**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

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| In the Matter of the Application of Duke Energy Ohio, Inc., for Authority to Establish a Standard Service Offer Pursuant to Ohio Revised Code Section 4928.143 in the Form of an Electric Security Plan.  In the Matter of the Application of Duke Energy Ohio, Inc., for Authority to Amend Tariffs, including its Certified Supplier Tariff, P.U.C.O. No. 20 and to Implement New Tariffs.  In the Matter of the Application of Duke Energy Ohio, Inc., for Accounting Authority, including any Necessary Deferrals. | )  )  )  )  )  )  )  )  )  )  )  )  ) | Case No. 24-278-EL-SSO  Case No. 24-279-EL-ATA  Case No. 24-280-EL-AAM |

**MEMORANDUM CONTRA DUKE’S MOTION TO MODIFY THE PROCEDURAL SCHEDULE**

**BY**

**OFFICE OF THE OHIO CONSUMERS’ COUNSEL**

# INTRODUCTION

Duke has proposed an electric security plan that will increase charges to consumers under various and sundry “riders” that have questionable benefits for consumers. Duke’s proposal will increase charges consumers pay for distribution service by an additional $11.27 per month by the end of the proposed three-year term.[[1]](#footnote-2) This is on top of increases in generation costs for residential consumers who source their electricity from Duke.[[2]](#footnote-3) And it will be in addition to the 800% increase in capacity prices Duke’s consumers will face in 2025 as a result of the recent PJM base residual auction for capacity.

Duke wants more time to hammer out a settlement with the PUCO Staff and other parties. Duke has already sought (and received) multiple extensions of the procedural schedule in this case.[[3]](#footnote-4) Meanwhile, OCC has expended substantial resources to prepare for litigation and to participate in settlement negotiations. Duke latest request now seeks to hold the entire case in abeyance. There is no good cause for indefinitely delaying the procedural schedule. Duke’s motion should be denied.

# ARGUMENT

Duke has not shown “good cause,” as required for the extension of deadlines by O.A.C. 4901-1-13(A), to delay this matter further by having the procedural schedule held in abeyance. Duke contends that extending the deadlines for testimony will “allow for sufficient time to potentially finalize a Stipulation.”[[4]](#footnote-5) However, the extensions requested by Duke and allowed by the ALJ up to this point in the case have served only to delay these proceedings, and further extensions could protract the settlement negotiations. Negotiating a resolution to this case requires parties to communicate about their interests openly, honestly, and without delay. The PUCO can facilitate this by requiring parties to file testimony that articulates in detail their positions on Duke’s proposed rate hike.

Duke’s proposal is also unfair to OCC who has expended considerable time and resources in preparing testimony and preparing for hearing. The stop and go procedural schedule is a tremendous burden considering the numerous cases pending at the PUCO where OCC is advocating for consumers. Negotiations require open and honest discussions toward a shared outcome. Additional delay in the providing of full direct testimony from all parties harms negotiations by failing to reveal each party’s litigation position. To hold the procedural schedule in abeyance will also cause the loss of firm endpoint to negotiations that is provided by evidentiary hearings.

Further, OCC has out of town witnesses who must travel to testify. The uncertainty of the procedural schedule if Duke’s motion is granted is burdensome for OCC’s witnesses who are also involved in other matters.

As Duke notes, the parties have spent significant time engaging in settlement negotiations. There is no reason why negotiations cannot still proceed while moving toward a hearing date. The mere fact that a settlement has not yet been reached in this case is not good cause for holding the entire case in abeyance. Rather than facilitating a negotiated resolution, holding the procedural schedule in abeyance as requested by Duke will only result in protracted negotiations. No valid reason has been shown as to why the parties cannot file testimony in adherence to the current procedural schedule and continue negotiations at the same time.

# CONCLUSION

Duke has not shown “good cause” for delay, let alone the open-ended abeyance it has requested. Accordingly, the PUCO should deny Duke’s motion to hold the procedural schedule in abeyance.

Respectfully submitted,

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*/s/ John Finnigan*

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**CERTIFICATE OF SERVICE**

It is hereby certified that a true copy of the foregoing Memorandum Contra Duke’s Motion to Modify the Procedural Schedule was served upon the persons listed below via electronic transmission this 30th day of October 2024.

*/s/ John Finnigan*

John Finnigan

Assistant Consumers’ Counsel

The PUCO’s e-filing system will electronically serve notice of the filing of this document on the following parties:

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1. Direct Testimony of James E. Ziolkowski on behalf of Duke Energy Ohio, Inc*.* (April 1, 2024), Attachment JEZ-3 at 2. This may understate the actual amount of the increase because it appears that Duke included the commodity cost in its calculation. [↑](#footnote-ref-2)
2. E. Mansfield, “Did your Duke Energy bill shock you? Why your electric bill is so high and what you can do,” Cincinnati Enquirer (Feb. 18, 2024). [↑](#footnote-ref-3)
3. Duke’s Motion to Modify the Procedural Schedule (Sept. 19, 2024); Duke’s Motion to Modify the Procedural Schedule (Oct. 4, 2024); Duke’s Motion to Modify the Procedural Schedule (Oct. 15, 2024). [↑](#footnote-ref-4)
4. Duke’s Motion to Modify the Procedural Schedule (Oct. 28, 2024) at 3. [↑](#footnote-ref-5)