

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke)
Energy Ohio, Inc., for an Increase in its) Case No. 12-1685-GA-AIR
Natural Gas Distribution Rates.)

In the Matter of the Application of Duke) Case No. 12-1686-GA-ATA
Energy Ohio, Inc., for Tariff Approval.)

In the Matter of the Application of Duke)
Energy Ohio, Inc. for Approval of an) Case No. 12-1687-GA-ALT
Alternative Rate Plan for Gas Distribution)
Service.)

In the Matter of the Application of Duke)
Energy Ohio, Inc., for Approval to Change) Case No. 12-1688-GA-AAM
Accounting Methods.)

**DUKE ENERGY OHIO, INC.'S MEMORANDUM CONTRA
THE OFFICE OF OHIO CONSUMERS' COUNSEL AND OHIO PARTNERS FOR
AFFORDABLE ENERGY JOINT MOTION TO CONTINUE HEARING DATE
EXTENSION OF SCHEDULE FOR DISCOVERY AND DEPOSITIONS AND
PERMISSION TO FILE SUPPLEMENTAL TESTIMONY
AND REQUEST FOR EXPEDITED RULING**

Now comes Duke Energy Ohio, Inc., (Duke Energy Ohio or the Company) in accordance with Rule 4901-1-12(B)(2), Ohio Administrative Code (O.A.C.) and responds to the Office of Consumers' Counsel's (OCC) and Ohio Partners for Affordable Energy (OPAE) (together the Joint Movants) Motion to Continue Hearing in these proceedings. Duke Energy Ohio respectfully urges the Commission to deny the motion and maintain the existing hearing date.

Duke Energy Ohio submitted its Application in these proceedings on July 9, 2013. The case has been pending for more than ten months. The remaining issues to be resolved have been significantly limited by a Stipulation and Recommendation that was submitted to the

Commission for its approval on April 2, 2013. The Joint Movants have had more than sufficient time to conduct discovery and prepare for hearing. The Joint Movants have received necessary extra documents in discovery and have now deposed the Company's witnesses. The hearing should proceed as scheduled.

I. Factual Background

On April 2, 2013, the parties to these proceedings submitted a Stipulation and Recommendation that resolves most of the outstanding issues raised by the Company's application, the Report of Investigation submitted by the Staff of the Public Utilities Commission (Staff) and the Objections submitted by the various parties. By agreement, the Parties reserved their respective positions and agreed to litigate the Company's request for recovery of previously deferred costs for environmental remediation of sites containing former manufactured gas plants (MGP). On April 4, 2013, the Attorney Examiner issued an Entry directing the parties to submit statements as to whether their respective witnesses will appear at the evidentiary hearing and which portions of witnesses testimony addresses the issues to be litigated. The Entry further directed that Staff and all parties shall file any additional expert testimony by April 22, 2013.

Duke Energy Ohio submitted the testimony of its witnesses Gary J. Hebbeler, Shawn S. Fiore and William Don Wathen, Jr., as directed on April 22, 2013. The testimony provided is focused specifically on issues raised only by the Joint Movants in these proceedings.

II. Argument

The Joint Movants objected to the filing of this testimony, notwithstanding that the Attorney Examiner's Entry expressly permitted these filings. The Joint Movants suggest that filing such testimony is not consistent with the apparent intent of the Attorney Examiner's Entry although there is nothing in the Entry that would suggest an "apparent intent" either way. The

Entry clearly stated that “Staff and all parties shall file any additional testimony” by April 22, 2013. Also the Joint Movants issued a Notice of Deposition on April 24, 2013, seeking to depose two of the Company’s witnesses. The Company responded by providing both witnesses immediately for deposition and the depositions are taking place today, April 25, 2013. In connection with the depositions, the Company has provided requested documents as well.

The Joint Movants claim that the Company has “ambushed” interested parties with the filing of this additional testimony. However none of the testimony filed should come as a surprise to the Joint Movants as it is clearly within the subject area that Joint Movants have raised with respect to this proceeding.

The Joint Movants correctly pointed out that the Company is fully cooperating with the Parties and has expedited the taking of the two requested depositions and has provided the documents necessary to allow counsel to fully prepare in advance. As noted by the Joint Movants, the Commission recognized earlier that the process of deposing witnesses prior to a hearing enhances counsels’ ability to focus questions at hearing and will lead to a full and expeditious processing of the case. Duke Energy Ohio has made its witnesses available on an expedited fashion. Joint Movants should be more than adequately prepared to begin hearing on Monday, April 29, 2013.

III. Additional Testimony

Joint Movants request that they be permitted to file supplemental testimony in response to the testimony filed by the Company. However, the Joint Movants had more than adequate opportunity to file any additional required testimony on April 22, 2013, at the same time as the Company filed testimony per the Attorney Examiners’ Entry. Indeed the issues addressed in the testimony filed on April 22, 2013, were raised by OCC in these proceedings. Also, at least one

of the Joint Movants, OPAE, did not preserve this issue for litigation and has not participated in the filing of any testimony in these proceedings to date. With respect to OPAE in particular, it is clear that it did not preserve its own interests in the MGP issue when referring to the statement filed on April 22, 2013, wherein OPAE refers exclusively on objections raised by OCC to support its own right to continue to litigate these issues. For OPAE to now raise opposition or to seek to file any testimony respecting anything related to the MGP remediation cost recovery is improper and untimely.

IV. Conclusion

The Parties have had many months to prepare for this hearing. The Parties, like the Company, had an opportunity on April 22, 2013 to file additional testimony if needed. The Company has witnesses arriving in Ohio from out of state for Monday's hearing and the Company has provided its witnesses for deposition and provided discovery as requested by the Parties. For these reasons, the hearing should proceed as scheduled on Monday, April 29, 2013.

Respectfully submitted,
DUKE ENERGY OHIO, INC.



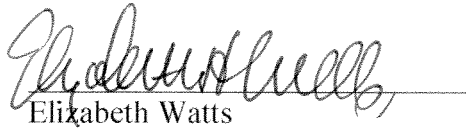
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing document was served this 26th day of April, 2013, by U.S. mail, postage prepaid, or by electronic mail upon the persons listed below.


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Summary: Memorandum Duke Energy Ohio, Inc.'s Memorandum Contra Motion to Continue Hearing Date and for Discovery of the Office of the Ohio Consumers' Counsel and Ohio Partners for Affordable Energy electronically filed by Ms. Elizabeth H Watts on behalf of Duke Energy Ohio, Inc.