

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Review of the)
Reconciliation Rider of Duke) Case No. 20-167-EL-RDR
Energy Ohio, Inc.)

**MOTION OF DUKE ENERGY OHIO, INC.,
FOR CONTINUANCE OF HEARING PENDING RESOLUTION
OF IDENTITY OF WITNESSES AND SCOPE OF HEARING AND REQUEST FOR
EXPEDITED TREATMENT**

Pursuant to Rules 4901-1-12 and 4901-1-13(A) of the Ohio Administrative Code, Duke Energy Ohio, Inc., (Duke Energy Ohio or Company) respectfully moves the Public Utilities Commission of Ohio (Commission) for an extension of the current hearing date of November 9, 2021, until such time as the pending motion for subpoenas can be decided, the identity of the witnesses who will testify and the scope of the hearing can be finally determined, and parties given adequate time to prepare for hearing with full knowledge of who will be testifying. Specifically, the Company seeks an extension of the hearing date until at least two weeks (14 days) or more after the Commission has issued a final determination as to what witnesses will testify and the scope of their testimony. Additionally, the Company respectfully moves that the hearing be made remote to reduce travel costs and minimize risk of exposure to COVID-19 and influenza. The grounds for good cause for these two requests are set forth more fully in the attached Memorandum in Support.

Given the imminently approaching existing hearing date, Duke Energy Ohio respectfully asks for expedited treatment under O.A.C. 4901-1-12(C). Duke Energy Ohio has e-

mailed all of the parties regarding these requests and all parties have responded. The Company can certify that the Office of the Ohio Consumers' Counsel (OCC) does not oppose a continuance of the evidentiary hearing or conducting the hearing remotely. Also, the Company can certify that Ohio Energy Group (OEG), Kroger, and Ohio Manufacturers' Association Energy Group (OMAEG) do not oppose a continuance to a mutually agreed-upon date and conducting the hearing remotely. Finally, the Company can certify that Commission Staff supports the continuance request and takes no position on the request for a remote hearing.

Respectfully submitted,

DUKE ENERGY OHIO, INC.

/s/ Larisa M. Vaysman

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BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Review of the)
Reconciliation Rider of Duke) Case No. 20-167-EL-RDR
Energy Ohio, Inc.)

**MEMORANDUM IN SUPPORT OF DUKE ENERGY OHIO, INC.’S MOTION FOR
CONTINUANCE OF HEARING PENDING RESOLUTION
OF SUBPOENA MOTION AND REQUEST FOR EXPEDITED TREATMENT**

As Duke Energy Ohio, Inc. (Duke Energy Ohio or the Company) explains in its Memorandum Contra Motion of the Office of the Ohio Consumers’ Counsel for Subpoenas *Duces Tecum*, also filed today, this proceeding is “an annual prudency review of [the Company’s] practices relating to liquidating its contractual entitlements under the ICPA in the wholesale market.”¹ It is not a referendum on events preceding the enactment of H.B. 6 or on the continuing operation of the coal facilities by the Ohio Valley Electric Corporation (OVEC). Nonetheless, the Office of the Ohio Consumers’ Counsel (OCC) has sought to expand this proceeding to encompass those unrelated issues and its most recent attempt—a motion to subpoena the auditor and two staff members based on unrelated correspondence pertaining to

¹ *In the Matter of the Application of Duke Energy Ohio, Inc., for an Increase in Electric Distribution Rates*, Case No. 17-32-EL-AIR, *et al.*, Stipulation and Recommendation, p. 19 (April 13, 2018) (emphasis added). *See also* Case No. 20-167-EL-RDR, Entry, p. 4 of attached Request for Proposal No. RA20-PPA-3 (February 13, 2020).

another utility's audit report² (Motion)—has created substantial uncertainty in regard to what the scope of testimony will be at hearing and even as to *who* will be testifying.

Good cause exists for continuance of the hearing date due to the uncertainty introduced by OCC's last-minute Motion and the resulting prejudice to the Company's ability to prepare its case. According to OCC itself, it received the documents on which its Motion is premised on or about August 18, 2021,³ more than *two months* before OCC filed its Motion seeking subpoenas based on the information. The short notice on which OCC is making its request was avoidable, and other parties should not be prejudiced in their ability to prepare for hearing as a result.

In addition to continuing the date of the hearing, Duke Energy Ohio respectfully requests that the hearing be made remote. This will prevent witnesses and other participants from unnecessary exposure to COVID-19 and influenza through participation at the hearing and via accompanying travel and lodging. Additionally, a remote hearing will reduce or eliminate travel costs.

For the reasons stated herein and good cause given, Duke Energy Ohio respectfully requests that the Commission issue an order to (1) reschedule the current hearing date on November 9 until such time as at least two weeks (or more) will have elapsed since the Commission's final determination as to what witnesses will testify and the scope of their testimony; and (2) make the hearing a remote hearing. The Company seeks an expedited ruling on this motion, as the hearing is coming up on November 9. Duke Energy Ohio has e-mailed all of the parties regarding these requests and all parties have responded. The Company can certify

² Motion for Subpoenas *Duces Tecum* for Auditor, PUCO Staff and PUCO-Designated Representative Making or Contributing to the Audit Report to Attend and Testify at Evidentiary Hearing by Office of the Ohio Consumers' Counsel (October 27, 2021).

³ *Id.*, Affidavit of John Finnigan, ¶2.

that OCC does not oppose a continuance of the evidentiary hearing or conducting the hearing remotely. Also, the Company can certify that Ohio Energy Group (OEG), Kroger, and Ohio Manufacturers' Association Energy Group (OMAEG) do not oppose a continuance to a mutually agreed-upon date and conducting the hearing remotely. Finally, the Company can certify that Commission Staff supports the continuance request and takes no position on the request for a remote hearing.

Respectfully submitted,

DUKE ENERGY OHIO, INC.

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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 3rd day of November, 2021, upon the persons listed below.

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