

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Procurement of)
Standard Service Offer Generation as Part)
of the Fourth Electric Security Plan for) Case No. 16-776-EL-UNC
Customers of Ohio Edison Company, The)
Cleveland Electric Illuminating Company,)
and The Toledo Edison Company.)

In the Matter of the Procurement of)
Standard Service Offer Generation for) Case No. 17-957-EL-UNC
Customers of the Dayton Power and Light)
Company.)

In the Matter of the Procurement of)
Standard Service Offer of Generation for) Case No. 17-2391-EL-UNC
Customers of the Ohio Power Company.)

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

APPLICATION FOR CLARIFICATION AND REHEARING

BY

DUKE ENERGY OHIO, INC.

July 16, 2021

Pursuant to Section 4903.10, Ohio Revised Code (O.R.C.), and Rule 4901-1-35, Ohio Administrative Code (O.A.C.), Duke Energy Ohio, Inc., (Duke Energy Ohio or Company) hereby seeks clarification and rehearing of the Finding and Order issued in this proceeding on June 16, 2021 (Order), which, among other things, intended to approve Duke Energy Ohio's Standard Service Offer (SSO) procurement auction schedule as contained in the Company's April 23, 2021, filing in these proceedings.¹ However, in paragraph 21 of its Order, the Public Utilities Commission of Ohio (Commission) misstated Duke Energy Ohio's auction schedule, thereby resulting in confusion regarding the Company's SSO procurement timeline. Accordingly, as demonstrated in the attached Memorandum in support, Duke Energy Ohio seeks clarification and, to the extent necessary, rehearing, as follows:

1. The Order is unreasonable and unlawful in that, in approving the Company's SSO proposed auction schedule, as filed April 23, 2021 (Auction Schedule), it misstates the Company's SSO procurement proposal timeline, thereby inadvertently extending it for periods beyond the term of its current Electric Security Plan (ESP).

As demonstrated in the attached Memorandum in Support, the Commission should grant Duke Energy Ohio's Application for Clarification and Rehearing and modify the Order in accordance with this Application.

¹ Finding and Order, p. 8 (June 16, 2021) ("Accordingly, the Commission finds FirstEnergy's, Duke's, AEP Ohio's, and AES Ohio's proposed SSO procurement auction schedules reasonable, satisfying the Commission's directive set forth in Paragraph 22 of the Second Entry on Rehearing issued in the above-captioned cases.").

Respectfully submitted,

DUKE ENERGY OHIO, INC.

/s/ Rocco O. D'Ascenzo

Rocco O. D'Ascenzo (0077651)

(Counsel of Record)

Deputy General Counsel

Jeanne W. Kingery (0012172)

Associate General Counsel

Larisa M. Vaysman (0090290)

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

Jeanne.kingery@duke-energy.com

Larisa.vaysman@duke-energy.com

Willing to accept service via email

Attorneys for Duke Energy Ohio, Inc.

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Customers of Duke Energy Ohio, Inc.)

**MEMORANDUM IN SUPPORT OF THE APPLICATION
FOR CLARIFICATION AND REHEARING
BY
DUKE ENERGY OHIO, INC.**

I. INTRODUCTION

Duke Energy Ohio, Inc., (Duke Energy Ohio or the Company) submits the following memorandum to the Public Utilities Commission of Ohio (Commission) in support of its Application for Clarification and Rehearing of the Commission’s Finding and Order (Order) approving the Company’s SSO Auction Schedule in these proceedings.

