

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke)
Energy Ohio for Recovery of Costs, Lost)
Margin, and Performance Incentives) Case No. 09-283-EL-RDR
Associated with the Implementation of)
Electric Residential and Non-Residential)
Demand Side Management Programs.)

ENTRY

The attorney examiner finds:

- (1) On March 31, 2009, as amended July 13, 2009, Duke Energy Ohio (Duke) filed a status report on its existing demand side management (DSM) programs and an application to reconcile and update the DSM riders for recovery of program costs, lost margins, and shared savings associated with the implementation of a set of DSM programs.
- (2) On April 2, 2009, The Kroger Company (Kroger) filed a motion to intervene in this case. In its motion to intervene, Kroger asserts that it is a consumer of significant amounts of electric service provided by Duke; therefore, Kroger submits that it stands to be significantly affected by any change in Duke's rates. Moreover, Kroger maintains that no other party can protect its interests in this proceeding, and that its participation in this proceeding will not unduly delay the proceeding or prejudice the interests of any party to the proceeding.
- (3) On May 20, 2009, the Office of the Ohio Consumers' Counsel (OCC) filed a motion to intervene. In support of its motion, OCC asserts that, as a representative of Duke's residential consumers, it has a substantial interest in assuring that those consumers' interests are protected with respect to the appropriate management of Duke's energy efficiency programs and electric service rates. OCC also avers that its significant experience in Commission proceedings will allow for the efficient processing of this matter with consideration of the public interest.
- (4) On May 22, 2009, Ohio Partners for Affordable Energy (OPAE) filed a motion to intervene and a motion for admission *pro hac*

vice on behalf of David C. Rinebolt. In its motion to intervene OPAE asserts that its intervention, will further its purpose of promoting affordable and accessible energy products for all Ohioans and the purpose of some of its member agencies of advocating for low-income Ohioans. Moreover, OPAE asserts that some of its member agencies receive service from Duke. OPAE further states that its participation in this proceeding will not cause undue delay or undue prejudice to any party, and will contribute to the just and expeditious resolution of the matter.

- (5) No party opposed the motions to intervene or the motion for admission *pro hac vice*. Therefore, the attorney examiner finds that the motions to intervene and for admission *pro hac vice* are reasonable and should be granted.
- (6) The attorney examiner also finds that the instant case, which was originally docketed as Case No. 09-283-EL-UNC, is more appropriately docketed with the RDR purpose code, as it specifically addresses riders. Accordingly, now and hereafter, Case No. 09-283-EL-UNC should be designated as Case No. 09-283-EL-RDR.
- (7) The attorney examiner finds that a telephone conference should be held on January 11, 2010, at 10:00 a.m., in order to discuss procedural matters in this case. The parties will be notified via email how to access the conference call.

It is, therefore,

ORDERED, That the motion for admission *pro hac vice* of David Rinebolt be granted. It is, further,

ORDERED, That the motions to intervene filed by Kroger, OCC, and OPAE be granted. It is, further,

ORDERED, That Case No. 09-283-EL-UNC be, now and hereafter, designated as Case No. 09-283-EL-RDR. It is, further,

ORDERED, That a telephone conference be held as set forth in Finding (7). It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

Katie L. Stenman

By: Katie L. Stenman
Attorney Examiner

geg/dah

Entered in the Journal

DEC 22 2008

Renee J. Jenkins

Renee J. Jenkins
Secretary