

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of)
Duke Energy Ohio, Inc., for a Waiver to) Case No. 16-576-EL-WVR
File a New Energy Efficiency and Peak)
Demand Reduction Portfolio Application)

**DUKE ENERGY OHIO, INC.'S MEMORANDUM CONTRA
MOTION FOR EXTENSION TO FILE STAFF TESTIMONY
AND REQUEST FOR EXPEDITED RULING**

Duke Energy Ohio, Inc., (Duke Energy Ohio or the Company) submitted the application in this proceeding on June 15, 2016. Objections to the application were filed on August 15, 2016. The Staff of the Public Utilities Commission of Ohio (Staff) notably did not file any objections. Nor did Staff file any sort of comment or report.

On September 29, 2016, Staff filed a motion to indefinitely continue hearings to allow the parties more time to discuss settlement in Case No.16-743-EL-POR. In this case, there had been no procedural schedule established. Thereafter, the Attorney Examiner convened a teleconference where Staff, parties and all of the electric distribution utility representatives discussed coordination of their respective portfolio proceedings. At that time, it was agreed that Duke Energy Ohio's hearing would begin on November 28, 2016.

On November 10, 2016, Staff, along with other parties again submitted a motion to extend the procedural schedule, requesting a hearing on December 12, 2016. The Company opposed this motion and specifically noted that December 12, was not an available date. In response, the Attorney Examiner scheduled hearing for December 5, 2016, with Staff testimony to be filed on November 23, 2016. On November 18, 2016, a mere four days after the Attorney Examiner's previous entry, Staff filed yet again for a continuance. Staff's pretext for this continuance was that

it wished to pursue further settlement amongst the parties and because counsel was otherwise scheduled to attend different hearings. Despite this explanation, there were no meaningful attempts at settlement after this motion was filed. This time, the Attorney Examiner set the hearing from January 9, 2017.

On December 23, 2016, Staff and the Office of the Ohio Consumers' Counsel again moved to continue the hearing seeking a continuance on the eve of the date when Staff testimony was due to be filed. Again the Company opposed this motion but the Attorney Examiner granted the motion and scheduled a hearing for February 21, 2017. Staff never explained why the scheduling conflict was not known earlier, nor were there any meaningful settlement discussions held with Staff after this motion was filed. During all of this time, it should be noted that Staff did not file comments in the docket when comments were requested, and to date, Staff has only propounded one single discovery request that seeks information that is actually already available in the docket.

And now again Staff is moving to delay the filing of Staff testimony on the eve of the date when Staff testimony is due. Staff's explanation for why a continuance is needed must be addressed. Duke Energy Ohio received Staff's first and only data request on December 23, 2016. The Company responded by providing pinpoint responses to each of Staff's questions. This is material already filed in previous documents and material with which Staff should already be familiar. Nonetheless, Staff then informally requested that the Company go into each of the pinpoint references and provide them to Staff. The Company did this within a matter of days and even highlighted the specific columns that were pertinent to Staff's questions. Still, Staff was unable to use the highlighted data in the responses and next requested that the Company circle the specific number in each column that was responsive. The Company instead provided a chart with each of the numbers provided in isolation so that Staff would not need to refer to the spreadsheets.

Given the nature of these interactions, it is surprising that Staff would now claim that the Company's response has been inadequate.

Throughout all of these delays, the Company has continued to provide energy efficiency and peak demand reduction programs for its customers in order to avoid costly program curtailments and unnecessary expenses. The Company has done so at its own risk since there is no approved portfolio beginning January 1, 2017.

For the reasons stated above, Duke Energy Ohio respectfully requests that the Commission deny Staff's motion to continue the date for filing of its testimony.

Respectfully submitted,

DUKE ENERGY OHIO, INC.

/s/ Elizabeth H. Watts

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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 delivery, or electronic mail, on this 17th day of January, 2017, to the following parties.

/s/ Elizabeth H. Watts
Elizabeth H. Watts

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