On February 13, 2020, in response to continuing delays and uncertainty regarding the capacity construct of PJM Interconnection L.L.C. (PJM), the Commission issued an entry directing Commission Staff (Staff) to propose a modified product containing capacity flow-through provisions for electric distribution utility (EDU) default service auctions. Staff filed its proposal on March 13, 2020, suggesting that the standard service offer (SSO) auction products for the various Ohio EDUs be modified such that capacity is priced at \$0/MW-day and the winning suppliers are made whole for the actual capacity costs via a pass-through charge, which charge would then be recovered from SSO customers as part of the auction cost recovery mechanism.²

On April 16, 2020, interested stakeholders, including Duke Energy Ohio, filed comments regarding Staff's proposal. By Entry dated May 15, 2020 (May Entry), the Commission requested that interested stakeholders file reply comments, specifically addressing eight issues regarding which the Commission desired to receive additional information.³ Among those issues, the Commission was interested in whether parallel, but separate, auctions could be held for energy and full requirements, and what issues could be created with such a strategy.⁴ Numerous stakeholders, including Duke Energy Ohio, timely submitted comments, arguing against such a change, pointing out the risks, challenges, and difficulties inherent in such a strategy. On July 15, 2020, the Commission directed each EDU to modify its current SSO procurement in a manner described within that order (July Order). On August 14, 2020, several parties, including Duke Energy Ohio, sought rehearing of the July Order.⁵ While those rehearing requests were pending

² *In the Matter of the Procurement of Standard Service Offer Generation as Part of the Fourth Electric Security Plan for Customers of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 16-776-EL-UNC, *et al.*, Staff Proposal and Recommendation, p. 5 (March 13, 2020).

³ May Entry, p. 8 (May 15, 2020).

⁴ *Id.*

⁵ The following parties sought rehearing of the July Order on August 14, 2020: The Office of the Ohio Consumers' Counsel, Ohio Power Company, and Duke Energy Ohio.

and in compliance with the July Order, on August 26, 2020, Duke Energy Ohio submitted its motion to adjust its Fall 2020 and Spring 2021 auctions.

By Entry on Rehearing dated September 9, 2020, the Commission granted rehearing for further consideration of the matters specified in the applications for rehearing submitted by several parties, including Duke Energy Ohio.⁶ On February 24, 2021, the Commission then issued its Second Entry on Rehearing, which, among other things, in recognition of the new auction schedules established by PJM, directed the electric distribution utilities to file, within 60 days, new proposed auction schedules consistent with the PJM auction timeframes.⁷ On April 23, 2021, Duke Energy Ohio submitted its proposed auction schedule (Auction Schedule), which was approved by the Commission on June 16, 2021.⁸

The Company alleges one error for the Commission's consideration, which the Company believes was an inadvertent misreading of the Company's compliance filing, and requests the Commission to clarify and correct the dates referenced in its Order.

II. DISCUSSION

The Order is unreasonable and unlawful in that, in approving the Company's SSO proposed Auction Schedule, it misstates the Company's SSO procurement proposal timeline, thereby inadvertently extending it for periods beyond the term of its current Electric Security Plan (ESP).

In its Auction Schedule, Duke Energy Ohio included a chart that recited the reinstated PJM base residual auction (BRA) schedule as follows:

⁶ *In the Matter of the Procurement of Standard Service Offer Generation as Part of the Fourth Electric Security Plan for Customers of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 16-776-EL-UNC, *et al.*, Entry on Rehearing, p. 9 (September 9, 2020).

⁷ *In the Matter of the Procurement of Standard Service Offer Generation as Part of the Fourth Electric Security Plan for Customers of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 16-776-EL-UNC, *et al.*, Second Entry on Rehearing, p. 9 (February 24, 2021).

⁸ *In the Matter of the Procurement of Standard Service Offer Generation as Part of the Fourth Electric Security Plan for Customers of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 16-776-EL-UNC, *et al.*, Finding and Order, pp. 1, 8 (June 16, 2021).

of the load requirement (50 tranches) for the 2022/2023 delivery year. The Company anticipates that by the time the February 2022 auction occurs, PJM will have conducted the BRA for the 2023/2024 delivery year. Accordingly, the Company proposes to procure the remaining 50 percent of the 2022/2023 year in its February 2022 SSO auction, following the December 2021 BRA for the 2023/2024 delivery year. This February 2022 auction will include two products, a 12-month product with 20 tranches and a 24-month product, consisting of 30 tranches. The 24-month product will include load for the 2023/2024 delivery year. This staggered approach will mitigate against the risk of potential price volatility, as compared to procuring 100 percent of the delivery year all at once.

