**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 |

**MOTION TO SCHEDULE A VIRTUAL PUBLIC HEARING FOR THE CONVENIENCE OF DUKE CONSUMERS TO TESTIFY REMOTELY REGARDING DUKE’S PROPOSED RATE INCREASES**

**BY**

**OFFICE OF THE OHIO CONSUMERS’ COUNSEL**

Duke’s recently proposed electric security plan contains its expensive wish list of asks to be paid for by consumers with questionable consumer benefits. That is not unexpected under Ohio’s 2008 energy law that, in creating electric security plans, favors utilities over consumers for electric ratemaking. Here, Duke’s wish list proposal will increase charges consumers pay for distribution service by an additional $11.27 per month by the end of its three-year term.[[1]](#footnote-2) And, this comes on the heels of a 30% increase in generation costs for residential consumers who source their electricity from Duke.[[2]](#footnote-3)

It is important that the public be given a convenient opportunity to have their voices heard by their state utility regulator, the PUCO, regarding Duke’s proposal to increase rates through its proposed electric security plan. To this end, R.C. 4928.141(B) requires the PUCO to schedule a public hearing in the territory of any utility that applies for an electric security plan. Nowadays, with the availability of remote meeting technology, in-person hearings along with virtual hearings are a greater convenience to the public than in-person hearings alone.

In-person public hearings present attendance challenges for some people. Job schedules, health challenges, mobility issues, disabilities, childcare, eldercare, and transportation limitations, among other things, might prevent attendance at an in-person public hearing. Ohioans should be given a choice by their state government to participate and testify remotely. Indeed, the PUCO has permitted consumers to testify remotely where “financial hardship, work-related scheduling conflicts, and physical restrictions” prevented them from traveling to appear in person before the PUCO.[[3]](#footnote-4)

The PUCO has conducted numerous evidentiary hearings remotely for the convenience of parties, including utilities.[[4]](#footnote-5) Consumers wishing to appear at local public hearings deserve the same consideration.

In addition to in-person local public hearings the PUCO should set a public hearing to be conducted virtually where consumers may testify remotely (via WebEx, Microsoft Teams, Zoom, or some similar platform) regarding Duke’s proposed electric security plan. A virtual public hearing should occur with adequate notice for the public, including print media, broadcast media and social media.

The reasons for this Motion are explained more fully in the attached Memorandum in Support.

Respectfully submitted,

Maureen R. Willis (0020847)

Ohio Consumers’ Counsel

*/s/ John Finnigan*

John Finnigan (0018689)

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**MEMORANDUM IN SUPPORT**

Duke seeks approval of a three-year electric security plan (“ESP IV”) pursuant to R.C. 4928.143. Duke’s wish list proposal will increase charges consumers pay for distribution service by an additional $11.27 per month by the end of its three-year term.[[5]](#footnote-6) And, this comes on the heels of a 30% increase in generation costs for residential consumers who source their electricity from Duke.[[6]](#footnote-7)

It is important that *all* Duke consumers are afforded the opportunity to have their voices heard by the PUCO regarding Duke’s proposed ESP, which will increase rates. Scheduling a virtual public hearing for those who have personal challenges in attending the in-person hearings is a reasonable and respectful accommodation for these consumers.

In-person public hearings present attendance challenges for some people. There are difficulties with job schedules, health challenges, mobility issues, disabilities, childcare, eldercare, and transportation limitations, among other things. Ohioans should be given a choice by their state government to participate and testify remotely. Indeed, the PUCO has permitted consumers to testify remotely in prior cases where “financial hardship, work-related scheduling conflicts, and physical restrictions” prevented them from traveling to appear in person before the PUCO.[[7]](#footnote-8)

The PUCO should be inclusive and accommodating when it comes to providing consumers with an opportunity to testify regarding the utility rates they are asked to pay. The PUCO should schedule a virtual public hearing.

The Administrative Conference of the United States (“ACUS”) has noted, in a recommendation published in the Federal Register, that virtual hearings promote justice.[[8]](#footnote-9) It is stated that, in administrative procedures, virtual hearings “have the potential to expand access to justice for individuals who belong to certain underserved communities.”[[9]](#footnote-10) Expanding access to justice for people in underserved communities warrants virtual hearings.

