

**FILE**

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of )  
The Cincinnati Gas & Electric Company )  
To Modify its Non-Residential Generation )  
Rates to Provide for Market-Based Standard )  
Service Offer Pricing and to Establish a Pilot )  
Alternative Competitively-Bid Service Rate )  
Option Subsequent to Market Development )  
Period. )

Case No. 03-93-EL-ATA

In the Matter of the Application of The )  
Cincinnati Gas & Electric Company for )  
Authority to Modify Current Accounting )  
Procedures for Certain Costs Associated )  
with The Midwest Independent Transmission )  
System Operator. )

Case No. 03-2079-EL-AAM

In the Matter of the Application of The )  
Cincinnati Gas & Electric Company for )  
Authority to Modify Current Accounting )  
Procedures for Capital Investment in its )  
Electric Transmission and Distribution )  
System And to Establish a Capital )  
Investment Reliability Rider to be Effective )  
After the Market Development Period. )

Case No. 03-2081-EL-AAM

Case No. 03-2080-EL-ATA

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**MOTION FOR EXTENSION OF TIME TO FILE OCC'S REDACTIONS  
IN COMPLIANCE WITH COMMISSION'S ORDER ON REMAND  
DATED OCTOBER 24, 2007**

**BY  
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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The Office of the Ohio Consumers' Counsel ("OCC") moves, pursuant to Ohio Adm. Code 4901-1-12 and 4901-1-13, for an extension to comply with the Commission's October 24, 2007 Order on Remand.<sup>1</sup> The requested 30-day extension, until January 23,

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<sup>1</sup> Order on Remand at 17.

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2008, will permit OCC the necessary time to carefully perform redactions to what will be filings with more publicly available information than the documents that OCC previously was required to file under a seal of confidentiality. This time will allow for relevant review of the redacted side agreements that Duke Energy Ohio, Inc. (“Duke” or “Company”) recently filed to show more publicly available information.

Under the expedited procedures for pleadings set forth in the Attorney Examiners’ February 2007 Entry, this Motion for Extension of Time (“Motion”) must be served electronically, memoranda contra are due in seven days, and replies are due three days thereafter.<sup>2</sup> As a courtesy, however, all parties were notified electronically on December 11, 2007 regarding OCC’s request. On December 12, 2007, Duke counsel contacted OCC stating they did not oppose the Motion.<sup>3</sup> The filing of this Motion is made before affirmative responses were obtained from all other parties, but OCC has no reason to believe that any other party objects to the extension.<sup>4</sup>

The reasons supporting this Motion and the good cause for the extension are contained in the following Memorandum in Support.

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<sup>2</sup> Entry at 3 (February 1, 2007).

<sup>3</sup> Duke’s favorable response was given “providing the motion for an extension would allow DE-Ohio, as well as any other Party, [the same] additional time for filing any redactions.”

<sup>4</sup> OCC has also received favorable responses from Dominion Retail, Inc., The Ohio Marketers’ Group, Ohio Hospital Association, and People Working Cooperatively.

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER  
CONSUMERS' COUNSEL



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**MEMORANDUM IN SUPPORT**

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**I. INTRODUCTION**

On October 24, 2007, the Commission issued the Order on Remand in the above-captioned cases. In the Order, the Commission stated:

[P]ursuant to our ruling on this [confidentially] issue, those documents must now be redacted to keep confidential only those matters we have ruled to be trade secrets. In order to accomplish this task, Duke shall work with the parties to the side agreements to prepare a redacted version of the confidential information attached to the pre-filed testimony of Ms. Hixon and will file that redacted version within 45 days of the date of this order on remand. Each party will then be required to redact all other sealed documents that

such party filed with the Commission. Redacted versions of all documents filed in these proceedings shall be docketed no later than 60 days after the date of this order on remand.<sup>5</sup>

On December 7, 2007, Duke made a voluminous filing of redacted side agreements to reveal more information in the public docket. Under the Order on Remand, the OCC's redacted documents, to show more public information, would be due on December 24, 2007.

## II. ARGUMENT

The schedule established by the Commission requires rapid work on detailed matters, and may not provide OCC with sufficient time to provide the careful attention to a matter that involves information that the Commission has determined is confidential. The filings by OCC that were protected, in whole or in part, during the hearing were extensive and include OCC's numerous pleadings, pre-filed testimony, and transcripts from a number of depositions. As the Commission is aware, the determination of what information in these cases should be available to the public has been a contentious issue. The Commission should provide adequate time to allow OCC to diligently perform the necessary redactions to maintain the confidentiality that the PUCO has required while making public other information that the PUCO has determined to be in the public domain.

Duke recently filed a revised redaction of the documents attached to the pre-filed testimony of Ms. Hixon, so that more information is public as required by the PUCO.

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<sup>5</sup> Order on Remand at 17.

The revised material was voluminous.<sup>6</sup> OCC requires additional time to perform a review of these documents and to perform related redactions in other documents in accordance with the limitations stated in the Order on Remand and before filing public components of such documents.<sup>7</sup>

In addition, the Commission's due date falls one day before Christmas and during a period when several PUCO dockets that involve various utilities are very active. The redactions to documents that otherwise are to be filed in the public domain will require the participation of OCC legal, analytical, and support staff. This schedule further complicates compliance with the date set by the Order on Remand. In light of the controversy surrounding this issue, accuracy should be favored over speed.

Finally, the requested extension should not prejudice any of the parties to these proceedings. The burden of the second round of redactions and public filings falls mainly upon OCC. OCC has no objections, however, to a deadline for all parties that is extended until January 23, 2007.

This Motion has been submitted according to the requirements of, and is subject to, the expedited procedures for pleadings established in these cases.

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<sup>6</sup> The Company filed 425 pages on December 7, 2007.

<sup>7</sup> Order on Remand at 15. ("Specifically, we find that the following information has actual or potential independent economic value from its being not generally known or ascertainable: customer names, account numbers, customer social security or employer identification numbers, contract termination dates or other termination provisions, financial consideration in each contract, price of generation referenced in each contract, volume of generation covered by each contract, and terms under which any options may be exercisable.")

### III. CONCLUSION

For all the above reasons, good cause exists under Ohio Adm. Code 4901-1-13(A) for an extension of time to comply with the requirements stated in the Order on Remand.

The OCC respectfully requests that its Motion be granted.

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER  
CONSUMERS' COUNSEL



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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the OCC's Motion for Extension of Time was served electronically on the persons listed on the electronic service list, as shown below, this 13<sup>th</sup> day of December 2007.



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