

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Procurement	)	Case No. 18-6000-EL-UNC
of Standard Service Offer Generation	)	
for Customers of Duke Energy Ohio, Inc.	)	

---

**DUKE ENERGY OHIO’S MEMORANDUM CONTRA  
THE SECOND APPLICATION FOR REHEARING OF THE OFFICE OF THE OHIO  
CONSUMERS’ COUNSEL**

---

**I. INTRODUCTION**

The Public Utilities Commission of Ohio (Commission) issued an Entry on Rehearing, denying the Office of the Ohio Consumers’ Counsel’s (OCC) Application for Rehearing (First Application for Rehearing) on October 5, 2022 (First Entry on Rehearing). On October 21, 2022, OCC filed a Second Application for Rehearing in the underlying matter (though it was not captioned as such), regarding Duke Energy Ohio Inc.’s (Duke Energy Ohio or the Company) procurement of standard service offer generation for its customers (SSO Auction). In its Second Application, OCC raised essentially identical arguments as those raised in its First Application for Rehearing, as well as arguments continuously advanced by OCC in the 2022 Universal Service Fund case (Case No. 22-556-EL-USF) and in Comments OCC filed in the underlying docket. All these arguments, however, have been addressed and denied by the Commission multiple times, and in multiple dockets. Moreover, in its latest filing, OCC does not cite to any issues that could not have been raised in its First Application for Rehearing, nor does OCC identify any discrete issues that it finds objectionable within the Commission’s findings in its First Entry on Rehearing.

Instead, OCC’s Second Application for Rehearing mirrors one filed the same day in the Dayton Power and Light Company’s (DP&L) SSO docket (Case No. 17-957-EL-UNC) and

rehashes its First Application for Rehearing in the underlying case, and the issues already covered by the Commission in its Entry, in nearly the exact same fashion. Instead of raising error in the Commission's October 5th Entry, as would be procedurally proper on a Second Rehearing Application, OCC seeks rehearing of the Commission's September 21, 2022 decision for a second time. This, however, is one bite at the apple too many.

The September 21, 2022 Entry authorized the Company's SSO Auction results. OCC challenges these results again, based not upon the Commission's findings on Rehearing, the merits of the SSO Auction, or recommendations upon which the Commission based its reasoned decisions. OCC exclusively raises issues, again, related to other dockets and procedures—namely the Company's Percentage of Income Payment Plan program (PIPP Program). The Commission should reject OCC's Second Application for Rehearing, as it did with its first, for two reasons. First, OCC's Second Application for Rehearing is procedurally improper, as it raises no issues that could not have been raised in its First Application for Rehearing, and it does not address the Commission's First Entry on Rehearing directly (or at all). Second, even if the Commission considers OCC's Second Application for Rehearing on the merits, the recycled arguments advanced by OCC—raised across multiple dockets related to the PIPP Auction—have already been dismissed by the Commission in its First Entry on Rehearing, and in every docket to consider these similar or identical arguments.

As has already been determined by the Commission in the underlying docket, “the General Assembly intended that PIPP program loads be aggregated and procured from a competitive

bidding process separate from the SSO customers” and “OCC’s proposed solution [the combination of the PIPP and SSO Auctions] is untenable.”<sup>1</sup>

## II. LEGAL BACKGROUND

Ohio law allows a party to a Commission proceeding to “apply for a rehearing [with] respect to any matters determined in the proceeding.”<sup>2</sup> Any application for rehearing must be filed “within thirty days after the entry of the order[.]”<sup>3</sup> An application for rehearing must “set forth specifically the ground or grounds on which the applicant considers the order to be unreasonable or unlawful.”<sup>4</sup> The party filing an application for rehearing must also file a memorandum in support that explains “the basis for each ground for rehearing identified in the application for rehearing[.]”<sup>5</sup>

Ohio law does not allow parties to re-argue issues before the Commission ad infinitum. In particular, “Section 4903.10, Revised Code, does not allow persons who enter appearances to have ‘two bites at the apple’ or to file rehearing upon rehearing of the same issue.”<sup>6</sup> Similarly, Ohio law does not permit parties to raise arguments in later applications for rehearing that relate to holdings in earlier orders—as is unapologetically the case with OCC’s Second Application for Rehearing. If the Commission issues an opinion that includes a holding adverse to an intervening party’s interests, the party must address that issue in an application for rehearing within thirty days

---

<sup>1</sup> First Entry on Rehearing (October 5, 2022) ¶13; *see also In the Matter of the Procurement of Standard Service Offer Generation for Customers of the Dayton Power and Light Company*, Case No. 17-957-EL-UNC September 21, 2022 Finding and Order at ¶ 18 (“it is clear from the plain language of the statute that the General Assembly intended that PIPP program loads be aggregated and procured from a competitive bidding process separate from the SSO customers.”)

