

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

**IN THE MATTER OF THE APPLICATION OF  
DUKE ENERGY OHIO, INC., FOR AN  
INCREASE IN ELECTRIC DISTRIBUTION  
RATES.**

**CASE No. 17-32-EL-AIR**

**IN THE MATTER OF THE APPLICATION OF  
DUKE ENERGY OHIO, INC., FOR TARIFF  
APPROVAL.**

**CASE No. 17-33-EL-ATA**

**IN THE MATTER OF THE APPLICATION OF  
DUKE ENERGY OHIO, INC., FOR  
APPROVAL TO CHANGE ACCOUNTING  
METHODS.**

**CASE No. 17-34-EL-AAM**

**IN THE MATTER OF THE APPLICATION OF  
DUKE ENERGY OHIO, INC., FOR  
APPROVAL TO MODIFY RIDER PSR.**

**CASE No. 17-872-EL-RDR**

**IN THE MATTER OF THE APPLICATION OF  
DUKE ENERGY OHIO, INC., FOR  
APPROVAL TO AMEND RIDER PSR.**

**CASE No. 17-873-EL-ATA**

**IN THE MATTER OF THE APPLICATION OF  
DUKE ENERGY OHIO, INC., FOR  
APPROVAL TO CHANGE ACCOUNTING  
METHODS.**

**CASE No. 17-874-EL-AAM**

**IN THE MATTER OF APPLICATION OF  
DUKE ENERGY OHIO, INC. FOR  
AUTHORITY TO ESTABLISH A STANDARD  
SERVICE OFFER PURSUANT TO R.C.  
4928.143 IN THE FORM OF AN ELECTRIC  
SECURITY PLAN, ACCOUNTING  
MODIFICATIONS, AND TARIFFS FOR  
GENERATION SERVICE.**

**CASE No. 17-1263-EL-SSO**

**IN THE MATTER OF APPLICATION OF  
DUKE ENERGY OHIO, INC. FOR  
AUTHORITY TO AMEND ITS CERTIFIED  
SUPPLIER TARIFF, P.U.C.O. No. 20.**

**CASE No. 17-1264-EL-ATA**

**IN THE MATTER OF THE APPLICATION OF  
DUKE ENERGY OHIO, INC., FOR  
AUTHORITY TO DEFER VEGETATION**

MANAGEMENT COSTS.

CASE NO. 17-1265-EL-AAM

IN THE MATTER OF THE APPLICATION OF  
DUKE ENERGY OHIO, INC., TO  
ESTABLISH MINIMUM RELIABILITY  
PERFORMANCE STANDARDS PURSUANT  
TO OHIO ADM.CODE CHAPTER 4901:1-  
10.

CASE NO. 16-1602-EL-ESS

ENTRY

Entered in the Journal on May 9, 2018

{¶ 1} Duke Energy Ohio, Inc. (Duke or the Company) is an electric distribution utility (EDU) 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 jurisdiction of this Commission.

{¶ 2} On April 13, 2018, Duke and certain parties filed a stipulation and recommendation (Stipulation) that purports to resolve issues in four pending cases. The cases included in the Stipulation are:

- *In the Matter of the Application of Duke Energy Ohio, Inc., for an Increase in Electric Distribution Rates, Case 17-32-EL-AIR, et al. (Rate Case);*
- *In the Matter of the Application of Duke Energy Ohio, Inc., for Approval to Modify Rider PSR, Case No. 17-872-EL-RDR, et al. (PSR Case);*
- *In the Matter of the Application of Duke Energy Ohio, Inc., for Authority to Establish a Standard Service Offer, Case No. 17-1263-EL-SSO, et al. (ESP Case);*  
and
- *In the Matter of the Application of Duke Energy Ohio, Inc., to Establish Minimum Reliability Performance Standards, Case No. 16-1602-EL-ESS (Standards Case).*

The parties that signed the Stipulation are: Duke, Staff, the city of Cincinnati, Ohio Partners for Affordable Energy (OPAE), Ohio Energy Group (OEG), Ohio Hospital Association (OHA), and People Working Cooperatively, Inc. (PWC). Non-opposing

signatories are the Kroger Company (Kroger), Industrial Energy Users-Ohio (IEU), Ohio Manufacturers' Association Energy Group (OMA), and Wal-Mart Stores East LP and Sam's East, Inc. (Wal-Mart).

{¶ 3} Concurrently with the Stipulation, Duke filed a motion to consolidate the cases included in the Stipulation. A memorandum contra the motion was filed by Interstate Gas Supply, Inc. (IGS) on April 30, 2018, and Duke replied on May 3, 2018.

{¶ 4} On May 3, 2018, Duke filed a motion seeking a procedural schedule to be established, along with a request for expedited treatment. A joint memorandum contra Duke's request was submitted by the parties opposing the Stipulation on May 4, 2018.

*A. Motion to Consolidate*

{¶ 5} In seeking to consolidate the four cases, Duke avers that there are significant commonalities between the cases and consolidation will allow the cases to be resolved efficiently. Duke states there are riders that are subject to both the Rate Case and the ESP Case and that it is logical to consider those cases with the Standards Case. Additionally, according to Duke, as no procedural schedule is currently pending in any of the cases, no party is prejudiced by the consolidation. Further, because numerous witnesses overlap between each case, Duke argues it is more efficient to merge the cases together.

