

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke)
Energy Ohio, Inc. for Approval of its) Case No. 16-576-EL-POR
Energy Efficiency and Peak Demand)
Reduction Portfolio of Programs.)

**RESPONSE TO THE PUCO STAFF'S
MOTION FOR EXTENSION TO FILE STAFF TESTIMONY
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

In this case, Duke is asking for approval of an energy efficiency and peak demand reduction portfolio plan that would require residential customers to pay over \$45 million in program costs over three years. On December 22, 2016, a settlement was filed between Duke and several parties. The Office of the Ohio Consumers' Counsel ("OCC") and the Public Utilities Commission of Ohio Staff ("PUCO Staff") are not parties to the settlement. Under the proposed settlement, Duke's proposed programs from its application will be approved, new programs will be added at additional cost to consumers, and there is no cap on the amount that customers will pay for Duke's profits (shared savings). Currently, all parties opposing the December 22, 2016 settlement in this case, including the PUCO Staff, must file testimony by January 18, 2017.¹

On January 17, 2017, the PUCO Staff filed a motion seeking an extension of the filing date for its testimony. OCC supports the PUCO Staff's Motion for Extension to File Staff Testimony, but with one modification. In its motion, Staff requested an extension of the deadline to January 30 for its testimony. The motion, however, did

¹ Entry (Dec. 27, 2016).

not request a similar extension for other parties opposing the settlement. The PUCO should grant an extension to January 30 for all parties.

An extension to January 30 for all parties is appropriate for at least two reasons. First, no party will be prejudiced if all parties file opposing testimony on January 30. The hearing in this case does not begin until February 21, 2017.² January 30 is more than three weeks before the hearing. This is ample time for parties supporting the settlement to address the opposing parties' testimony. In FirstEnergy's currently-pending energy efficiency portfolio case, parties opposing the settlement in that case filed testimony on January 10, 2017, just 13 days before the January 23, 2017 hearing.³ In Dayton Power & Light Company's currently-pending energy efficiency portfolio case, parties opposing the settlement in that case will file their testimony on January 30, 2017 for a February 7, 2017 hearing.⁴ Neither Duke nor any party supporting the settlement can reasonably argue that they will be harmed by a January 30, 2017 testimony deadline for all parties opposing the settlement.

Second, the PUCO Staff asserts in its motion that its request for an extension is justified by its need to obtain responses to, and review, its data requests to the utility. This issue affects OCC as well. All parties deserve an opportunity to review the responses to Staff's data requests and to incorporate them into their testimony. In response to OCC RPD Set 1, No. 1, OCC requested copies of all of Duke's responses to the PUCO Staff's data requests.⁵ Duke responded that it would provide all such

² *Id.*

³ *See* Entry (Jan. 3, 2017), Case No. 16-743-EL-POR.

⁴ *See* Entry (Dec. 20, 2016), Case No. 16-649-EL-POR.

⁵ *See* Exhibit A to this response.

copies.⁶ But Duke did not provide to OCC copies of Duke's responses to the PUCO Staff's data requests until January 16, 2017, just two days before OCC's testimony is due. Like the PUCO Staff, OCC needs additional time to review the information provided in the data requests.

The PUCO should grant the PUCO Staff's motion for an extension, but the extension should apply to all parties opposing the settlement.⁷ The deadline for opposing testimony should be January 30, 2017 for all parties.

Respectfully submitted,

BRUCE WESTON (0016973)
OHIO CONSUMERS' COUNSEL

/s/ Christopher Healey
Christopher Healey (0086027)
Counsel of Record

Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
Telephone: 614-466-9571
Christopher.Healey@occ.ohio.gov
(will accept service via email)

Dane Stinson (0019101)
Bricker & Eckler, LLC
100 S. Third St.
Columbus, OH 43215
Telephone: 614-227-4854
Email: dstinson@bricker.com
(will accept service via email)

*Outside Counsel to the Office of the Ohio
Consumers' Counsel*

⁶ *Id.*

⁷ See Entry (Jan. 7, 2008), *In re Application of Duke Energy Ohio, Inc. for an Increase in Gas Rates*, Case No. 07-589-GA-AIR (granting OCC's request for an extension of the deadline to file its testimony and extending the extension to other parties as well); Entry (June 26, 2008), *In re Application of Vectren Energy Delivery of Ohio, Inc., for Authority to Amend its Filed Tariffs*, Case No. 07-1080-GA-AIR (same).

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Response to the PUCO Staff's Motion for Extension to File Staff Testimony was served via electronic transmission to the persons listed below, on this 17th day of January, 2017.

/s/ Christopher Healey
Christopher Healey
Assistant Consumers' Counsel

SERVICE LIST

Bojko@carpenterlipps.com
perko@carpenterlipps.com
paul@carpenterlipps.com
mfleisher@elpc.org
fdarr@mwncmh.com
mpritchard@mwncmh.com
joliker@igsenergy.com
Natalia.messenger@ohioattorneygeneral.gov
John.jones@ohioattorneygeneral.gov

Amy.spiller@duke-energy.com
Elizabeth.watts@duke-energy.com
cmooney@ohiopartners.org
tdougherty@theOEC.org
jfinnigan@edf.org
rdove@attorneydove.com
rick.sites@ohiohospitals.org
mwarnock@bricker.com
dborchers@bricker.com

Attorney Examiner:

Richard.bulgrin@puc.state.oh.us

**Duke Energy Ohio
Case No. 16-576-EL-POR
OCC First Set of Production of Documents
Date Received: July 20, 2016**

OCC-POD-01-001

REQUEST:

Please provide a copy of all formal and informal requests (e.g., interrogatories, requests for production of documents, data requests) made to the Company by the Commission, the PUCO Staff and/or the PUCO's Attorneys General in this proceeding and the Company's response to those requests.

RESPONSE:

To date, no other party has served any discovery upon Duke Energy Ohio. Duke Energy Ohio will provide a copy of all discovery received from the Staff of the Public Utilities Commission of Ohio and/or any other intervening party and the responses to those requests if/when they are submitted.

PERSON RESPONSIBLE: Legal

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

1/17/2017 3:49:23 PM

in

Case No(s). 16-0576-EL-POR

Summary: Response Response to the PUCO Staff's Motion for Extension to File Staff
Testimony by the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J.
Bingham on behalf of Healey, Christopher Mr.