

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE COMMISSION'S
INVESTIGATION OF THE DISCONNECTION
PRACTICES AND POLICIES OF DUKE
ENERGY OHIO, INC.

CASE No. 17-2089-GE-COI

ENTRY

Entered in the Journal on May 18, 2018

{¶ 1} Duke Energy Ohio, Inc. (Duke or the Company) is an electric light company and a natural gas company as defined in R.C. 4905.03 and a public utility as defined in R.C. 4905.02, and, as such, is subject to the jurisdiction of this Commission.

{¶ 2} Following an evidentiary hearing in Case No. 15-298-GE-CSS, the Commission found, among other things, that Duke failed, in that case, to comply with the winter heating season disconnection requirements of Ohio Adm.Code 4901:1-18-06(B) and that a comprehensive review of the Company's disconnection policies and procedures is necessary. Specifically, the Commission indicated that, by future entry, a request for proposal (RFP) would be issued to obtain an auditor to undertake an investigation of Duke's current disconnection practices and policies for both its gas and electric service. *In re Complaint of Jeffrey Pitzer v. Duke Energy Ohio, Inc.*, Case No. 15-298-GE-CSS (*Pitzer Complaint Case*), Opinion and Order (Aug. 30, 2017) at ¶ 83.

{¶ 3} By Entry dated October 11, 2017, in the above-captioned case, the Commission directed Staff to issue an RFP to acquire audit services for the review of Duke's disconnection practices and policies. On November 29, 2017, the Commission selected NorthStar Consulting Group (NorthStar) to perform the audit. The Commission also directed NorthStar to file its audit report by February 7, 2018.

{¶ 4} On February 6, 2018, the attorney examiner granted Staff's motion to extend the deadline for NorthStar's audit report to March 14, 2018.

{¶ 5} On March 14, 2018, NorthStar filed its audit report addressing Duke's disconnection practices and policies.

{¶ 6} By Entry dated March 21, 2018, the attorney examiner established a procedural schedule to assist the Commission in its review of Duke's disconnection practices and policies.

{¶ 7} Consistent with the established procedural schedule, motions to intervene in this proceeding were filed on various dates by the Ohio Consumers' Counsel (OCC), Ohio Partners for Affordable Energy (OPAЕ), city of Cincinnati, Ohio (Cincinnati), and Communities United for Action (CUFA). No memoranda contra were filed. The attorney examiner finds that the motions are reasonable and should be granted.

{¶ 8} On March 23, 2018, OCC filed a motion to compel responses to discovery. OCC states that interrogatories 02-074, 02-075, 02-078, 02-079, and 02-90 seek information from Duke on whether and how the Company's disconnection practices have changed since 2011 and whether the Company has discussed its disconnection policies and practices with Staff, as well as the number of disconnection-related consumer complaints that the Company has received from 2012 through 2017. In support of its motion to compel, OCC argues that the information sought from Duke is relevant and reasonably calculated to lead to the discovery of admissible evidence, while the Company's objections are flawed. OCC adds that the Commission has stated that this proceeding is the appropriate forum for OCC's concerns regarding Duke's disconnection practices and policies, as implemented since November 2011, when the disconnection at issue in the *Pitzer Complaint Case* occurred. Finally, OCC notes that, as reflected in the affidavit accompanying its motion, OCC has used reasonable efforts to attempt to resolve the discovery dispute with Duke.

{¶ 9} On April 9, 2018, Duke filed a memorandum contra OCC's motion to compel discovery. Duke argues that the scope of the audit in this case, as reflected in the RFP, is limited to a review of the Company's current practices for compliance and that there is no mandate to review the prior five years, as OCC seeks to do through interrogatories requesting information going back to 2011. According to Duke, OCC's discovery requests are irrelevant and beyond the scope of the audit, can have no bearing on the Company's

current disconnection practices and procedures, and would pose an undue burden on the Company. Duke concludes that OCC has received ample responses to its discovery requests and that the motion should be denied.

{¶ 10} OCC filed a reply in support of its motion on April 16, 2018. In its reply, OCC argues that issues surrounding Duke's disconnection policies and practices since November 2011 and how they may have changed are directly relevant to the subject matter of this case.

{¶ 11} The attorney examiner finds that OCC's motion to compel discovery is reasonable and should be granted. OCC interrogatories 02-074 and 02-075 request that Duke note whether its process for resolving disconnection-related customer complaints has changed since November 2011 and, if so, to identify the changes and when they were made. OCC interrogatories 02-078 and 02-079 seek the number of disconnection-related gas and electric customer complaints, respectively, that the Company attempted to resolve for calendar years 2012 through 2017. Finally, OCC interrogatory 02-090 requests that Duke note whether it has met with Staff regarding the Company's credit or disconnection policies and procedures since February 1, 2015, and, if so, to identify the date and subject matter of the meeting and the attendees.

{¶ 12} Duke objects to the interrogatories as beyond the scope of this case. Ohio Adm.Code 4901-1-16(B), however, provides that discovery may be obtained with respect to any matter that is not privileged and is relevant to the subject matter of the proceeding. OCC's interrogatories seek information that is relevant to the subject matter of this proceeding and Duke makes no claim that the requested information is privileged. Further, the information sought through OCC's interrogatories appears reasonably calculated to lead to the discovery of admissible evidence. Although this case was initiated primarily to review Duke's current disconnection practices and policies, the Commission also stated, in the *Pitzer Complaint Case*, that a comprehensive review would be conducted. *Pitzer Complaint Case*, Opinion and Order (Aug. 30, 2017) at ¶ 63, 83. Finally, Duke has not made any attempt to demonstrate that OCC's interrogatories are unduly burdensome. For these

reasons, Duke is directed to serve responses to the interrogatories upon OCC within seven days of this Entry.

{¶ 13} On May 17, 2018, Staff filed a motion for an extension of the deadline to file reply comments, along with a request for expedited treatment of the motion pursuant to Ohio Adm.Code 4901-1-12(C). In its motion, Staff requests that the deadline for reply comments be extended from May 18, 2018, to June 1, 2018, in order to afford the parties an opportunity to discuss possible settlement of the issues in this case. Staff also states that it contacted all of the parties regarding the motion and that no party has objected.

{¶ 14} Pursuant to Ohio Adm.Code 4901-1-12(F), the attorney examiner finds that Staff's motion for an extension is reasonable and should be granted. Accordingly, reply comments should be filed by June 1, 2018.

{¶ 15} It is, therefore,

{¶ 16} ORDERED, That the motions for intervention filed by OCC, OP&E, Cincinnati, and CUFA be granted. It is, further,

{¶ 17} ORDERED, That OCC's motion to compel discovery be granted. It is, further,

{¶ 18} ORDERED, That Staff's motion for an extension of the deadline for reply comments be granted. It is, further,

{¶ 19} ORDERED, That a copy of this Entry be served upon all interested persons and parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

s/Sarah Parrot

By: Sarah J. Parrot
Attorney Examiner

NJW/sc

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

5/18/2018 11:10:43 AM

in

Case No(s). 17-2089-GE-COI

Summary: Attorney Examiner Entry granting the motions for intervention filed by OCC, OPAE, Cincinnati, and CUFA, granting OCC's motion to compel discovery, and granting Staff's motion for an extension of the deadline for reply comments - electronically filed by Sandra Coffey on behalf of Sarah Parrot, Attorney Examiner, Public Utilities Commission of Ohio