{¶ 6} In its memorandum contra Duke's requested consolidation, IGS states consolidation in this instance will be inefficient. IGS notes that distribution rate cases have intricate, statutory procedural guidelines that differ significantly from the statutory procedural requirements guiding the ESP Case. IGS maintains that combining the cases unnecessarily adds additional complications to already complex proceedings.

{¶ 7} In reply, Duke affirms that consolidation will allow the cases to be resolved in an efficient manner. Duke states that the Commission reviews all stipulations under the same legal standard, and because the Stipulation resolves all four cases, it would be inefficient to review the Stipulation four separate times. Duke also maintains that many of

the unique procedural requirements associated with the Rate Case and ESP Case have already been completed or are resolved in the Stipulation.

{¶ 8} Duke's motion to consolidate the Rate Case, the ESP Case, the PSR Case, and the Standards Case should be granted. The Stipulation purports to be a package that simultaneously resolves the issues in all four cases. It is logical, then, for the Commission to consider all of the cases together and thus consolidate them. Although each case offers different complexities and procedural directives, such intricacies are very manageable. In considering the Stipulation as a package, and acknowledging that additional judicial efficiency exists due to overlapping witnesses and issues between the four cases, the four cases should be consolidated going forward.

***B. Procedural Schedule***

{¶ 9} Initially, the attorney examiner notes that there exists numerous pending motions to intervene regarding the cases involved in the Stipulation. In the Rate Case, timely motions were filed by OEG, Ohio Consumers' Counsel (OCC), IEU, OPAE, the Environmental Law and Policy Center (ELPC), Kroger, the Environmental Defense Fund and the Ohio Environmental Council (EDF/OEC), IGS, PWC, OHA, Calpine Energy Solutions (Calpine), Cincinnati, OMA, the Retail Energy Supply Association (RESA), the Cincinnati Clean Energy Foundation (CLEF), the Natural Resources Defense Council (NRDC), Direct Energy Business Marketing, LLC and Direct Energy Services, LLC and Direct Energy Business, LLC (Direct), the University of Cincinnati and Miami Universities (Universities), and Constellation New Energy Inc. and Exelon Generation Company LLC (Exelon). In the ESP Case, the attorney examiner granted various parties' motions to intervene by Entry on September 28, 2017. Since that time, Sierra Club filed a motion to intervene. In the PSR Case, motions to intervene were filed by IEU, OMA, Kroger, OPAE, OEG, OCC, OHA, RESA, IGS, Cincinnati, Sierra Club, EDF/OEC, ELPC, NRDC, and the Universities. No party filed memoranda contra any of the motions to intervene. For good cause shown, the attorney examiner finds the motions to intervene should be granted.

Additionally, as no deadline for intervention was previously established in the PSR Case, motions to intervene filed by May 15, 2018, will still be considered.

{¶ 10} In Duke's request to establish a procedural schedule, the Company submitted a schedule that, among other things, proposes to begin the evidentiary hearing on June 25, 2018. Thereafter, the parties opposing the Stipulation also submitted a proposed schedule. According to the opposing parties, Duke's schedule does not provide sufficient time to prepare testimony and conduct discovery. Thus, the opposing parties ask that the hearing commence on July 9, 2018.

{¶ 11} The procedural schedule will be as follows:

- Testimony in support of the Stipulation and Company testimony supporting Rate Case objections should be filed May 25, 2018.
- Staff testimony responding to Objections to the Staff Report should be filed by May 25, 2018.
- Intervenor Testimony should be filed by June 20, 2018.
- A prehearing conference shall be held on June 26, 2018, at 10:00 a.m., at the offices of the Commission, Hearing Room 11-A, 180 East Broad Street, Columbus, Ohio 43215. Parties should be prepared to discuss witness schedules.
- The evidentiary hearing shall commence on July 9, 2018, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, Hearing Room 11-A, Columbus, Ohio 43215.

{¶ 12} Further, the attorney examiner finds that, for all discovery requests served after the issuance of this Entry, responses should be provided as soon as possible, but no later than seven days after service of the requests. Discovery requests and replies shall be

served by hand delivery, e-mail, or facsimile (unless otherwise agreed by the parties). An attorney serving a discovery request shall attempt to contact the attorney upon whom the discovery request will be served in advance to advise him/her that a request will be forthcoming (unless otherwise agreed by the parties). To the extent that a party has difficulty responding to a particular discovery request, counsel for the parties should discuss the problem and work out a mutually satisfactory solution.

{¶ 13} It is, therefore,

{¶ 14} ORDERED, That the Rate Case, the ESP Case, the PSR Case, and the Standards Case be consolidated. It is, further,

{¶ 15} ORDERED, That the motions to intervene be granted in accordance with Paragraph 9. It is, further,

{¶ 16} ORDERED, That the procedural schedule set forth in Paragraph 11 be adopted. It is, further,

{¶ 17} ORDERED, That a copy of this Entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/ Nicholas J. Walstra  
By: Nicholas J. Walstra  
Attorney Examiner

JRJ/mef

**This foregoing document was electronically filed with the Public Utilities**

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**Case No(s). 17-0032-EL-AIR, 17-0033-EL-ATA, 17-0034-EL-AAM, 17-0872-EL-RDR, 17-0873-EL-ATA, 1**

Summary: Attorney Examiner Entry consolidating cases, granting motions to intervene, and setting the procedural schedule. electronically filed by Ms. Mary E Fischer on behalf of Nicholas J. Walstra, Attorney Examiner, Public Utilities Commission of Ohio