

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF
DUKE ENERGY OHIO, INC. FOR APPROVAL
OF ITS 2017-2019 ENERGY EFFICIENCY AND
PEAK DEMAND REDUCTION PROGRAM
PORTFOLIO PLAN.

CASE NO. 16-576-EL-POR

SECOND ENTRY ON REHEARING

Entered in the Journal on January 10, 2018

I. SUMMARY

{¶ 1} The Commission denies the Ohio Consumers' Counsel's application for rehearing of the November 21, 2017 Entry on Rehearing, but directs the Company to file, by January 31, 2018, a report of all program spending for 2017 and the Company's actions to curtail program spending in compliance with the September 27, 2017 Order.

II. DISCUSSION

{¶ 2} Duke Energy Ohio, Inc., (Duke or the Company), is an electric distribution utility as defined in R.C. 4928.01(A)(6) and a public utility as defined in R.C. 4905.02 and, as such, is subject to the energy efficiency and peak demand reduction (EE/PDR) requirements under R.C. 4928.64 and 4928.66. In this proceeding, the Commission reviewed Duke's Energy Efficiency and Peak Demand Reduction Program Portfolio Plan for 2017 through 2019 (2017-2019 Portfolio Plan), pursuant to Ohio Adm.Code Chapter 4901:1-39, to ensure that the Company's 2017-2019 Portfolio Plan consists of cost-effective EE/PDR programs that achieve the statutory benchmarks for peak-demand reduction, and meet or exceed the statutory benchmarks for energy efficiency.

{¶ 3} On September 27, 2017, the Commission issued an Opinion and Order approving Duke's 2017-2019 Portfolio Plan, as modified by the Amended Stipulation filed January 27, 2017, and subject to an annual cap (4% Cap) on the Company's recovery from customers of EE/PDR program costs and shared savings (September 27, 2017 Order). On November 21, 2017, the Commission issued an Entry on Rehearing (First EOR), granting

further time to consider the applications for rehearing of the September 27, 2017 Order. The First EOR also granted Duke's motion for a waiver of the 4% Cap to allow recovery of \$56 million in EE/PDR program costs reasonably incurred for 2017, subject to a prudence review in the appropriate proceeding. The waiver was granted to honor commitments made prior to the issuance of the September 27, 2017 Order, and Duke was directed to use its best efforts to minimize actual expenditures for 2017. As a condition of the waiver, Duke will not recover any shared savings for 2017, and the waiver does not extend to the 2018 or 2019 Portfolio Plan years. September 27, 2017 Order at ¶47; First EOR at ¶6.

{¶ 4} R.C. 4903.10 states that any party who has entered an appearance in a Commission proceeding may apply for a rehearing with respect to any matters determined therein by filing an application within 30 days after the entry of the order upon the Commission's journal.

{¶ 5} On December 21, 2017 the Ohio Consumers' Counsel (OCC) filed an application for rehearing of the First EOR, objecting to the waiver of the 4% Cap for 2017. OCC argues that the First EOR is unlawful and unreasonable because (1) it permits Duke to materially exceed its proposed 2017 EE/PDR budget of \$38.6 million approved in the September 27, 2017 Order; and (2) it approved the waiver without any factual record or explanation of the Commission's reasoning in violation of R.C. 4903.09. On January 2, 2018, Duke filed a memorandum contra to OCC's application for rehearing.

{¶ 6} As its first ground for rehearing, OCC asserts that the First EOR is unlawful and unreasonable because it violates the September 27, 2017 Order, which OCC notes is still in effect. OCC argues that the \$56 million waiver amount is \$17 million greater (43 percent) than the budget that Duke had agreed to spend in the January 27, 2017 Amended Stipulation.

{¶ 7} OCC's argument was fully considered by the Commission in the First EOR ¶¶4-6. As noted by the Commission, the waiver was granted to mitigate the effects of the

4% Cap on third parties and stakeholders on projects pending prior to the September 27, 2017 Order. Furthermore, in granting the waiver of the 4% Cap, we are not in any way passing judgement upon the prudence of any EE/PDR programs or Duke's management of its program portfolio at this time. Accordingly, since OCC has raised no new arguments on this issue, rehearing on this assignment of error should be denied.

{¶ 8} In its second ground for rehearing, OCC asserts that the First EOR violates R.C. 4903.09 because there is no factual record supporting Duke's request for waiver of the 4% Cap, or any explanation of the Commission's reasoning in granting the waiver. As noted above, the waiver was granted to mitigate the effects of the 4% Cap on third parties and stakeholders with respect to pending projects since Duke's EE/PDR Program Portfolio Plan for 2017 was not approved until the September 27, 2017 Order. Moreover, OCC's argument completely ignores the evidence of record in this case by focusing solely on Duke's motion for waiver of the 4% Cap. Therefore, rehearing on this assignment of error should also be denied, and OCC's application for rehearing will be denied.

{¶ 9} In addition to its application for rehearing, OCC also filed a motion to compel Duke to respond to discovery requests seeking additional information regarding Duke's motion for waiver of the 4% Cap. Although we do not agree to allow additional discovery, we do note that we placed conditions on the waiver that permitted Duke to exceed the budget that the Company had agreed to in the January 27, 2017 Amended Stipulation. Accordingly, we will deny OCC's motion to compel discovery, but we will direct Duke to file, by January 31, 2018, a full report of all spending on EE/PDR Program Portfolio Plan for 2017 and the Company's actions to curtail program spending in compliance with the September 27, 2017 Order and the First EOR.

III. ORDER

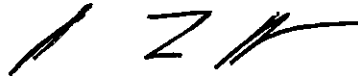
{¶ 10} It is, therefore,

{¶ 11} ORDERED, That the application for rehearing and motion to compel discovery filed by OCC be denied. It is, further,

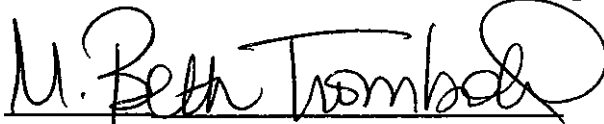
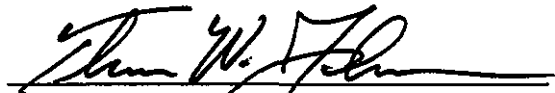

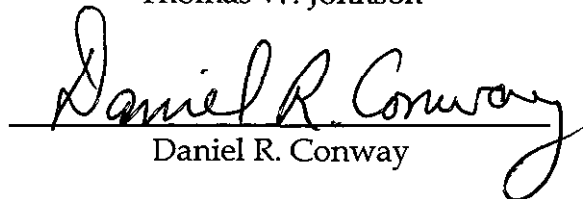
{¶ 12} ORDERED, That Duke file, by January 31, 2018, a full report of all spending on EE/PDR Program Portfolio Plan for 2017 and the Company's actions to curtail program spending in compliance with the September 27, 2017 Order. It is, further,

{¶ 13} ORDERED, That a copy of this Second Entry on Rehearing be served upon each party of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO




Asim Z. Haque, Chairman


M. Beth Trombold
Thomas W. Johnson
Lawrence K. Friedeman
Daniel R. Conway

RMB/vrm

Entered in the Journal

JAN 10 2018


Barcy F. McNeal
Secretary