

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke )  
Energy Ohio, Inc. to Adjust Rider DR-IM ) Case No. 12-1811-GE-RDR  
and Rider AU for 2011 SmartGrid Costs. )

ENTRY

The attorney examiner finds:

- (1) By opinion and order issued on December 17, 2008, in *In the Matter of the Application of Duke Energy Ohio, Inc., for Approval of an Electric Security Plan*, Case No. 08-920-EL-SSO, et al. (*ESP Case*), the Commission approved a stipulation that, *inter alia*, provides a process for recovering costs associated with the deployment of an electric SmartGrid system through Rider Distribution Reliability - Infrastructure Modernization (Rider DR-IM). In addition, the stipulation provides that, in the second quarter of each year, Duke Energy Ohio, Inc. (Duke) shall file for approval of Rider DR-IM adjustments, subject to due process, including an opportunity for a hearing. Additionally, by opinion and order issued on May 28, 2008, in *In the Matter of the Application of Duke Energy Ohio, Inc., for an Increase in Rates*, Case No. 07-589-GA-AIR, et al. (*Gas Distribution Rate Case*), the Commission approved a stipulation that, *inter alia*, provided a process for filing deployment plans for the installation of an automated gas meter reading system, which would share the SmartGrid communications technology, and a method for recovering costs associated with the plans, which was designated the Rider Advanced Utility (Rider AU).
- (2) On June 20, 2012, Duke filed an application, along with supporting testimony, to adjust Riders DR-IM and AU for SmartGrid deployment, pursuant to the processes approved in the *Gas Distribution Rate Case* and the *ESP Case*.
- (3) By entry issued July 30, 2012, the attorney examiner established the following procedural schedule for the review of this application:
  - (a) October 1, 2012 – Deadline for the filing of motions to intervene.

- (b) October 15, 2012 – Deadline for the filing of comments on the application by Staff and intervenors.
  - (c) October 29, 2012 – Deadline for all parties to file reply comments.
  - (d) November 8, 2012 – In the event all of the issues raised in the comments are not resolved, or if the Commission deems the application may be unjust or unreasonable, a hearing will be held, and Staff and intervenor testimony will be due on this date.
  - (e) November 19, 2012 – Deadline for Duke to file supplemental testimony.
  - (f) November 27, 2012 – In the event a hearing is deemed necessary, the hearing will commence at 10:00 a.m., at the offices of the Commission.
- (4) On October 5, 2012, Staff filed a motion for an extension of the procedural schedule. Staff explains that it requires additional time to conduct a thorough investigation of Duke's application. Staff requests an extension, until November 21, 2012, for the filing of initial comments by Staff and intervenors and until December 5, 2012, for the filing of reply comments.
- (5) On October 9, 2012, Duke filed a memorandum contra Staff's request for an extension of the procedural schedule. Duke explains that it has responded to significant and exhaustive discovery requests over the last three months. Duke argues that the request for a five-week extension is troubling and the need for the extension was not established by Staff's motion. Duke proposes an alternative procedural schedule and requests that, if the motion for an extension is granted, a discovery deadline of October 15, 2012, be established.
- (6) On October 10, 2012, Staff filed a reply to Duke's memorandum contra. In its reply, Staff asserts that the team auditing this application is actively engaged in reviewing other SmartGrid cases at this time. Moreover, Staff explains that some of its auditors are actively engaged in reviewing

Duke's pending rate cases, in which there are extensive interactions with the present case. Staff asserts that the complexity of reviewing the present case and the rate cases at the same time necessitates its requested extension. With respect to discovery, Staff opposes the imposition of a cut-off date, but states that it will attempt to give Duke ample time to comply with any requests.

- (7) Upon consideration of Staff's motion and the responsive pleadings, and the fact that this is the first request of this nature made by Staff in this case, the attorney examiner finds that Staff's motion to extend the procedural schedule should be granted. However, the attorney examiner cautions the parties that additional extensions will not be granted absent a showing of extraordinary circumstances. Accordingly, the parties should adhere to the following procedural schedule:
  - (a) November 21, 2012 – Deadline for the filing of comments on the application by Staff and intervenors.
  - (b) December 5, 2012 – Deadline for all parties to file reply comments.
  - (c) December 13, 2012 – In the event all of the issues raised in the comments are not resolved, or if the Commission deems the application may be unjust or unreasonable, a hearing will be held, and Staff and intervenor testimony will be due on this date.
  - (d) December 21, 2012 – Deadline for Duke to file supplemental testimony.
  - (e) January 7, 2013 – In the event a hearing is deemed necessary, the hearing will commence at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, 11<sup>th</sup> floor, hearing room 11-C, Columbus, Ohio 43215.
- (8) In the event Duke comes to an agreement with some or all of the parties in this case on some or all of the facts or issues in this case, the attorney examiner finds it appropriate to set

forth a schedule for the filing of such stipulations prior to the commencement of the hearing in this case. Accordingly, Duke must file any applicable stipulation, by 9:00 a.m., on January 4, 2013.

- (9) With regard to Duke's request that the discovery deadline be set for October 15, 2012, at this time, the attorney examiner finds no justifiable reason to set such a deadline. Accordingly, Duke's request should be denied.

It is, therefore,

ORDERED, That Staff's motion for an extension of the procedural schedule be granted. It is, further,

ORDERED, That the procedural schedule set forth in finding (7) be adopted. It is, further,

ORDERED, That the parties adhere to the process established in finding (8). It is, further,

ORDERED, That, in accordance with finding (9), Duke's request for a discovery deadline is denied. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

s/Christine M. T. Pirik

By: Christine M.T. Pirik  
Attorney Examiner

gap/dah

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**10/12/2012 4:39:04 PM**

**in**

**Case No(s). 12-1811-GE-RDR**

Summary: Attorney Examiner Entry granting motion to extend the procedural schedule set forth in findings (7),(8), and (9); electronically filed by Debra Hight on behalf of Christine M. T. Pirik, Attorney Examiner, Public Utilities Commission of Ohio