

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

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| In the Matter of the Complaint of James |) | Case No. 07-196-EL-CSS |
| Byerly, Jr. , Benjamin Wissel, Shirley |) | Case No. 07-197-EL-CSS |
| Newman, Jeffrey Reichard, Daniel Ledford, |) | Case No. 07-198-EL-CSS |
| Patricia Ingram, James Wellingshoff, Al Roane, |) | Case No. 07-253-EL-CSS |
| Bruce Aronow, Brian Beachkofski, Central |) | Case No. 07-263-EL-CSS |
| Parkway Properties, Karl Koehler, David |) | Case No. 07-265-EL-CSS |
| Wilder, and American Building Condo Assoc. |) | Case No. 07-271-EL-CSS |
| LLC., |) | Case No. 07-281-EL-CSS |
| |) | Case No. 07-300-EL-CSS |
| Complainants, |) | Case No. 07-322-EL-CSS |
| |) | Case No. 07-379-EL-CSS |
| v. |) | Case No. 07-392-EL-CSS |
| |) | Case No. 07-397-EL-CSS |
| Duke Energy Ohio, Inc., |) | Case No. 07-404-EL-CSS |
| |) | |
| Respondent. |) | |

ENTRY

The Commission finds:

- (1) On various dates in February and March 2007, James Byerly, Jr., Benjamin Wissel, Shirley Newman, Jeffrey Reichard, Daniel Ledford, Patricia Ingram, James Wellingshoff, Al Roane, Bruce Aronow, Brian Beachkofski, Central Parkway Properties, Karl Koehler, David Wilder, and the American Building Condo Assoc. LLC., (collectively referred to as "complainants") filed complaints against Duke Energy Ohio, Inc. (Duke). Complainants each alleged that they are living in residential condominiums, referred to as the "American Building", and receive electric service through a three-phase wiring connection. Complainants claimed that Duke is billing them for electric service based on one of two non-residential service tariffs including secondary distribution voltage (DS Tariff) and secondary distribution small service (DM Tariff), because Duke claims its tariff requires non-residential rates be applied to customers with three-phase electric service. In addition, complainants argued that because they do not use three-phase electric service, they should not be charged non-residential

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electric rates and should have Duke's residential service (RS Tariff) rate applied to them.

- (2) Duke filed answers to the complaints that admit, in part, and deny, in part, the allegations of the complaints.
- (3) On April 10, 2007, the Office of the Ohio Consumers' Counsel (OCC) filed a motion to intervene in these cases.
- (4) A prehearing settlement conference was held on April 19, 2007, following which the parties requested additional time be granted in order to continue negotiations.
- (5) On April 30, 2007, the complainants and Duke filed a partial stipulation and recommendation (partial stipulation). In part, the partial stipulation provides that Duke will file with the Commission an application for approval of a tariff amendment (ATA) for a new three-phase residential service. The partial stipulation also indicates that, following Commission approval of this tariff, Duke will place the complainants on this new tariff and will charge such consumers under such tariff on a going forward basis. In addition, Duke will adjust the electric bills for any residential complainants who were billed under the non-residential Rate DS and will issue bill credits to those customers for the difference between Rate DS and Rate DM tariffs for the entire time they were billed under Rate DS while residing at the American Building. Further, under the partial stipulation, any residential complainant may continue to pursue their claims for a refund for past payments made under Rate DS.
- (6) Upon review, the Commission finds that the partial stipulation should be approved. Accordingly, within seven days following the date of this entry, Duke should file an ATA for residential three-phase service tariff in a separate docket. In addition, complainants and OCC shall have the opportunity to file comments on Duke's proposed residential three-phase service tariff within 10 days after Duke's ATA filing. Finally, Duke should serve a copy of its proposed ATA filing on all of the complainants in this proceeding and OCC.

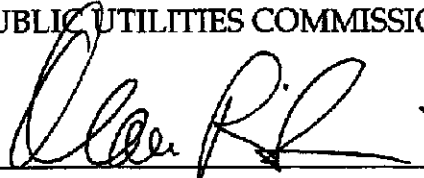
It is, therefore,

ORDERED, That the partial stipulation be approved. It is, further,

ORDERED, That Duke's ATA for residential three-phase service tariff and any comments be filed pursuant to Finding (6). It is, further,

ORDERED, That a copy of this entry be served upon all parties of record and OCC.

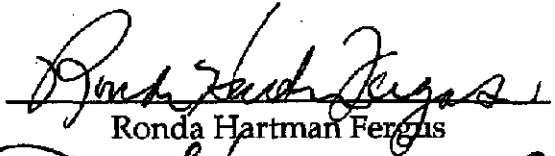
THE PUBLIC UTILITIES COMMISSION OF OHIO



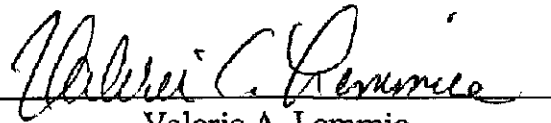
Alan R. Schriber, Chairman



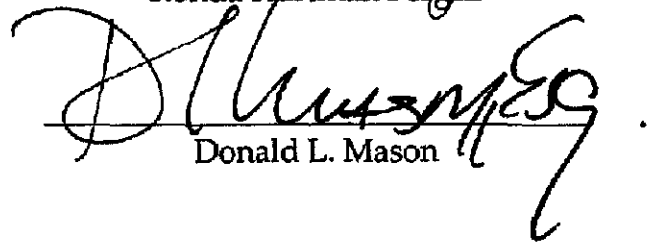
Paul A. Centolella



Ronda Hartman Fergus



Valerie A. Lemmie



Donald L. Mason

SEF:ct

Entered in the Journal

MAY 16 2007



Renee J. Jenkins
Secretary