section B(H) - Electric Generation and Reserve Margin, Steam Heating, Water and Gas Data;
- Schedule D-5, page 4 of 4, Rate of Return Measures, Other Financial and Operating Data - Mix of fuel;
- Supplemental Information, Chapter II (C)(23) - Fuel stock component listed in Schedule B-5.1;
- Supplemental Information, Chapter II (C)(28) - Copy of yearly kWh generated by unit or by station and purchased power received and delivered by type of

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<sup>3</sup> Rates for generation are subject to the Commission's limited jurisdiction over competitive retail electric service under R.C. §§4928.05, 4928.14(A). Transmission rates are established by the Federal Energy Regulatory Commission and are recovered on an unbundled basis via the Transmission Cost Recovery Rider.

transaction for the test year;

- Supplemental Information, Chapter II (C)(29) - Monthly expense data by accounts for fuel in accounts 501, 518, 547, and purchased power in account 555.

Further, for the same reasons as noted above, DE-Ohio requests a waiver from the requirements of OAC 4901-7-01, Appendix A, Chapter II(B)(9)(g) – management policies, practices and organization to the extent these management policies, practices and organizations are related solely to DE-Ohio’s generation, fuels, wholesale power marketing, and other functions of its non-jurisdictional businesses.

#### C. SYSTEM MAPS

DE-Ohio also seeks a waiver from the requirement under OAC 4901-7-01, Appendix A, Chapter II(C)(13) that it file total system maps. Since the filing of information with its application results in the information becoming public, DE-Ohio is concerned that such information constitutes critical utility infrastructure and presents a security risk to the company, its customers, and the general population if it were to become publicly available. This risk cannot be eliminated by filing the information under seal and pursuant to a motion for confidential protection, as such information would still be subject to public information requests and an ongoing need to justify why such information should be kept confidential. Waiver of this requirement will not hinder the Commission’s examination of DE-Ohio’s rate application. DE-Ohio commits that it will make the maps available for inspection by Parties to the proceeding at its offices during normal business hours, subject to an appropriate confidentiality agreement. Allowing DE-Ohio to avoid filing its system maps will mitigate potential security concerns.

#### D. INCOME TAX RETURNS

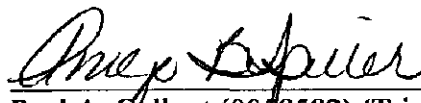
DE-Ohio seeks a waiver from the standard filing requirements related to providing

information regarding federal and state income tax returns contained in Appendix A, Chapter II (C)(37) & (44). These income tax returns contain confidential and proprietary information and the filing of this information with the application would effectively make them public documents. DE-Ohio proposes to make this information available for review by Parties to the proceeding during normal business hours, at its offices in Cincinnati, Ohio, as necessary and subject to an appropriate confidentiality agreement.

### **III. CONCLUSION**

Based upon the foregoing, Duke Energy Ohio, Inc. respectfully requests that the Commission grant its request to set the test period for the twelve months ending December 31, 2008, and issue an order granting waivers from the Commission's standard filing requirements under OAC 4901-7-01 as requested herein.

Respectfully submitted,



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## **CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing Motion for Waiver was sent by first class US Mail to the following this 24 day of June 2008:

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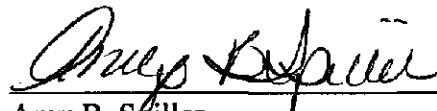
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