

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Adoption of Rules for	)	
Alternative and Renewable Energy	)	
Technology, Resources, and Climate	)	
Regulations, and Review of Chapters 4901:5-	)	Case No. 08-888-EL-ORD
1, 4901:5-3, 4901:5-5, and 4901:5-7 of the	)	
Ohio Administrative Code, Pursuant to	)	
Chapter 4928.66, Revised Code, as Amended	)	
by Amended Substitute Senate Bill No. 221.	)	

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**MOTION FOR EXTENSION OF TIME NOT EXCEEDING FIVE DAYS AND  
REQUEST FOR EXPEDITED RULING  
BY  
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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Pursuant to Ohio Adm. Code 4901-1-12(C) and 4901-1-13, the Office of the Ohio Consumers' Counsel ("OCC"), on behalf of the residential utility consumers, moves the Public Utilities Commission of Ohio ("PUCO" or "Commission") for a five-day extension of time, until June 1, 2009<sup>1</sup>, for parties to file their memorandum contra some or all of the 18 applications for rehearing. This rulemaking relates to the adoption of new rules and rule changes in response to S.B. 221 that address energy efficiency, alternative energy resources, renewable energy credits, long-term forecasting, greenhouse gas reporting and environmental regulations. The OCC proposes that the deadline be extended for all parties interested in submitting a memorandum contra in the above-captioned proceeding. If OCC's motion is granted, the memoranda contra will be due June 1, 2009.

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<sup>1</sup> A five-day extension would make the pleadings due on Saturday, May 30. By operation of rule, Ohio Adm. Code 4901-1-07(A), deadlines that fall on Saturday or Sunday are extended to Monday.

Given the limited time available for a ruling on this motion, the OCC also requests an expedited ruling pursuant to Ohio Adm. Code 4901-1-12(C). Additionally, since the requested extension of time is five days, the Commission can and should rule without awaiting other parties' filing of memoranda contra (or in support) of the extension. The reasons supporting good cause for granting this request, along with an explanation of the need to resolve this matter on an expedited basis, are set forth in the attached Memorandum in Support.

Respectfully submitted,

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**MEMORANDUM IN SUPPORT**

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In this proceeding, pursuant to Section 119.032 of the Revised Code, the Commission is conducting a review of the above-captioned chapters of the Ohio Administrative Code (relating to energy efficiency, alternative energy resources, renewable energy credits, long-term forecasting, greenhouse gas reporting and environmental regulations) following passage of Sub. S.B. 221 that enacted important changes to the regulation of electric utilities in Ohio. Rules have thus far been the subject of comment and, pursuant to R.C. 4903.10 and Ohio Adm. Code 4901-1-35(A), applications for rehearing were submitted on May 15, 2009. According to Ohio Adm. Code 4901-1-35(B), memoranda in opposition to those applications for rehearing are due on May 26, 2009.

Under the circumstances of this proceeding, the OCC requests a minimal extension of five days for the filing date of the memoranda contra applications for

rehearing.<sup>2</sup> Eighteen separate applications for rehearing were filed in this docket, amounting to approximately 350 pages.<sup>3</sup> Considering that the period in which to file memoranda contra includes a national holiday (Memorial Day), the amount of time to adequately review the other seventeen applications for rehearing and file a memorandum contra is insufficient. The OCC and potentially others will suffer a hardship because staff involved with the preparation of the reply comments will be out of the office with family matters or other activities during the extended Memorial Day weekend.<sup>4</sup>

The Commission granted a similar motion for extension of time in *In re Commission Ordered Investigation of the Existing Local Exchange Competition Guidelines* and in *In re Commission Review of the Regulatory Framework for Competitive Telecommunications Services Under Chapter 4927* when a holiday interfered with Sprint's ability to file its memorandum contra in those two dockets.<sup>5</sup> Granting the motion for extension of time will provide a reasonable amount of time taking into consideration the number of applications for rehearing that were filed and the extended weekend that involves a national holiday. OCC proposes to extend the deadline

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<sup>2</sup> Ohio Adm. Code 4901:1-12(C) provides for the issuance of an entry on a motion for extension of time that does not exceed five days without the PUCO waiting for parties to file responsive memoranda. This five-day rule is separate and distinct from the other part of the rule for expedited rulings.

<sup>3</sup> The eighteen applications for rehearing include the joint filing by members of the Ohio Consumer and Environmental Advocates ("OCEA"), of which the OCC is a member.

<sup>4</sup> Although this Motion for Extension of Time is submitted by the OCC alone, OCC communications with other OCEA members indicate similar problems for these other members.

<sup>5</sup> *In re Commission Ordered Investigation of the Existing Local Exchange Competition Guidelines*, Case No. 99-998-TP-COI, Entry at 1 (December 31, 2002); *In re Commission Review of the Regulatory Framework for Competitive Telecommunications Services Under Chapter 4927*, Case No. 99-563-TP-COI, Entry at 1 (December 31, 2002).

for all parties. Though not required by rule, OCC has discussed the request with a number of intervenors who have all stated that they will not oppose OCC's request.<sup>6</sup>

The PUCO may grant extensions for "good cause shown," under Ohio Adm. Code 4901-1-13(A). The above details show good cause.

Given the limited time remaining before the memoranda contra are currently due, the OCC requests an expedited ruling on this motion, pursuant to Ohio Adm. Code 4901-1-12(C). Under Rule 12(C), a ruling on the OCC's motion for extension of time not exceeding five days can be granted without the PUCO waiting for the filing of responsive memoranda (and OCC need not contact other parties to inquire if they object). Other parties will not be prejudiced by the requested extension, and the extension should assist other parties who share the difficulties faced by the OCC.

Therefore, the OCC's motion should be granted without delay.

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<sup>6</sup> OCC has received responses from the following parties: Duke Energy Ohio, Inc.; The Kroger Company; The Ohio Energy Group; Columbus Southern Power and Ohio Power Company; Industrial Energy Users-Ohio; American Municipal Power-Ohio; Nucor Steel Marion, Inc.; Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company; Constellation NewEnergy, Inc.; Direct Energy Services, LLC.; Integrity Energy Services; the Ohio Hospital Association; the Ohio Manufacturers' Association; and the City of Cleveland.

Respectfully submitted,

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## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Motion for Extension of Time Not Exceeding Five Days and Request for Expedited Ruling was served electronically and by first class United States Mail, postage prepaid, to the persons listed below, on this 20<sup>th</sup> day of May, 2009.

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Summary: Motion Motion for Extension of Time Not Exceeding Five Days and Request for Expedited Ruling by the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Poulos, Gregory J.