<sup>2</sup> R.C. 4903.10.

<sup>3</sup> *Id.*; *see also* Ohio Adm.Code 4901- 1-35(A).

<sup>4</sup> *Id.*

<sup>5</sup> Ohio Adm.Code 4901-1- 35(A).

<sup>6</sup> *In the Matter of the Application of Ohio Power Company for Approval of a Special Contract Arrangement with Ormet Primary Aluminum Corporation*, Case No. 96-999-EL-AEC, Second Entry on Reh’g, ¶ 10 (Sept. 13, 2006).

and not save it for later applications for rehearing.<sup>7</sup> There is no portion of OCC's Second Application for Rehearing that could not have been raised based upon the Commission's issuance of its September 21, 2022 Entry. OCC admits as much, as it applies for "rehearing of the September 21, 2022 Finding and Order" in its Second Application for Rehearing, without mentioning its First Application for Rehearing.<sup>8</sup> The only assignment of error presented by OCC re-argues points previously addressed in that Entry, and previously rejected by the Commission.

Even if the Commission considers OCC's Second Application for Rehearing in earnest, which the Company argues it should not, the issues raised by OCC have already been addressed and rejected by the Commission in the underlying case, the USF Docket,<sup>9</sup> and in DP&L's SSO docket. OCC presents no counter arguments against these well-reasoned legal findings and gives no reason why the Commission should reconsider them at this juncture. Its Second Application for Rehearing should be denied.

### III. LAW AND ARGUMENT

OCC fails to present new arguments in its Second Application for Rehearing, instead including only those that could have been included in its prior application for rehearing.<sup>10</sup> OCC's lone assignment of error in its Second Application for Rehearing is procedurally improper, and the

---

<sup>7</sup> See, e.g., *Consolidated Duke Energy Ohio, Inc., Rate Stabilization Plan Remand and Rider Adjustment Cases*, Case Nos. 03-93-EL-ATA et al., Third Entry on Rehearing, ¶¶ 13-16 (Nov. 5, 2008) (denying as untimely an application for rehearing of a second entry on rehearing, where the party's assignment of error related to a decision originally set out in a much earlier order and not altered by the second entry on rehearing). Cf. *In re Application of AEP Ohio for an Increase in Electric Distribution Rates*, Case Nos. 11-351-EL-AIR et al., Entry on Rehearing (Feb. 14, 2012) (holding that the issuance of an entry nunc pro tunc did not extend the thirty-day deadline for filing an application for rehearing because that entry did not "create[ ] additional rights" or "den[y] an existing right" and because the application for rehearing stemmed from the original judgment entry and not the entry nunc pro tunc).

<sup>8</sup> Second Application for Rehearing at 1.

<sup>9</sup> In an October 5, 2022 Opinion and Order, the Commission also found in the USF docket (Case No. 22-556-EL-USF), like it did in the underlying docket, that "It is clear from the plain language of the statute that the General Assembly intended that PIPP program loads be aggregated and procured from a competitive bidding process separate from the SSO customers" and affirming the Commission's "previous determination that the existing PIPP program auction format is required under law." *Id.* at 25.

<sup>10</sup> See First Application for Rehearing, filed September 23, 2022; Entry on First Application for Rehearing, filed October 5, 2022.

Commission should reject it as a matter of law. OCC offers no explanation for why it did not raise its First Assignment of Error in its First Application for Rehearing. Moreover, OCC's arguments provide no reason to reconsider the Commission's well-supported First Entry on Rehearing—indeed OCC does not even mention or address the findings in the First Entry on Rehearing in its Application. Its arguments should be rejected without needing to reach their merits.