For its September 2022 auction and following the scheduled June 2022 BRA, Duke Energy Ohio will procure two products: 1) a 12-month, 15 tranche product; and 2) a 24-month product, 20 tranche product. *For its February 2023 auction, occurring after the January 2023 BRA for the 2025/2026 delivery period, Duke Energy Ohio will again procure two products: 1) a 12-month, 15 tranche; and 2) a 24-month, 20 tranche product.* For its September 2023 auction, Duke Energy Ohio will procure a 12-month, 30 tranche product for the 2024/2025 delivery period. Finally, in February 2024, the Company will procure a 12-month, 30 tranche product for the 2024/2025 delivery period.¹⁰

As shown above, the Company explained the timing of its proposed retail SSO auctions in relation to the timing of the reinstated PJM BRA, which had no bearing upon the auction products that the Company was intending to procure. Reading these passages together, it is clear that the Company was proposing to procure SSO supply through the term of its existing ESP. Specifically, as it relates to the Company's February 2023 auction, the Company's proposal notes that this particular auction will occur *after* the PJM BRA for the 2025/2026 delivery year, but, as shown in the Table, is intended to include two products: 1) a 12-month, 15 tranche product for the June 2023 through May 2024 delivery period; and 2) a 24-month, 20 tranche product spanning the June 2023 through May 2025 delivery periods. It was not proposing to procure any tranches for the 2025/2026 PJM delivery year or beyond.

In summarizing the Company's Auction Schedule filing, however, the Commission's Order misstates the Company's proposal, indicating that the Company was procuring SSO supply for the 2025/2026 delivery year, as follows:

¹⁰ Auction Schedule p. 6 (*emphasis added*).

Duke notes that it has procured supply through the 2021/2022 delivery year and, thus, proposes to commence procurement for the 2022/2023 delivery year with its currently scheduled September 2021 auction through which it will procure 50 tranches. Duke proposes to procure the remaining 50 tranches for the 2023/2024 year through the February 2022 auction, which will include a 12-month product with 20 tranches and a 24-month product with 30 tranches. The 24-month product will include the load for the 2023/2024 delivery year. Duke proposes to conduct the scheduled September 2022 auction using a 12-month, 15 tranche product and a 24-month, 20 tranche product. *For its February 2023 auction for the 2025/2026 delivery year, Duke proposes to use the same product and tranche allocation, a 12-month, 15 tranche product and a 24-month, 20 tranche product.* For the September 2023 auction, Duke plans to procure a 12-month, 30 tranche product for the 2024/2025 delivery period, and, for the February 2024 auction, Duke proposes to procure a 12-month, 30 tranche product for the 2024/2025 delivery period. Duke notes that it chose not to hold an additional SSO auction because it does not believe that such an auction will result in material pricing benefits to customers. Instead, Duke believes adjusting the number of procured tranches and using a mix of 12- and 24-month products will provide the best alternative for customers under the current BRA schedule.¹¹

The Order thus states that the Company's February 2023 auction includes the 2025/2026 PJM delivery year. The Company's Auction Schedule does not propose this. In fact, procuring SSO supply for the 2025/2026 delivery year as part of the Company's February 2023 SSO auction does not make sense in the context of the remainder of the Company's Auction Schedule, wherein it clearly describes the subsequent September 2023 and February 2024 SSO auctions only procuring supply through the 2024/2025 delivery period. Moreover, the Commission's Order correctly states that the Company's subsequent September 2023 and February 2024 auctions are both procuring SSO supply for the PJM 2024/2025 delivery period (June 2024 through May 2025), which coincides with the conclusion of the Company's ESP.¹² Thus, the Commission's Order mistakenly concludes that the Company's SSO auction for February 2023

¹¹ *In the Matter of the Procurement of Standard Service Offer Generation as Part of the Fourth Electric Security Plan for Customers of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 16-776-EL-UNC, *et al.*, Finding and Order, pp. 6-7 (June 16, 2021). *Emphasis added.*

¹² *Id.*

was procuring supply *for* the 2025/2026 delivery year, instead of noting that the timing of the Company's February 2023 auction was merely occurring after the January 2023 PJM BRA for the 2025/2026 PJM delivery year.

