

**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.)

**MEMORANDUM CONTRA THE OFFICE OF THE OHIO CONSUMERS' COUNSEL
MOTION TO STRIKE COMMENTS
OF GE AVIATION TO INTERVENE**

I. INTRODUCTION

Upon learning that it would be unable to participate in certain Duke Energy Ohio Industrial Energy Efficiency Programs during 2018, and gaining an understanding of why that was so, General Electric Aviation (“GE Aviation” or “GEA”) filed a motion to intervene in this case.¹ GE Aviation filed the motion out of time, because that is when the knowledge of the case and its pending applications for rehearing was obtained.

In order for the Public Utilities Commission of Ohio (“PUCO” or “Commission”) to accept such a filing, GE Aviation was required by the Ohio Administrative Code to provide a description of the “extraordinary circumstances” that warrant such a filing.² GEA requested intervention, explained the extraordinary circumstances and supplied comments so that the Commission understood the consequences of the initial decision.

This seems to be where the agreement between GE Aviation and the only party objecting to its intervention and proffered comments ends. The Ohio Consumers’ Counsel (“OCC”), the

¹ GE Aviation filed its to Intervene Out of Time and Comments on May 15, 2018.

² Ohio Adm. Code 4901-1-11(F).

statutory representative for residential customers, has now filed a memorandum contra to industrial customer GEA's motion to intervene on May 30, 2018, and a Reply that is not in accord with any Commission rule filed on June 13, 2018.³ GE Aviation now respectfully submits this memorandum contra to OCC's motion to strike in accordance with Commission rules.⁴ GE Aviation respectfully requests that the Commission grant its intervention and consider its comments prior to making its decision on the pending applications for rehearing.

II. Memorandum Contra to OCC's Motion to Strike Comments

OCC's arguments in both its Motion to Strike and its untethered reply focus on renaming and relabeling GE Aviation's submissions.⁵ GE Aviation properly filed its intervention, noting and complying with Commission rules for such interventions. The Commission may properly decide whether the interests of GEA and the extraordinary circumstances upon which its intervention is based warrant granting intervention. GEA urges the Commission to do so.

GE Aviation's comments are also submitted within the boundaries of the Commission's rules. GEA submitted comments so that the Commission could understand and consider its position regarding its participation in Duke Energy Ohio's energy efficiency programs. As noted in the Comments, Duke's programs, due to the imposition of a cap, are fully subscribed for 2018. The year is less than halfway over, and Duke is forced by the Commission's initial order to deny

³ According to the Ohio Administrative Code, 4901-1-12(B)(2), "Any party may file a reply memorandum within seven days **after the service of a memorandum contra**, or such other period as the commission, the legal director, the deputy legal director, or the attorney examiner requires." GE Aviation had not yet filed or served a memorandum contra to OCC's motion to strike. It merely replied to OCC's memorandum contra GEA's intervention. Thus, OCC's reply in response to a reply, for which there is no stated Ohio rule or statute.

⁴ Ohio Adm. Code 4901-1-12(B)(1): "Any party may file a memorandum contra within fifteen days after the service of a motion, or such other period as the commission, the legal director, the deputy legal director, or the attorney examiner requires."

⁵ See OCC Motion to Strike at 4 (May 30, 2018).

customers paying the rider the opportunity to participate. As the Commission considers its actions and positions on issues, it is important for the Commission to understand how customers are currently being affected by its actions and positions.

The Commission may, upon its own initiative, re-open a case.⁶ GE Aviation presented facts that should be a part of this case, while the issue of a cap is still pending. GE Aviation submitted its comments for the Commission's review and consideration to include as a part of the case, if it so chooses. GEA urges the Commission, on its own initiative, to re-open the proceedings at the very least to acknowledge that its actions are having negative effects on customers that want to save energy and remain competitive. Especially those that employ thousands of Ohioans and compete for contracts on a global scale. These issues should certainly be addressed in any Entry on Rehearing.

III. Conclusion

For the foregoing reasons, and for those reasons stated in its Motion to Intervene and Comments, General Electric Aviation respectfully requests that the Public Utilities Commission of Ohio grant its intervention and consider its comments prior to any application for rehearing.

Respectfully submitted,

/s/ Christopher J. Allwein

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⁶ Ohio Adm. Code 4901-1-34.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Memorandum was served via electronic mail, this 6th day of June, 2018, upon the following parties, or their counsel of record to this action:

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Summary: Memorandum CONTRA THE OFFICE OF THE OHIO CONSUMERS' COUNSEL
MOTION TO STRIKE COMMENTS OF GE AVIATION TO INTERVENE
electronically filed by Mr. Christopher J. Allwein on behalf of General Electric Aviation