Should the Commission, however, reach the merits of OCC's Second Application for Rehearing, its Assignment of Error must be disregarded, as the Commission has already ruled upon the very argument OCC asserts: "OCC's proposed solution [the combination of the PIPP and SSO Auctions] is untenable."<sup>11</sup>

**A. OCC Should Not be Permitted Two Bites at the Rehearing Apple in the Underlying Case.**

OCC's Assignment of Error No. 1 complains that the Commission "erred and acted outside its authority by approving Duke's auction results and authorizing Duke to file final tariffs that charge at-risk PIPP consumers electricity prices higher than Duke's standard service offer prices, in violation of R.C. 4928.542[.]"<sup>12</sup> This Assignment of Error is a re-hash of contentions OCC previously raised, without success, in its First Application for Rehearing. Moreover, any arguments raised in OCC's Second Application for Rehearing that were *not* raised in its First Application for Rehearing should be disregarded, as they could have and should have been raised in the First Application. It is for these two reasons that OCC's Second Application for Rehearing is procedurally improper and must be denied.

---

<sup>11</sup> First Entry on Rehearing (October 5, 2022) ¶13; *see also In the Matter of the Procurement of Standard Service Offer Generation for Customers of the Dayton Power and Light Company*, Case No. 17-957-EL-UNC September 21, 2022 Finding and Order at ¶ 18 ("it is clear from the plain language of the statute that the General Assembly intended that PIPP program loads be aggregated and procured from a competitive bidding process separate from the SSO customers.")

<sup>12</sup> Second Application for Rehearing at 2.

In its First Application for Rehearing, OCC argued that the Commission erred by rendering a decision that did not address OCC’s argument that PIPP auction prices are higher than the results of the Company’s SSO auction.<sup>13</sup> OCC argued there, as it does here, that “[i]t is unlawful to charge PIPP consumers in excess of the utility standard offers, per R.C. 4828.542.”<sup>14</sup> OCC’s ask in its First Application for Rehearing? That the Commission “protect consumers by granting rehearing and rejecting or modifying the [September 21, 2022] Finding and Order in this case so that electricity for PIPP consumers is procured through the same auction as the standard service offer.”<sup>15</sup> OCC’s ask in the Second Application for Rehearing is no different—that the Commission “protect consumers by granting rehearing and rejecting or modifying the Finding and Order in this case so that electricity service rates for low-income PIPP consumers do not exceed the standard service offer . . . requiring Duke to procure generation for PIPP consumers at the same auction as consumers on the SSO would ensure this outcome.”<sup>16</sup> OCC relies upon all of the same arguments it made in its First Application for Rehearing, attempting again to overturn the results of Duke Energy Ohio’s SSO Auction.

The Commission reviewed OCC’s arguments, set forth initially in its comments in the underlying docket, in its First Entry on Rehearing—finding: “In response to OCC’s request to combine PIPP and SSO auctions, it is clear from the plain language of the statute that the General Assembly intended that PIPP program loads be aggregated and procured from a competitive bidding process separate from the SSO customers.”<sup>17</sup> The Commission squarely found “OCC’s proposed solution [ ] untenable” and in regard to OCC’s claim “that electricity prices resulting

---

<sup>13</sup> First Application for Rehearing at 2.

<sup>14</sup> *Id.* at 3.

<sup>15</sup> *Id.* at 4.

<sup>16</sup> Second Application for Rehearing at 6.

<sup>17</sup> Entry on First Application for Rehearing at ¶ 13.

from the PIPP auctions have been higher than those procured under the SSO auction and that this outcome violates R.C. 4928.02(L) and 4928.542” the Commission found that “R.C. 4928.54 requires the director of ODOD to aggregate PIPP program customers for the purpose of establishing a competitive procurement process for the supply of competitive retail electric service for those customers.”<sup>18</sup> The Commission “affirm[ed in its October 5th Entry its] previous determination that the existing PIPP program auction format is required under law.”<sup>19</sup>

OCC’s Assignment of Error No. 1 in its Second Application argues that the Commission should not have approved the Company’s “auction results and authoriz[ed] Duke to file final tariffs[.]”<sup>20</sup> This is very obviously an argument that OCC should have (and mostly did) advance in its First Application for Rehearing. There is nothing unique to the Commission’s First Entry on Rehearing as it relates to the entirety of OCC’s arguments in its Second Application. To allow OCC to simply bring the same argument a second time, or to bring arguments it should have clearly brought in its First Application, would run contrary to applicable law, and be an untenable outcome. As this Commission has held in the past, a subsequent application for rehearing is not well received where the party’s assignment of error related to a decision originally set forth in a much earlier order, and not altered by a subsequent entry on rehearing.<sup>21</sup> There is nothing set forth in OCC’s Second Application for Rehearing that was altered by the Commission’s interim findings in its First Entry on Rehearing. Put more simply—OCC’s Second Application for Rehearing could have been, and mostly was, brought as its First Application. OCC does not mention the Commission’s First Entry on Rehearing, or any deficiencies contained in that Entry, because OCC

---

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> Second Application for Rehearing at 2.