The Company submits that procuring SSO supply for periods beyond its current ESP, which concludes in May 2025, is unlawful and unreasonable for the reasons stated in the Company's August 2020 Application for Rehearing in these proceedings.¹³ Specifically, as previously argued, such a requirement would:

1. Result in a significant modification of the terms of the Company's ESP under R.C. 4928.143(C);¹⁴
2. Unreasonably restrict Duke Energy Ohio's ability to evaluate alternative procurement processes for its next ESP;¹⁵
3. Unreasonably and unlawfully require Duke Energy Ohio to enter into contracts with suppliers beyond the terms of its current ESP while failing to approve cost recovery;¹⁶ and
4. Unreasonably and unlawfully place additional risk on the Company for participation in the retail standard service auctions.¹⁷

Accordingly, the Company respectfully submits that the Commission's Order incorrectly summarized the Company's SSO Schedule and should be clarified to reference the correct delivery year as follows:

For its February 2023 auction, for the 2023/2024 delivery year, Duke proposes to use the same product and tranche allocation, a 12-month, 15 tranche product and a 24-month, 20 tranche product.

¹³ Application for Rehearing by Duke Energy Ohio, pp. 1-2 (August 14, 2020).

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

III. CONCLUSION

Duke Energy Ohio respectfully requests that the Commission reconsider the Order, grant rehearing, and take action to clarify the timing of Duke Energy Ohio's February 2023 SSO auction and the products to be procured, as discussed herein.

Respectfully submitted,

DUKE ENERGY OHIO, INC.

/s/ Rocco O. D'Ascenzo

Rocco O. D'Ascenzo (0077651)

(Counsel of Record)

Deputy General Counsel

Jeanne W. Kingery (0012172)

Associate General Counsel

Larisa M. Vaysman (0090290)

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

Jeanne.kingery@duke-energy.com

Larisa.vaysman@duke-energy.com

Willing to accept service via email

Attorneys for Duke Energy Ohio, Inc.

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 16th day of July, 2021, to the parties listed below.

/s/ Rocco O. D'Ascenzo
Rocco O. D'Ascenzo

John Jones
Section Chief, Public Utilities Section
Thomas Lindgren
Assistant Attorneys General
Public Utilities Section
30 East Broad Street, 16th Floor
Columbus, Ohio 43215
Telephone: 614-466-4397
Facsimile: 614-644-8767
John.jones@ohioattorneygeneral.gov
Thomas.lindgren@ohioattorneygeneral.gov

Attorneys 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
fykes@whitt-sturtevant.com

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

Joseph Olikier
Counsel of Record
Michael Nugent
Bethany Allen
IGS Energy
6100 Emerald Parkway
Dublin, Ohio 43016
Telephone: (614) 659-5000
Joe.oliker@igs.com
Michael.nugent@igs.com
Bethany.allen@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
mkeaney@beneschlaw.com
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
kboehm@BKLawfirm.com
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

Attorney for Ohio Power Company

Matthew R. Pritchard
Rebekah J. Glover
McNees Wallace & Nurick LLC
21 East State Street, 17th Floor
Columbus, Ohio 43215
Telephone: (614) 469-8000
Fax: (614) 469-4653
mpritchard@mcneeslaw.com
rglover@mcneeslaw.com

**Attorneys for Industrial Energy Users-
Ohio**

Christopher Healey
Counsel of Record
William Michael
Assistant Consumers' Counsel
Office of the Ohio Consumers' Counsel
65 East State Street, 7th Floor
Columbus, Ohio 43215
Telephone [Healey]: (614) 466-9571
Telephone [Michael]: (614) 466-1291
Christopher.healey@occ.ohio.gov
William.michael@occ.ohio.gov

**Attorneys 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

**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

Attorney for FirstEnergy Companies

Michael J. Schuler
The Dayton Power and Light Company
1065 Woodman Drive
Dayton, OH 45432
Telephone: (937) 259-7358
Fax: (937) 259-7178
Email: michael.schuler@aes.com

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