

## BEFORE

## THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke Energy Ohio, Inc., for Approval of an Electric Security Plan.	)	Case No. 08-920-EL-SSO
	)	
In the Matter of the Application of Duke Energy Ohio, Inc., for Approval to Amend Accounting Methods.	)	Case No. 08-921-EL-AAM
	)	
In the Matter of the Application of Duke Energy Ohio, Inc., for Approval of a Certificate of Public Convenience and Necessity to Establish an Unavoidable Capacity Charge(s).	)	Case No. 08-922-EL-UNC
	)	
In the Matter of the Application of Duke Energy Ohio, Inc., for Approval to Amend its Tariff.	)	Case No. 08-923-EL-ATA
	)	

ENTRY

The attorney examiner finds:

- (1) On July 31, 2008, Duke Energy Ohio, Inc., (Duke) filed an application for a standard service offer pursuant to Section 4928.141, Revised Code. This application is for an electric security plan in accordance with Section 4928.143, Revised Code. Together with that application, Duke also filed three other related applications, captioned above.
- (2) By entry issued August 5, 2008, the attorney examiner established a procedural schedule for these proceedings. That schedule was modified by entries issued September 5, 2008, and October 15 and 22, 2008. That schedule currently requires that intervenor testimony be filed no later than October 27, 2008, staff testimony be filed no later than October 30, 2008, and that the hearing commence on November 3, 2008.
- (3) On October 27, 2008, Duke filed a stipulation signed by most of the parties. On October 30, 2008, Duke filed a motion to revise the procedural schedule and requested expedited treatment of its motion. Duke notes that the parties reached a settlement that

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.  
 Technician SM Date Processed 10/31/08

resolves most of the issues presented in these cases among most of the parties. However, Duke notes that the Industrial Energy Users-Ohio (IEU-Ohio) is the only active party that has not agreed to terms of the stipulation and that IEU-Ohio specifically opposes the terms for exemption from energy efficiency mandates set forth in the stipulation. Duke also notes that the Ohio Consumers' Counsel (OCC) signed the stipulation but reserved the right to litigate the issue of whether residential governmental aggregation customers may avoid the proposed Rider SRA-SRT and receive the same shopping credit as nonresidential customers. According to Duke, because OCC and IEU-Ohio oppose aspects of the stipulation, the stipulation does not resolve all issues among the parties and it is necessary to set a procedural schedule to resolve the remaining issues. Duke asks that the hearing be continued to November 10, 2008, at 9:00 a.m.; that staff testimony be filed by October 31, 2008; that intervenor testimony be filed by November 5, 2008; and that depositions be conducted at a time agreed to by the applicable parties with daily transcripts ordered and available for use at the hearing. Duke also asserts that all parties agree to waive Rule 4901-1-21(N), Ohio Administrative Code (O.A.C.), regarding the prefiling of deposition transcripts.

- (4) As noted by Duke, this is a request for an extension of more than five days. Rule 4901-1-12(C), O.A.C., provides that, in such a situation, the examiner may rule immediately, if the moving party certifies that no party objects to the issuance of such a ruling. Duke states that it has contacted all parties and that no party has objected. The examiner finds that the requested extension is reasonable. Therefore, Duke's motion to modify the procedural schedule and continue the hearing will be granted.
- (5) With regard to Rule 4901-1-21(N), O.A.C., the examiner notes that the rule only requires prefiling of deposition transcripts that are to be used as evidence. No prefiling is necessary if deposition testimony is to be used merely for impeachment. With that understanding, the examiner will waive the rule and will allow deposition transcripts to be filed at any time prior to their use as evidence at the hearing.
- (6) The schedule for the proceedings shall now be as follows:

- (a) Testimony on behalf of the staff should be filed by October 31, 2008.
- (b) Testimony on behalf of intervenors should be filed by November 5, 2008.
- (c) Depositions shall be at a time agreed to by parties with daily transcripts ordered and available for use at the hearing.
- (d) The evidentiary hearing shall commence on November 10, 2008, at 9:00 a.m., at the office of the Commission, Hearing Room 11-C, 180 East Broad Street, Columbus, Ohio.

It is, therefore,

ORDERED, That Duke's motion be granted. It is, further,

ORDERED, That the procedural schedule be modified as set forth in finding (6). It is, further,

ORDERED, That a copy of this entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

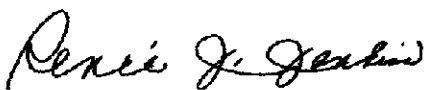


By: Scott Farkas  
Attorney Examiner

gaf/ct

Entered in the Journal

**OCT 31 2008**



Renee J. Jenkins  
Secretary