<sup>21</sup> See *Consolidated Duke Energy Ohio, Inc., Rate Stabilization Plan Remand and Rider Adjustment Cases*, Case Nos. 03-93-EL-ATA et al., Third Entry on Rehearing, ¶¶ 13-16 (Nov. 5, 2008).

does not seek to overturn the Commission’s findings in its First Entry on Rehearing—it simply seeks to reargue its First Application for Rehearing a second time around.

This posture is further evidenced by the fact that OCC filed a First Application for Rehearing in the DP&L SSO Case on the same day as its Second Application in the underlying case. OCC’s Second Application in this case largely mirrors that filing, instead of addressing points made by the Commission’s First Entry on Rehearing in the present matter. For example, in OCC’s Second Application for Rehearing, it argues against the Commission finding “that cost savings need accrue only “over the long term,” rather than after every auction.”<sup>22</sup> This argument regarding the use of the words “over the long term” is in fact not contained in the Duke Energy Ohio SSO Case docket. It is instead a clarification made by the Commission in the DP&L SSO Case, in its September 21, 2022 Entry, accepting the results of DP&L’s SSO Auction.<sup>23</sup> This critique, leveled by OCC against the Commission’s findings in the underlying case, is not applicable to this docket or this utility—and is further demonstration that OCC simply seeks to take another, concurrent stab at the Company’s SSO Auction outcome—not the First Entry on Rehearing. OCC raises no arguments in opposition to the Commission’s First Entry on Rehearing, and no arguments that could not have been raised in its initial Application for Rehearing. This is an improper approach, and the Commission should decline to take up or rely upon OCC’s arguments in its Second Application for Rehearing.

OCC has demonstrated no reason why it should be allowed a second bite at the apple, and the Commission should not permit it to have one.

---

<sup>22</sup> Second Application for Rehearing at 4.

<sup>23</sup> See Case No. 17-957-EL-UNC, September 21, 2022 Entry at 6.



**B. If OCC's Arguments are Considered in Earnest in its Second Application for Rehearing, they are Still Unavailing for the Reasons Previously Set Forth by the Company, and in the Commission's Orders on this Topic.**

OCC offers one Assignment of Error in its Second Application for Rehearing: "The PUCO erred and acted outside its authority by approving Duke's auction results and authorizing Duke to file final tariffs that charge at-risk PIPP consumers electricity prices higher than Duke's standard service offer prices, in violation of R.C. 4928.542[.]"<sup>24</sup> This Assignment of Error has already been dismissed and disregarded by this Commission in its First Entry on Rehearing. Moreover, nothing in the assignment of error offered by OCC is novel or unique to the Commission's First Entry on Rehearing. Therefore, it should again be denied for all of the reasons already set forth by the Commission in this docket.

As further detailed by the Commission in its First Entry on Rehearing, a competitive bid procurement (CBP) auction was held for Duke Energy Ohio on September 20, 2022, in accordance with the Commission's August 24, 2022 Finding and Order, which directed Duke Energy Ohio to modify its SSO Auction schedule, as set forth by Motion of the Company on August 17, 2022.<sup>25</sup> On September 21, 2022, CRA International Inc. d/b/a Charles River Associates, Inc. (CRA) and Bates White, LLC (Bates White), consultants retained by Duke Energy Ohio and the Commission, respectively, to run (CRA) and monitor (Bates White) the SSO auction, filed reports regarding the conduct of the auction. CRA and Bates White each recommended that the Commission find that the SSO Auction was within the limits of its structures, had sufficient competitive attributes, and resulted in a winning price that was reasonable. In turn, on the same day, the Commission issued

---

<sup>24</sup> Second Application for Rehearing at 2.

