

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application for Recovery )  
of Costs, Lost Margin, and Performance )  
Incentive Associated with the Implementation ) Case No. 08-1227-EL-UNC  
of Electric Residential Demand Side )  
Management Programs by Duke Energy Ohio. )

In the Matter of the Application for Recovery )  
of Costs, Lost Margin, and Performance )  
Incentive Associated with the Implementation ) Case No. 08-1228-EL-UNC  
of Electric Non-Residential Demand Side )  
Management Programs by Duke Energy Ohio. )

ENTRY

The attorney examiner finds:

- (1) On November 17, 2008, Duke Energy Ohio (Duke) filed a status report on its existing demand side management (DSM) programs and applications to reconcile and update the DSM riders for recovery of program costs, lost margins, and shared savings associated with the implementation of a set of DSM programs. The application in Case No. 08-1227-EL-UNC (08-1227) is for residential consumers and the application in Case No. 08-1228-EL-UNC (08-1228) is for small/medium size business consumers.
- (2) On November 25, 2008, The Ohio Energy Group (OEG) filed a motion to intervene in 08-1228. In its motion, OEG states that it is a non-profit entity organized to represent the interests of large industrial customers in electric and gas regulatory proceedings before the Commission. OEG claims that its members purchase electric distribution services from Duke and, therefore, the interests of OEG's members may be directly affected by the outcome of this proceeding. OEG contends that no other party to this proceeding can adequately represent OEG's interest and intervention would not unduly delay the proceeding, nor unjustly prejudice any existing party.
- (3) On December 3, 2008, the Office of the Ohio Consumers' Counsel (OCC) filed a motion to intervene in the above-captioned cases. In its motion, OCC states that it is moving to intervene under its legislative authority to represent the interests of the residential customers in Duke's service territory. OCC claims that residential

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customers have an interest in the implementation of proper DSM programs to assist in controlling energy usage. OCC argues that residential customers would be adversely affected if Duke overcharges customers for DSM program-related costs or includes non-program related costs in rates. OCC asserts that it has been designated as the state representative of the interests of Ohio's residential utility consumers and that interest is different from and not represented by any other entity in Ohio.

- (4) On December 4, 2008, The Kroger Co. (Kroger) filed a motion to intervene in the above-captioned cases. Kroger claims that it has a real and substantial interest in 08-1227 because, as a member of the Duke Energy Community Partnership Collaborative, it is an interested potential residential DSM program partner with Duke. Kroger claims that it has a real and substantial interest in seeing that Duke offers fair and reasonable opportunity for any retailer to participate in Duke's compact florescent light bulb program promotions and other residential promotions that involve retail products and commercial outlets. Kroger also asserts that it has an interest in 08-1228 because it is a large consumer of significant amounts of electric service provided by Duke in numerous locations throughout Duke's service territory. Kroger contends that Duke's proposed cost recovery for DSM programs will directly affect the non-residential rates paid by Kroger. Kroger claims that no other parties in these proceedings represent Kroger's interests and that its participation in these proceedings will not unduly delay the proceedings or unjustly prejudice the interests of any existing party.
- (5) No party opposed OEG's, OCC's, or Kroger's motions to intervene.
- (6) The attorney examiner finds that the motions should be granted. OEG, OCC, and Kroger have each demonstrated a real and substantial interest in these proceedings which may not be adequately represented by other parties. Also, the examiner believes that OEG's, OCC's and Kroger's participation will contribute to a just and expeditious resolution of these cases and not unduly delay the proceedings nor unjustly prejudice any existing party. For these reasons, the motions to intervene should be granted.
- (7) The attorney examiner also finds that a prehearing conference should be held in these proceedings on March 19, 2009, at 1:00 p.m.,

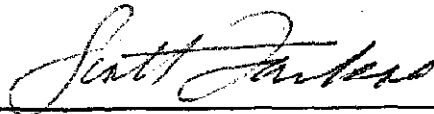
in the offices of the Commission, Hearing Room 11-F, 180 East  
Broad Street, Columbus, Ohio 43215.

It is, therefore,

ORDERED, That the motions of OEG, OCC and Kroger to intervene be granted. It  
is, further,

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

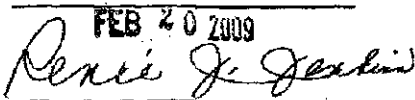
THE PUBLIC UTILITIES COMMISSION OF OHIO



By: Scott Farkas  
Attorney Examiner

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Entered in the Journal

  
FEB 20 2009

Renee J. Jenkins  
Secretary