

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the 2010 Long-Term Forecast    )    Case No. 10-503-EL-FOR  
Report of Duke Energy Ohio, Inc.                    )

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**REPLY TO DUKE ENERGY OHIO’S MEMORANDUM CONTRA JOINT MOTION  
FOR LOCAL PUBLIC HEARINGS  
BY  
THE OHIO ENVIRONMENTAL COUNCIL**

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**I.     INTRODUCTION**

On June 15, 2010, Duke Energy Ohio (“Duke” or “the Company”) filed its Long-Term Forecast Report (“Report” or “LTFR”). The Report is comprised of Duke’s Electric Distribution Forecast, which provides the expected loads for Duke over the next 10 years, and Duke’s 2010 Resource Plan, which explains how Duke will meet its customers’ forecasted electric energy service needs. A portion of the Report contains Duke’s strategy for meeting the energy efficiency and Alternative Energy Resources (“AER”) requirements of Senate Bill 221 (“S.B. 221”). The means by which Duke will satisfy the requirements of S.B. 221 are of particular importance to the Ohio Environmental Council (“OEC”) and its membership. More specifically, the OEC intends to ensure that Duke’s planning process incorporates realistic estimates of energy efficiency and renewable energy potential in Ohio and that the impacts of new nuclear generation are fully considered. Therefore, on June 17, 2010, the OEC filed a Motion to Intervene in this proceeding.

On August 17, 2010, the Ohio Consumers’ Counsel, the Environmental Law & Policy Center, the Natural Resources Defense Council, the Sierra Club, and the Ohio Environmental Council (collectively referred to as the “Movants”) filed a joint motion requesting local public

hearings at locations within the Duke service territory, which would give members of the public at least two opportunities to comment on Duke's Report. However, on August 23, 2010, Duke filed a Memorandum Contra to Movants' motion, calling the proposed local public hearings "entirely unnecessary" and "redundant."<sup>1</sup> Duke has chosen to challenge this issue, rather than holding forums and allowing the public a chance to be heard within Duke's service territory. The OEC strongly disagrees with the Company's opposition, and for this reason files this Reply to Duke's Memorandum Contra.

## **II. ARGUMENT**

### **A. Even Though Consumer and Environmental Advocates Have Filed Motions to Intervene in this Proceeding, Members of the General Public Should Still Have The Opportunity To Provide Comment on Duke's LTFR.**

Duke asserts that local public hearings are "entirely unnecessary," in part because the public's interests "are already zealously represented" by parties to this proceeding.<sup>2</sup> The OEC strongly disagrees with this assertion. Consumer and environmental advocates' participation in this case does not mean that members of the general public, including Duke's customers, should not have the opportunity to comment on Duke's LTFR. The OEC represents its 3,000 individual members and their interests in Commission proceedings in Columbus, Ohio. However, there is no substitute for allowing the citizens who could be directly impacted by Duke's energy choices to comment themselves, in person, and at a convenient location. Allowing citizens an opportunity to comment near their homes in southern Ohio is reasonable, and the burden to the Company would be minimal.<sup>3</sup>

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<sup>1</sup> Memorandum Contra (unnumbered) at 1, 5.

<sup>2</sup> Id. at 5.

<sup>3</sup> To the OEC, it certainly seems more convenient for Duke to conduct public hearings in its service territory than outside its service territory.

**B. The Potential Construction of a Multiple Billion Dollar Nuclear Facility is Not An Irrelevant Issue.**

The issues raised in this proceeding are of great importance to members of the public, especially citizens residing in Duke's service territory of southern Ohio, for several reasons. One of the issues raised in this case is whether Duke can demonstrate a need to construct a nuclear energy facility in southern Ohio. Duke's Memorandum Contra attempts to downplay the importance of this issue, arguing that the nuclear issue is not relevant:

“Movants...misunderstand the critical point that Duke Energy Ohio has not asked for approval of such a project, nor is it seeking cost recovery in this docket. It is, therefore, not an appropriate subject for discussion.”

However, there can be no doubt that this forecasting proceeding is an essential first step in the construction process. Duke's LTFR spends many pages discussing the possible need for new nuclear generation, and the Report even discusses the benefits of a “Construction Work in Progress” cost-recovery method.<sup>4</sup> Duke's LTFR, therefore, lays the groundwork for a decision to construct a nuclear facility, which Duke would like to be paid for by its customers. It is reasonable to allow those customers, who would both pay for and reside near Duke's nuclear plant, to provide comment on whether the need for the plant is real, and to provide those comments at a session convenient to their homes and businesses.

**C. The Commission Did Not Say That Local Public Hearings Were Unnecessary.**

Finally, Duke mischaracterizes the Commission's statements and the procedural schedule in arguing that local public hearings are “entirely unnecessary.”<sup>5</sup> The Commission never made any statement to this effect. During the July 28, 2010 status conference, attorney examiners

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<sup>4</sup> See, e.g., Report at 135.

<sup>5</sup> Memorandum Contra at 1.

stated that members of the public would be allowed to register comments at the September 13, 2010 hearing at Commission offices in Columbus. Parties were informed that need for additional opportunities for public participation would be considered at a later time. Therefore, the Commission never suggested that additional public hearings were unnecessary and never foreclosed the option of holding local public hearings.

### **III. Conclusion**

The OEC is incredulous that Duke would choose to litigate the issue of whether to allow its own customers to comment on its forecasting at a time and place convenient to its customers. Encouraging public participation in government is an essential part of OEC's mission. The OEC seeks to provide all Ohioans with opportunities to participate in their government, including in proceedings regarding matters that could impact their environment. For the many reasons described above, Duke's LTFR could affect the amount of energy efficiency and renewable energy undertaken by the Company, which will have a direct impact on Ohio's air quality. These are issues in which all citizens in Duke's service territory have an interest. While Commission proceedings in Columbus are generally open to the public, these proceedings are not a substitute for *local* public hearings. It is not unreasonable to request two public hearings in Duke's service territory. For all of these reasons, and those contained in the original Joint Motion, the OEC asks the Commission to grant the Joint Motion and hold at least two public hearings within the Duke's service territory.

Respectfully Submitted,

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## CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing has been served upon the following parties by first class or electronic mail this 26<sup>th</sup> day of August, 2010.

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