<sup>25</sup> As the Commission and parties are aware, changes to the PJM base residual auction and timing of the PJM auctions have resulted in a need for Ohio's electric distribution utilities to adapt the timing and procurement strategies for their SSO auctions in recent years. As the timing of the BRA auctions appeared more certain, the Company sought to provide greater certainty as to the auction procurements for the remainder of its Commission-authorized ESP, expiring May 31, 2025.

its Finding and Order—finding that the reports filed by CRA and Bates White did not indicate that the auction violated the CBP rules, and that the auction was conducted in accordance with the process and procedure approved by the Commission. Accordingly, the Commission accepted the results of the SSO Auction, and simultaneously directed the Company to file revised auction schedules that account for the 20 unfulfilled tranches prior to the beginning of the 2023/2024 delivery year.

OCC has focused the entirety of its arguments against the Company’s SSO Auction outcome on the 2022-2023 PIPP Program—the subject of multiple separate and distinct cases, auctions, and proceedings.<sup>26</sup> However, as OCC itself has admitted, per current Ohio law, “Electricity prices for PIPP consumers have been determined by bids from energy marketers in PIPP-specific auctions.”<sup>27</sup> Indeed, the PIPP Program, *by law*, is administered by the Ohio Department of Development, with the Commission designing, managing, and supervising the *separate and distinct* competitive procurement process for PIPP customers.<sup>28</sup> OCC levels but a single Objection in its Second Application for Rehearing – against not the SSO Auction (process or outcome), but the PIPP auction results and process. OCC’s ask? That the Commission “combin[e] PIPP consumers’ service into the standard-offer auctions” which, in OCC’s opinion, is “permissible under ODOD’s electric aggregation rules[.]”<sup>29</sup> While it may not (or at least, should not) be directly relevant to this particular docket, the Company notes that though OCC continues to incorrectly argue that PIPP aggregation is permissive, *i.e.*, a choice for the Ohio Department of

---

<sup>26</sup> See, e.g., *In the Matter of the Implementation of Sections 4928.54 and 4928.544 of the Revised Code*, Case No. 16-0247-EL-UNC (RFP Auction Case); *In the Matter of the Procurement of Percentage of Income Payment Plan Program Generation for Customers of Duke Energy Ohio, Inc.*, Case No. 16-0940-EL-UNC (Duke Energy Ohio PIPP Case), *In the Matter of the Application of the Ohio Department of Development for an Order Approving Adjustments to the Universal Service Fund Riders*, Case No. 22-556-EL-USF (2022 USF Case).

<sup>27</sup> *Id.* at 2.

<sup>28</sup> See R.C. 4928.54 *et seq.*

<sup>29</sup> Second Application for Rehearing at 5. The Company notes that this is the word for word “ask” leveled by OCC in its First Application for Rehearing – which was denied by the Commission in its First Entry on Rehearing.

Development, the Commission has now found, on multiple occasions and within this docket, that it is not.<sup>30</sup> This is simply not the case.

OCC's misinterpretation has been corrected multiple times, in multiple dockets, at hearing and on brief. Following the issuance of the Commission's September 21, 2022, Finding and Order, approving the SSO Auction process and directing the Company to amend its tariffs accordingly, OCC now seeks rehearing of the same argument. Those arguments are nearly identical to those raised in OCC's First Application for Rehearing, and stem not from the Commission's October 5, 2022 Entry, but from its September 21, 2022 findings, approving the Company's SSO Auction results. OCC's arguments in favor of rehearing should be rejected on their merits for the reasons already enumerated by the Commission in its First Entry on Rehearing:

In response to OCC's request to combine PIPP and SSO auctions, it is clear from the plain language of the statute that the General Assembly intended that PIPP program loads be aggregated and procured from a competitive bidding process separate from the SSO customers.

. . .

In regard to OCC's claim that electricity prices resulting from the PIPP auctions have been higher than those procured under the SSO auction and that this outcome violates R.C. 4928.02(L) and 4928.542, we again note that R.C. 4928.54 requires the director of ODOD to aggregate PIPP program customers for the purpose of establishing a competitive procurement process for the supply of competitive retail electric service for those customers. Consequently, we affirm our previous determination that the existing PIPP program auction format is required under law. Therefore, OCC's application for rehearing should be denied.<sup>31</sup>

---

<sup>30</sup> See OCC Objections at 5 ("The rule states that the ODOD Director *may* aggregate PIPP consumers for competitive auctions") (emphasis added); see also First Entry on Rehearing at ¶ 13.

