

August 9, 2017

Ms. Barcy F. McNeal
Director, Office of Administration
Public Utilities Commission of Ohio
180 East Broad Street, 11th Floor
Columbus, Ohio 43215

Re: Notice of Errata in Case Nos. 14-689-EL-UNC *and* 14-690-EL-ATA

Dear Ms. McNeal:

On July 24, 2017, Direct Energy and IGS Energy filed a joint memorandum contra Duke Energy's Application for Rehearing in the above-captioned cases. Direct Energy and IGS Energy have since discovered a clerical error. This letter is intended to correct the error.

On page 19 of the joint memorandum contra, the last sentence on the page inadvertently omits the word "not" from between the words "would" and "change." The correct sentence should read, "Moving backward for a finite period would *not* change the fact that Duke's proposal contravenes State policy." A revised page 19 is attached to this letter for your reference.

Please feel free to contact me with any questions. Thank you for your attention to this matter.

Regards,

/s/ Rebekah J. Glover
Rebekah J. Glover

/s/ Joseph Olikier
Joseph Olikier

Cc: Parties of Record

First, Duke claims that if a plan does not comply with R.C. 4928.17(A)(1), it “**shall** nevertheless be approved” if it 1) complies with the Commission’s requirements, 2) is for an interim period, and 3) will provide for ongoing compliance with state policy.⁵³ This statement completely misstates the unambiguous letter of the law and is in conflict with the correct interpretation of Section (C) provided in the Order on Remand. While Duke alleges that the Commission “shall” approve an interim functional separation plan that otherwise complies with state policy and the balance of 4928.17, the language of the statute states otherwise—the Commission “may” do so based upon a finding of good cause. Such an exception, however, has been determined to be unavailable for an EDU to move backwards in the restructuring process in contravention of state policy in favor of unbundled rates and anti-subsidization.

Second, Duke claims that nowhere in the Application did Duke seek approval to offer non-electric services indefinitely and it was the Commission’s obligation to impose an interim period.⁵⁴ This argument is unavailing.

While the Commission is required to limit any exception to R.C. 4928.17(A)(1) to an interim period, the Commission is not obligated to provide an exception. In the present Order on Remand, the Commission appropriately determined that Duke’s Application should be rejected in its entirety, given that it seeks to move backward in the restructuring process. Moving backward for a finite period would not change the fact that Duke’s proposal contravenes State policy.

⁵³ Application for Rehearing at 7 (emphasis added).

⁵⁴ *Id.* at 7-8.

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in

Case No(s). 14-0689-EL-UNC, 14-0690-EL-ATA

Summary: Notice of Errata electronically filed by Ms. Rebekah J. Glover on behalf of Direct Energy Services, LLC and Direct Energy Business, LLC and Interstate Gas Supply, Inc.