The PUCO has the technology and resources available to conduct a virtual public hearing in this case. The PUCO has conducted numerous evidentiary hearings remotely, including public hearings in rate cases.[[10]](#footnote-11) Even though the PUCO has largely returned to in-person hearing processes post-pandemic, the PUCO has since permitted consumers to testify remotely on occasion. That is where “financial hardship, work-related scheduling conflicts, and physical restrictions” prevented them from traveling to appear in person before the PUCO.[[11]](#footnote-12) Consumers wishing to participate remotely in public hearings also deserve the same consideration.[[12]](#footnote-13)

In addition, consumers themselves have become more tech savvy. During the pandemic, many consumers developed the skills to interact with families, friends, businesses, and doctors, and to conduct other activities virtually. For those consumers who faced mobility, transportation, family and/or cost issues, virtual communications provided significant benefits, which enabled them to participate more fully in their communities. The PUCO should embrace this change by providing consumers the opportunity to testify remotely regarding Duke’s proposed electric security plan and rate increases.

For these reasons, the PUCO should grant OCC’s motion and schedule a virtual public hearing in this case.

Respectfully submitted,

Maureen R. Willis (0020847)

Ohio Consumers’ Counsel

*/s/ John Finnigan*

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Counsel of Record

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(willing to accept service by e-mail)

**CERTIFICATE OF SERVICE**

It is hereby certified that a true copy of the foregoing Motion to Schedule a Virtual Public Hearing for the Convenience of Duke Consumers to Testify Remotely Regarding Duke’s Proposed Rate Increases was served upon the persons listed below via electronic transmission this 14th day of May 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:

**SERVICE LIST**

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1. Direct Testimony of James E. Ziokowski 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. *See In the Matter of the Commission’s Investigation into RPA Energy Inc.’s Compliance with the Ohio Administrative Code and Potential Remedial Actions for Non-Compliance*, Case No. 22-441-GE-COI, Entry (Oct. 17, 2022) at ¶ 11; *In the Matter of the Application of Ohio Power Company for Authority to Establish a Standard Service Offer,* Case No. 23-23-EL-SSO, et al., Entry (April 17, 2023), at ¶ 11 (scheduling virtual public hearing); *and* *In the Matter of the Application of the Dayton Power and Light Company to Increase Its Rates for Electric Distribution*, Case No. 20-1651-EL-AIR, et al., Entry (Oct. 22, 2021), at ¶ 13 (scheduling virtual public hearing). [↑](#footnote-ref-4)
4. *See, e.g., In the Matter of the Application of the Dayton Power & Light Company to Increase Its Rates for Electric Distribution*, Case No. 20-1651-EL-AIR,et al.; *In the Matter of the Application of Ohio Power Company for an Increase in Electric Distribution Rates*, Case No. 20-585-EL-AIR, et al. [↑](#footnote-ref-5)
5. Direct Testimony of James E. Ziokowski 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-6)
6. 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-7)
7. *See In the Matter of the Commission’s Investigation into RPA Energy Inc.’s Compliance with the Ohio Administrative Code and Potential Remedial Actions for Non-Compliance*, Case No. 22-441-GE-COI, Entry (Oct. 17, 2022) at ¶ 11; *In the Matter of the Application of Ohio Power Company for Authority to Establish a Standard Service Offer,* Case No. 23-23-EL-SSO, et al., Entry (April 17, 2023), at ¶ 11 (scheduling virtual public hearing); *and* *In the Matter of the Application of the Dayton Power and Light Company to Increase Its Rates for Electric Distribution*, Case No. 20-1651-EL-AIR, et al., Entry (Oct. 22, 2021), at ¶ 13 (scheduling virtual public hearing). [↑](#footnote-ref-8)
8. ACUS Recommendation 2021-4, *Virtual Hearings in Agency Adjudication*, 86 FR 36075, 36083-36084 (June 17, 2021) (noting that virtual hearings may be “especially beneficial” for individuals with disabilities, individuals with low income, and individuals living in rural and isolated areas). [↑](#footnote-ref-9)
9. *Id.* [↑](#footnote-ref-10)
10. *See, e.g., In the Matter of the Application of the Dayton Power & Light Company to Increase Its Rates for Electric Distribution*, Case No. 20-1651-EL-AIR, et al.; *In the Matter of the Application of Ohio Power Company for an Increase in Electric Distribution Rates*, Case No. 20-585-EL-AIR, et al. [↑](#footnote-ref-11)
11. *See In the Matter of the Commission’s Investigation into RPA Energy Inc.’s Compliance with the Ohio Administrative Code and Potential Remedial Actions for Non-Compliance*, Case No. 22-441-GE-COI, Entry (Oct. 17, 2022), at ¶ 11. [↑](#footnote-ref-12)
12. *See* National Association of State Utility Consumer Advocates, “Resolution on Advancing Equity & Affordability in Utility Regulation” (2022), p. 4 (calling on utility regulators to “support policies that encourage participation of diverse voices in regulatory proceedings”). [↑](#footnote-ref-13)