<sup>31</sup> First Entry on Rehearing at 4; see also *In the Matter of the Procurement of Standard Service Offer Generation for Customers of the Dayton Power and Light Company*, Case No. 17-957-EL-UNC, Entry on Rehearing at 5-6 ("Despite OCC's reference to Ohio Adm.Code 122:5-3-06, R.C. 4928.54 specifically requires that '[t]he director of development services shall aggregate [PIPP] program customers for the purpose of establishing competitive procurement process for the supply of competitive retail electric service for those customers. The process shall be an auction[.] . . . In response to OCC's request to combine PIPP and SSO auctions, it is clear from the plain language of the statute that the General Assembly intended that PIPP program loads be aggregated and procured from a competitive bidding process separate from the SSO customers.'").

The Commission's findings, adopting the SSO Auction results, were based upon the recommendations of independent reviewers, fully explained by the Commission in its Finding and Order, and should not be subject to rehearing.

In the underlying case, the USF case, and many other dockets, OCC has refused to accept that ODOD lacks authority to modify the Commission-approved PIPP price of electricity established in individualized PIPP Auction cases for EDUs. Now OCC seemingly refuses to believe the Commission when it clearly states that the existing PIPP program auction format is required under law. Consideration of OCC's Objections on rehearing are therefore moot, and the Commission need not reconsider this issue.

#### **IV. CONCLUSION**

For the reasons set forth above, Duke Energy Ohio respectfully requests that the Commission deny the OCC's Second Application for Rehearing as procedurally improper, an impermissible rehashing of its prior First Application for Rehearing, and unconvincing on its merits.

Respectfully submitted,

DUKE ENERGY OHIO, INC.

/s/ Elyse H. Akhbari

Rocco O. D'Ascenzo (0077651)

(Counsel of Record)

Deputy General Counsel

Jeanne W. Kingery (0012172)

Associate General Counsel

Larisa M. Vaysman (0090290)

Senior Counsel

Elyse H. Akhbari (0090701)

Senior Counsel

Duke Energy Business Services LLC

139 East Fourth Street, 1303-Main

Cincinnati, Ohio 45202

(513) 287-4320 (telephone)

(513) 287-4385 (fax)

[Rocco.dascenzo@duke-energy.com](mailto:Rocco.dascenzo@duke-energy.com)

[Jeanne.kingery@duke-energy.com](mailto:Jeanne.kingery@duke-energy.com)

[Larisa.vaysman@duke-energy.com](mailto:Larisa.vaysman@duke-energy.com)

[Elyse.akhbari@duke-energy.com](mailto:Elyse.akhbari@duke-energy.com)

*Willing to accept service via email*

**Attorneys for Duke Energy Ohio, Inc.**

### **CERTIFICATE OF SERVICE**

The Public Utilities Commission of Ohio's e-filing system will electronically serve notice of the filing of this document on the parties referenced on the service list of the docket card who have electronically subscribed to the case. In addition, the undersigned hereby certifies that a copy of the foregoing document is also being served via electronic mail on the 31st day of October, 2022, upon the persons listed below.

/s/ Elyse H. Akhbari  
Senior Counsel  
Duke Energy Ohio, Inc.

Thomas Lindgren  
Assistant Attorney General  
Public Utilities Section  
30 East Broad Street, 16th Floor  
Columbus, Ohio 43215  
Telephone: 614-466-4397  
Facsimile: 614-644-8767  
[Thomas.lindgren@ohioattorneygeneral.gov](mailto:Thomas.lindgren@ohioattorneygeneral.gov)

**Attorney for Staff of the  
Public Utilities Commission**

Mark Whitt  
Lucas Fykes  
WHITT STURTEVANT LLP  
The KeyBank Building, Suite 1590  
88 East Broad Street  
Columbus, Ohio 43215  
Telephone: (614) 224-3946  
Facsimile: (614) 675-9448  
[whitt@whitt-sturtevant.com](mailto:whitt@whitt-sturtevant.com)  
[fykes@whitt-sturtevant.com](mailto:fykes@whitt-sturtevant.com)

**Attorneys for Direct Energy Business, LLC  
and Direct Energy Services, LLC and Retail  
Energy Supply Association**

Joseph Oliker  
Counsel of Record  
Michael Nugent  
IGS Energy  
6100 Emerald Parkway  
Dublin, Ohio 43016  
Telephone: (614) 659-5000  
[Joe.oliker@igs.com](mailto:Joe.oliker@igs.com)  
[Michael.nugent@igs.com](mailto:Michael.nugent@igs.com)

