

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke)
Energy Ohio for Approval of the Second)
Amended Corporate Separation Plan Under) Case No. 09-495-EL-UNC
Section 4928.17, Revised Code, and Chapter)
4901:1-37, Ohio Administrative Code.)

ENTRY

The attorney examiner finds:

- (1) By finding and order issued in *In the Matter of the Adoption of Rules for Standard Service Offer, Corporate Separation, Reasonable Arrangements, and Transmission Riders for Electric Utilities Pursuant to Section 4928.14, 4928.17, and 4905.31, Revised Code, as Amended by Amended Substitute Senate Bill No. 221, Case No. 08-777-EL-ORD* (December 17, 2008), the Commission, *inter alia*, adopted Chapter 4901:1-37 of the Ohio Administrative Code (O.A.C.), which contains rules addressing corporate separation. In addition, the Commission directed each electric utility to file, within 60 days of the effective date of the chapter, an application for approval of its proposed corporate separation plan as outlined in Rule 4901:1-37-05, O.A.C. Chapter 4901:1-37, O.A.C., became effective on April 2, 2009.
- (2) On June 11, 2009, as clarified on June 22, 2009, Duke Energy Ohio (Duke) filed its application for approval of its new corporate separation plan, in accordance with Rule 4901:1-37-05(A), O.A.C. As explained by Duke, it is currently operating under a corporate separation plan that was approved by the Commission in a previous case.
- (3) By entry issued on August 26, 2009, the Commission issued a request for proposals to perform an audit of Duke's corporate separation plan. The Commission directed the selected consultant to file its report with the Commission by February 12, 2010.
- (4) By entry issued September 30, 2009, the Commission selected Silverpoint-Vantage Consulting (Silverpoint) to conduct the audit.
- (5) On March 29, 2010, the audit was filed in this case, along with a motion to accept the filing of the auditor's report instanter. In

support of the motion, Duke states that Silverpoint required additional time to complete the audit report. The attorney examiner finds that the motion for leave to file instanter is reasonable and should be granted.

- (6) To assist the Commission in its review of the audit report of Duke's corporate separation plan, the attorney examiner finds that the following procedural schedule should be established:
 - (a) April 29, 2010 – deadline for the filing of comments on the audit report.
 - (b) May 13, 2010 – deadline for the filing of reply comments.
- (7) On July 8, 2009, the Ohio Energy Group (OEG) filed a motion to intervene in this case. In support of its intervention, OEG asserts that its member companies who purchase electric generation service from Duke may be directly affected by the outcome of this proceeding. OEG states that no other party can adequately represent its interest and that its participation will not unduly delay the proceeding. No memorandum contra OEG's motion to intervene was filed. Accordingly, the attorney examiner finds that the motion to intervene is reasonable and should be granted.
- (8) On July 17, 2009, the Office of Ohio Consumers' Counsel (OCC) filed a motion to intervene in this case. In support of its motion, OCC states that it represents Duke's residential consumers and that the interests of these consumers may be adversely affected by the terms of Duke's corporate separation plan. OCC submits that its participation in this case will not unduly prolong or delay the proceeding and will contribute to a just and expeditious resolution of this proceeding. No memorandum contra to OCC's motion to intervene was filed. Accordingly, the attorney examiner finds that the motion to intervene is reasonable and should be granted.

It is, therefore,

ORDERED, That the procedural schedule set forth in finding (6) be adopted. It is, further,

ORDERED, That the motions to intervene filed by OEG and OCC 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

Katie L. Stenman

By: Katie L. Stenman
Attorney Examiner

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/dah

Entered in the Journal

APR 08 2010

Renee J. Jenkins

Renee J. Jenkins
Secretary