

**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Annual Application of )  
Duke Energy Ohio, Inc., for an ) Case No. 17-2318-GA-RDR  
Adjustment to Rider AMRP Rates. )

In the Matter of the Application of )  
Duke Energy Ohio, Inc. for Tariff ) Case No. 17-2319-GA-ATA  
Approval. )

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**DUKE ENERGY OHIO'S MEMORANDUM CONTRA  
MOTION TO EXTEND PROCEDURAL SCHEDULE**

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Pursuant to the provisions of O.A.C. 4901-1-12(B)(1) and the attorney examiner's schedule for these proceedings, Duke Energy Ohio, Inc., (Duke Energy Ohio or Company) hereby files its memorandum contra (Memorandum Contra) a Motion to Extend Procedural Schedule (Motion to Extend), filed with the Public Utilities Commission of Ohio (Commission) on March 12, 2018, by the Office of the Ohio Consumers' Counsel (OCC).

Duke Energy Ohio respectfully submits that the Commission should deny the Motion to Extend.

## **I. INTRODUCTION**

OCC seeks, in the Motion to Extend, to extend the schedule for the Commission's consideration of the Company's annual adjustment of its Accelerated Main Replacement Rider (Rider AMRP).

## **II. ARGUMENT**

OCC argues that its request is "modest" and that, without an extension, "parties" will be denied "ample discovery rights" and thus "meaningful participation" in the proceedings. OCC is wrong in all regards.

Although OCC describes Rider AMRP as having been approved by the Commission in 2013, this statement is misleading. The 2013 approval is the most recent Commission consideration of the alternative regulation that is encompassed by Rider AMRP, but the history goes back over more than a decade.<sup>1</sup> Each year, as the Commission is aware, the Company files an application to adjust the rate of Rider AMRP, and each year the process is the same. OCC is also aware of this fact, as it has been a party in numerous of such cases.<sup>2</sup>

While the procedural entry in these proceedings was issued on March 6, 2018, the case has been open since November 28, 2017. OCC could have intervened any time after

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<sup>1</sup> *In the Matter of the Application of the Cincinnati Gas & Electric Company For an Increase in Gas Rates in Its Service Area*, Case No. 01-1228-GA-AIR, *et al.*

<sup>2</sup> *Id.*; *In the Matter of the Annual Application of Duke Energy Ohio, Inc. for an Adjustment to Rider AMRP Rates*, Case No. 09-1849-GA-UNC, *et al.*; *In the Matter of the Annual Application of Duke Energy Ohio, Inc. for an Adjustment to Rider AMRP Rates*, Case No. 10-2788-GA-UNC, *et al.*; *In the Matter of the Annual Application of Duke Energy Ohio, Inc. for an Adjustment to Rider AMRP Rates*, Case No. 11-5809-GA-RDR, *et al.*; *In the Matter of the Annual Application of Duke Energy Ohio, Inc. for an Adjustment to Rider AMRP Rates*, Case No. 12-3028-GA-RDR, *et al.*; *In the Matter of the Annual Application of Duke Energy Ohio, Inc. for an Adjustment to Rider AMRP Rates*, Case No. 13-2231-GA-RDR, *et al.*; *In the Matter of the Annual Application of Duke Energy Ohio, Inc. for an Adjustment to Rider AMRP Rates*, Case No. 14-2051-GA-RDR, *et al.*; *In the Matter of the Annual Application of Duke Energy Ohio, Inc. for an Adjustment to Rider AMRP Rates*, Case No. 15-1904-GA-RDR, *et al.*; *In the Matter of the Annual Application of Duke Energy Ohio, Inc. for an Adjustment to Rider AMRP Rates*, Case No. 16-2209-GA-RDR, *et al.*

that date. When it did eventually intervene, on March 9, 2018, it claimed that its intervention would not unduly prolong or delay the proceedings, stating that, “with its longstanding expertise and experience in PUCO proceedings, [its intervention] will duly allow for the efficient processing of the case . . . .”<sup>3</sup> Only three days later, OCC turned around and moved to do exactly what it had promised not to do.

It is also critically important to recognize that OCC has been aware of the Tax Cut and Jobs Act of 2017 (TCJA) since February 8, 2018, if not before.<sup>4</sup> OCC commented, in its Motion to Extend, that Duke Energy Ohio’s application (filed on February 26, 2018) differed from its pre-application notice, filed before passage of the TCJA. That cannot possibly have been a surprise to OCC, based on its awareness of the TCJA and the Comments filed by Duke Energy Ohio in the TCJA investigation.

Duke Energy Ohio does not object to OCC’s participation in confirming that appropriate adjustments are being made in these proceedings to reflect the impact of the TCJA. But it absolutely does object to any delay in the procedural schedule. The schedule is set in this manner in order to allow rates to be adjusted, each year, as efficiently as possible. Delaying the schedule will almost certainly result in a delay in the effective date of the adjustment that the Commission ultimately approves. And that adjustment, based on the Company’s filings, will almost certainly be a reduction in the Rider AMRP rate. OCC asserts that the delay will not harm any parties; but the delay would certainly harm customers.

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<sup>3</sup> OCC Memorandum in Support of Motion to Intervene, pg. 2.

<sup>4</sup> See *In the Matter of the Commission’s Investigation of the Financial Impact of the Tax Cuts and Jobs Act of 2017 on Regulated Ohio Utility Companies*, Motion to Intervene by the Office of the Ohio Consumers’ Counsel (February 8, 2018).

It is also noteworthy that, in its Motion to Intervene, OCC proposed that this proceeding is one in which the Company seeks “authority” to collect \$16 million from residential customers. OCC is also incorrect in that statement. Here, Duke Energy Ohio merely seeks authority to reduce the rate for the rider that, pursuant to authority already granted, recovers the costs of its completed accelerated main replacement program.

### **III. CONCLUSION**

This is a simple proceeding in which Duke Energy Ohio seeks to reduce the rate being charged under Rider AMRP, both to reflect last year’s collections and to account for the impact of the change in the federal income tax rate resulting from the TCJA. Duke Energy Ohio respectfully submits that the Commission should deny the Motion to Extend.

Respectfully submitted,

DUKE ENERGY OHIO, INC.

*/s/ Jeanne W. Kingery*

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was delivered by U.S. mail (postage prepaid), personal, or electronic mail, on this 13<sup>th</sup> day of March, 2018, to the parties listed below.

/s/ Jeanne W. Kingery  
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