

FILE

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke Energy Ohio to Adjust and Set Its Gas And Electric Recovery Rate for SmartGrid Deployment Under Riders AU and Rider DR-IM.)	Case No. 09-543-GE-UNC
In the Matter of the Application of Duke Energy Ohio for Tariff Approval.)	Case No. 09-544-GE-ATA
In the Matter of the Application of Duke Energy Ohio to Change Its Accounting Methods.)	Case No. 09-545-GE-AAM

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**MOTION FOR EXTENSION OF TIME
TO FILE REPLY COMMENTS AND REQUEST FOR EXPEDITED RULING
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

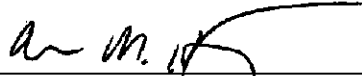
The Office of the Ohio Consumers' Counsel ("OCC"), on behalf of the residential utility consumers of Duke Energy-Ohio ("Duke" or the "Company") moves the Public Utilities Commission of Ohio ("Commission" or "PUCO") to grant a five-day extension of time for the filing of Reply Comments by all parties in the above-captioned case, currently due on October 15, 2009. OCC requests an expedited ruling. In this regard, Ohio Adm. Code 4901-1-12(C) has a specific provision allowing for "an immediate ruling" where the extension would be for "five days or less." This request would move the Reply Comments due date to October 20, 2009, if granted.

The reasons showing good cause, under Ohio Adm. Code 4901-1-13, for granting OCC's motion are further set forth in the attached Memorandum in Support.

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Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER
CONSUMERS' COUNSEL

A handwritten signature in black ink, appearing to read "Ann M. Hotz", is written over a horizontal line.

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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke)	
Energy Ohio to Adjust and Set Its Gas)	
And Electric Recovery Rate for SmartGrid)	Case No. 09-543-GE-UNC
Deployment Under Riders AU and Rider)	
DR-IM.)	

In the Matter of the Application of Duke)	
Energy Ohio for Tariff Approval.)	Case No. 09-544-GE-ATA

In the Matter of the Application of Duke)	
Energy Ohio to Change Its Accounting)	Case No. 09-545-GE-AAM
Methods.)	

MEMORANDUM IN SUPPORT

I. INTRODUCTION

Ohio Adm. Code 4901-1-13(A) provides for extensions of time to file pleadings or other papers to be granted upon a showing of good cause. The circumstances of this Motion show good cause. Ohio Adm. Code 4901-1-12(C) provides for expedited rulings. Ohio Adm. Code 4901-1-12(C) has a specific provision allowing for “an immediate ruling” where the extension would be for “five days or less.”

Duke Energy Ohio (“Duke” or “Company”) filed this application for recovery of SmartGrid deployment costs based upon the riders approval in Case Nos. 07-589-GA-AIR and 08-920-EL-SSO. The Commission established a schedule in this case by Entry dated August 19, 2009. The initial Comments were due on October 8, 2009 and Reply Comments were due one week later. The Staff, OCC and Kroger were the only parties to file Comments. Currently, the Reply Comments are due Thursday, October 15, 2009.

II. ARGUMENT

A. There Is Good Cause For An Extension Of Time To File Reply Comments Because The Period Of Time Between Comments Was Only One Week And That Week Included One Weekend And A Holiday.

Under Ohio Adm. Code 4901-1-13 the Commission may grant an extension of time to file pleadings or other papers for “good cause shown.” The Commission should grant the five-day extension because OCC can show good cause.

Under the current schedule the due date for Reply Comments, October 15, 2009, is only one week from the filing of Initial Comments and that week included a weekend and one holiday. Although only three parties filed comments, Staff’s Comments were extensive and were more along the order of an audit report. In their Comments the Staff raised new ideas about resolving issues. Some members of the OCC team in this case are not currently available to address these ideas, and OCC needs additional time to establish a position with regard to some of the proposals in the Staff’s Comments. The granting of the extension will allow OCC (and perhaps other interested parties who also would have the additional time) to better develop and present its perspectives on these issues that are important to Ohio consumers, Duke and other stakeholders as the PUCO proceeds with its important responsibility of implementing the best possible energy policy for Ohio.

B. The Commission Should Grant The Motion With An Expedited Ruling Because Ohio Adm. Code 4901-1-12(C) Allows For An “Immediate Ruling” When The Extension Is For Five Days Or Less.

Under Ohio Adm. Code 4901-1-12(C) a party requesting an expedited ruling must describe the grounds for which the expedited ruling is requested. OCC requests the expedited ruling because the granting of the extension of time to file Reply Comments

would not be meaningful unless it is expedited because the Reply Comments are due Thursday, October 15, 2009 and a non-expedited ruling would exceed the imminent deadline.

Under Ohio Adm. Code 4901-1-12(C) the Commission may grant an expedited ruling on a motion for an extension of time to file papers that is five days or shorter even without the “filing of memoranda.” Accordingly, the Commission may grant this request expeditiously.

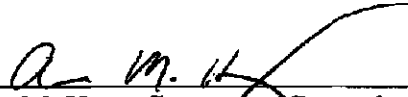
While a movant for an extension has no obligation to inquire if other parties object to an expedited ruling (under the part of Rule 12(C) applicable to five-day extensions), OCC inquired and Duke did reply that it has a concern about the timeline for negotiations. But this modest extension will not impede negotiations and, indeed, should allow for negotiations based on more fully developed insights toward the common goal of the best possible energy future for Ohioans. In fact, most other parties have replied by e-mail that they do not object to the extension of time. Accordingly, the Commission should grant the motion for the extension of time on an expedited basis.

III. CONCLUSION

As demonstrated above and for good cause shown, the Commission should grant OCC’s motion for an extension of time and request for expedited ruling.

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER
CONSUMERS' COUNSEL

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the *Motion for Extension of Time to file Reply Comments and Request for Expedited Ruling by the Office of the Ohio Consumers' Counsel*, has been served upon the following parties via regular U.S. Mail this 13th day of October, 2009.



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