**Attorneys for IGS Energy**

N. Trevor Alexander  
Mark T. Keaney  
Kari Hehmeyer  
BENESCH, FRIEDLANDER, COPLAN &  
ARONOFF LLP  
41 South High Street  
Suite 2600  
Columbus, Ohio 43215-6164  
Tel: (614) 223-9300  
Fax: (614) 223-9330  
[talexander@beneschlaw.com](mailto:talexander@beneschlaw.com)  
[mkeaney@beneschlaw.com](mailto:mkeaney@beneschlaw.com)  
[khehmeyer@beneschlaw.com](mailto:khehmeyer@beneschlaw.com)

**Attorneys for Energy Harbor LLC**

Michael Kurtz  
Kurt Boehm  
Jody Kyler Cohn  
BOEHM, KURTZ & LOWRY  
36 East Seventh Street, Suite 1510  
Cincinnati, Ohio 45202  
Ph: 513.421.2255 Fax: 513.421.2764  
E-Mail: [mkurtz@BKLawfirm.com](mailto:mkurtz@BKLawfirm.com)  
[kboehm@BKLawfirm.com](mailto:kboehm@BKLawfirm.com)  
[jkylercohn@BKLawfirm.com](mailto:jkylercohn@BKLawfirm.com)

**Attorneys for the Ohio Energy Group**

Steven T. Nourse  
Christen M. Blend  
American Electric Power Service  
Corporation  
1 Riverside Plaza, 29th Floor  
Columbus, Ohio 43215  
Telephone: (614) 716-1608  
Fax: (614) 716-2950  
Email: [stnourse@aep.com](mailto:stnourse@aep.com)  
[cmblend@aep.com](mailto:cmblend@aep.com)

**Attorney for Ohio Power Company**

Matthew R. Pritchard  
McNees Wallace & Nurick LLC  
21 East State Street, 17<sup>th</sup> Floor  
Columbus, Ohio 43215  
Telephone: (614) 469-8000  
Fax: (614) 469-4653  
[mpritchard@mcneeslaw.com](mailto:mpritchard@mcneeslaw.com)

**Attorneys for Industrial Energy Users-Ohio**

Randall Griffin  
The Dayton Power and Light Company  
1065 Woodman Drive  
Dayton, OH 45432  
Telephone: (937) 259-7358  
Fax: (937) 259-7178  
Email: [randall.griffin@aes.com](mailto:randall.griffin@aes.com)

**Attorney for The Dayton Power and Light Company**

William Michael  
Assistant Consumers' Counsel  
Office of the Ohio Consumers' Counsel  
65 East State Street, 7th Floor  
Columbus, Ohio 43215  
Telephone [Michael]: (614) 466-1291  
[William.michael@occ.ohio.gov](mailto:William.michael@occ.ohio.gov)

**Attorney for the Office of the Ohio Consumers' Counsel**

Gretchen L. Petrucci  
Vorys, Sater, Seymour and Pease LLP  
52 East Gay Street  
P.O. Box 1008  
Columbus, Ohio 43216-1008  
Telephone: (614) 464-6400  
[glpetrucci@vorys.com](mailto:glpetrucci@vorys.com)

**Attorney for Exelon Generation Company, L.L.C.**

Robert M. Endris (0089886)  
FIRSTENERGY SERVICE COMPANY  
76 South Main Street  
Akron, OH 44308  
Telephone: (330) 384-5728  
Fax: (330) 384-3875 (fax)  
[rendris@firstenergycorp.com](mailto:rendris@firstenergycorp.com)

**Attorney for FirstEnergy Companies**

**This foregoing document was electronically filed with the Public Utilities  
Commission of Ohio Docketing Information System on**

**10/31/2022 4:18:22 PM**

**in**

**Case No(s). 18-6000-EL-UNC**

Summary: Memorandum Duke Energy Ohio's Memorandum Contra the Second Application for Rehearing of the Office of the Ohio Consumer's Counsel electronically filed by Mrs. Debbie L. Gates on behalf of Duke Energy Ohio Inc. and Akhbari, Elyse and D'Ascenzo, Rocco O. Mr. and Kingery, Jeanne W and Vaysman, Larisa