

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of)	
Duke Energy Ohio, Inc. for Approval)	Case No. 14-1160-EL-UNC
of an Advanced Meter Opt-Out Service)	Case No. 14-1161-EL-AAM
Tariff.)	

ENTRY

The attorney examiner finds:

- (1) Duke Energy Ohio, Inc. (Duke) is a public utility as defined in R.C. 4928.02 and, as such, is subject to the jurisdiction of this Commission.
- (2) On May 19, 2014, the Commission final filed with the Joint Committee on Agency Rule Review (JCARR) an amended rule in Ohio Adm.Code 4901:1-10-05, with an effective date of May 29, 2014, that required electric utilities to file proposed advanced meter opt-out service tariffs.
- (3) On June 27, 2014, Duke filed an application in this case for approval of a proposed advanced meter opt-out service rider, the Rider Non-Standard Metering (Rider NSM), and requested accounting authority to 1) defer and recover costs associated with changes to the Company's billing and customer services systems in order to facilitate this new service; 2) defer and recover costs related to ongoing operations needed to integrate non-standard meters into the Company's systems; and 3) implement the Company's proposed tariff to permit customers to opt-out of receiving Duke's standard, advanced meters and employ non-standard, traditional meters.
- (4) Thereafter, on August 17, 2015, the Ohio Partners for Affordable Energy (OPAE) filed a motion to intervene and a memorandum in support. OPAE asserts that it has good cause to intervene in this proceeding because, pursuant to Duke's proposed tariffs, customers would be charged for electing to receive advanced meter opt-out service. No party filed a memorandum contra to OPAE's motion to intervene.

The attorney examiner finds that OPAC's motion to intervene is reasonable and should be granted.

- (5) On August 19, 2015, Ohio Consumers' Counsel (OCC) filed a motion to amend the procedural schedule and a memorandum in support. OCC argues that intervenor testimony should be due on the same date as Staff testimony, which is after Duke's testimony. OCC asserts that it should be provided an opportunity to file responsive testimony to the testimony filed by Duke.
- (6) Thereafter, on August 25, 2015, Duke filed a memorandum contra to OCC's motion to amend the procedural schedule. Duke asserts that OCC's motion is procedurally improper, organizationally unnecessary, and substantively inequitable. Duke asserts that it is common Commission practice for Staff to file its testimony after the parties, and that granting OCC's motion would provide them with an unreasonable opportunity to file rebuttal testimony. Duke requests that if the attorney examiner grants OCC's motion to amend the procedural schedule, then Duke should be provided an opportunity to file supplemental testimony.
- (7) On August 31, 2015, OCC filed a reply to Duke's memorandum contra. OCC reasserts that its motion should be granted and that granting its motion would not disadvantage any party to this proceeding.
- (8) The attorney examiner finds that OCC's motion to amend the procedural schedule should be denied. Ohio Adm.Code 4901-1-29(A) provides the Commission, the legal director, the deputy legal director, or the attorney examiner with the authority to exercise discretion when adopting a procedural schedule. Additionally, the rule requires that direct expert testimony, except testimony to be offered by Staff, shall be filed with the Commission and served upon all parties before it is used, without regard to whether the testimony is being filed by the applicant or an intervenor.

Despite OCC's assertions, it is common Commission practice for the attorney examiner to exercise discretion when adopting a procedural schedule, and it is not uncommon for

the applicant and intervenors to share the same deadline for filing testimony. *In re The Dayton Power and Light Co.*, Case No. 13-833-EL-POR, Entry (June 14, 2013) at 2. Further, when intervenors and Staff share the same deadline for filing testimony, it is common for the applicant to be provided an opportunity to file supplemental testimony. *In re Duke*, Case No. 12-1811-GE-RDR, Entry (Feb. 14, 2013) at 2. In this instance, the attorney examiner finds that granting OCC's motion to amend the procedural schedule would provide OCC with an unreasonable opportunity to file rebuttal testimony to Duke's expert direct testimony. Therefore, OCC's motion to amend the procedural schedule should be denied.

ORDERED, That OPAE's motion to intervene be granted, in accordance with Finding (4). It is, further,

ORDERED, That OCC's motion to amend the procedural schedule be denied, in accordance with Finding (8). It is, further

ORDERED, That a copy of this Entry be served upon each party of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

s/Bryce McKenney

By: Bryce A. McKenney
Attorney Examiner

JRJ/sc

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in

Case No(s). 14-1160-EL-UNC, 14-1161-EL-AAM

Summary: Attorney Examiner Entry granting OPAE's motion to intervene and denying OCC's motion to amend the procedural schedule. - electronically filed by Sandra Coffey on behalf of Bryce McKenney, Attorney Examiner, Public Utilities Commission of Ohio