

FILE

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

Consolidated Duke Energy Ohio, Inc., Rate)	Case Nos. 03-93-EL-ATA
Stabilization Plan Remand and Rider)	03-2079-EL-AAM
Adjustment Cases)	03-2081-EL-AAM
)	03-2080-EL-ATA
)	05-724-EL-UNC
)	05-725-EL-UNC
)	06-1068-EL-UNC
)	06-1069-EL-UNC
)	06-1085-EL-UNC

ENTRY

The attorney examiner finds:

- (1) In *In the Matter of the Application of The Cincinnati Gas & Electric Company to Modify Its Nonresidential Generation Rates to Provide for Market-Based Standard Service Offer Pricing and to Establish an Alternative Competitive-Bid Service Rate Option Subsequent to the Market Development Period*, Case No. 03-93-EL-ATA, *et al.* (RSP Case), this Commission authorized Duke Energy Ohio (DE-Ohio)¹ to establish a rate stabilization plan and, as a part of that plan, to recover various costs through identified riders. The Commission's entry on rehearing, *inter alia*, modified or created various riders, as part of the rate stabilization plan.
- (2) On appeal of that Commission decision, the Ohio Supreme Court remanded the proceedings to the Commission, requesting, *inter alia*, that the Commission provide additional record evidence and sufficient reasoning to support the modification of its opinion and order on rehearing. *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 300, 2006-Ohio-5789.
- (3) On November 29, 2006, the attorney examiner issued an entry, finding "that a hearing should be held in the remanded RSP Case, in order to obtain the record evidence required by the

¹ DE-Ohio was formerly known as the Cincinnati Gas & Electric Company. In this entry, it will be referred to as DE-Ohio, regardless of its name at the time being discussed. Case names, however, will not be modified.

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court." That hearing is scheduled to commence on March 19, 2007.

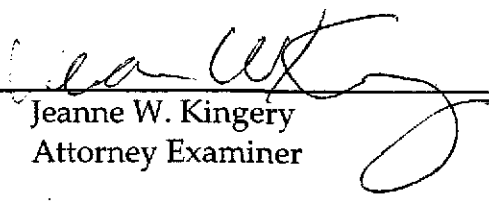
- (4) On March 2, 2007, motions for protective orders were filed by several parties, including Duke and its affiliates, Duke Energy Retail Sales, LLC (DERS), and Cinergy Corp (Cinergy). Under the expedited schedule applicable to these proceedings, any memoranda contra those motions would be due on March 9, 2007.
- (5) On March 8, 2007, the Office of the Ohio Consumers' Counsel (OCC) filed a motion for a four-day extension of time, until March 13, 2007, to file a memorandum contra those motions for protective orders, also requesting expedited treatment. OCC states that Duke, Cinergy, and DERS have agreed to the requested extension, as has the Kroger Company. OCC states that the purpose for the extension is to allow OCC to reduce the complexity in these proceedings and provide to the attorney examiners a narrowed list of documents at issue. OCC points out that, if the motion is granted, replies will be due prior to the start of the hearing.
- (6) As OCC also notes, Rule 4901-1-12(C), Ohio Administrative Code (O.A.C.), permits expedited motions for extensions of time to file pleadings of five days or less to be granted by an immediate ruling without the filing of memoranda. The examiner finds that it is reasonable to allow OCC time to narrow the number of documents at issue, as requested.
- (7) Under the authority of Rule 4901-1-12(C), O.A.C., the motion will be granted. However, in light of the limited time prior to the start of the hearing, OCC shall file any memoranda contra by 12:00 noon on Tuesday, March 13, 2007. In addition, any replies shall be filed no later than 12:00 noon on Thursday, March 15, 2007.

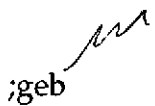
It is, therefore,

ORDERED, That OCC's motion for an extension of time to file memoranda contra be granted to the extent set forth in finding (7). Replies shall be filed as also set forth in finding (7). It is, further,

ORDERED, That a copy of this entry be served upon all parties of record in these proceedings.


THE PUBLIC UTILITIES COMMISSION OF OHIO


By: Jeanne W. Kingery
Attorney Examiner


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Entered in the Journal

MAR 09 2007


Renee J. Jenkins

Renee J. Jenkins
Secretary