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BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke  
Energy Ohio, Inc. to Establish its Fuel and  
Economy Purchased Power Component of  
its Market-Based Standard Service Offer  
for 2009.

Case No. 09-974-EL-FAC

In the Matter of the Application of Duke  
Energy Ohio, Inc. to Establish its System  
Reliability Tracker of its Market-Based  
Standard Service Offer for 2009.

Case No. 09-975-EL-RDR

PUCO

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**MOTION TO CONTINUE THE HEARING 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, 4901-1-13(A) and 4901-1-14, the Office of the Ohio Consumers' Counsel ("OCC") moves the Public Utilities Commission of Ohio ("PUCO" or "Commission") for a continuance of the hearing until September 7, 2010. The Motion should be granted for purposes of continuing the evidentiary hearing currently scheduled to commence on June 29, 2010 at 10:00 a.m.<sup>1</sup> In addition, the OCC requests an expedited consideration of this matter, under Ohio Adm. Code 4901-1-12.

The reasons supporting the Motion, along with an explanation of the need to rule on an expedited basis, are set forth in the attached Memorandum in Support.

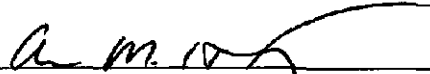
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<sup>1</sup>Entry (June 14, 2010).

This is to certify that the images appearing are an  
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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.

Ann M. Hotz, Counsel of Record  
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**I. INTRODUCTION**

On March 2, 2010, Duke Energy Ohio, Inc. filed an application for approval of the PTC-FPP and the SRA-SRT components of its market-based standard service offer.

On May 14, 2010, the auditor selected by the Commission to review the application, Schumaker & Company ("Schumaker"), filed a Management/Performance Audit and Financial Audit of Duke's PTC-FPP and SRA-SRT for the period of January 1, 2009 to December 31, 2009. In accordance with the process established through Duke's rate stabilization plan,<sup>2</sup> the attorney examiner scheduled a hearing in this case for June 29, 2010.

For the reasons stated below, OCC files a motion for a continuance of the hearing.

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<sup>2</sup> *In the Matter of the Application of the Cincinnati Gas & Electric Company to Modify its NonResidential 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. 09-93-EL-ATA, et. al., Entry on Rehearing (November 23, 2004) at 10.

## **II. APPLICABLE PROCEDURAL RULES**

Ohio Adm. Code 4901:1-13(A) states that continuances and extensions can be granted for good cause:

Except as otherwise provided by law, and notwithstanding any other provision in this chapter, continuances of public hearings and extensions of time to file pleadings or other papers may be granted upon motion of any party for good cause shown, or upon motion of the commission, the legal director, the deputy legal director, or an attorney examiner

Ohio Adm. Code 4901-1-14 specifically permits “\* \* \* an attorney examiner may rule, in writing, upon a procedural motion or other procedural matter.”

Ohio Adm. Code 4901-1-12(C) allows parties to request an expedited ruling on their motions. If the moving party certifies that it has contacted all the other parties and that all the parties do not object to the granting of the motion without the filing of memorandum contra, the Commission or the Attorney Examiner may issue an immediate ruling.

## **III. ARGUMENT**

OCC seeks a continuance of the hearing that has been established in this case. Presently, the hearing is scheduled for June 29, 2010 at 10:00 A.M. OCC requests additional time for discovery because responses to its first set of discovery is not due to be issued until July 1, 2010. Additional time before the date of the hearing may also facilitate effective negotiation opportunities on the part of the parties in this case. Therefore, the OCC respectfully request the attorney examiner to continue the hearing. The hearing should be continued until September 7, 2010, which all parties have identified as a satisfactory date.

The OCC requests that the Attorney Examiners issue the ruling on an expedited basis because the scheduled hearing date for which OCC is asking a continuance will

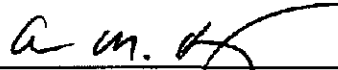
arrive before reply memorandum would be due. Finally, OCC certifies that it has contacted all the parties to this case, pursuant to Ohio Adm. Code 4901-1-12(C), to inquire if they object to the issuance of a ruling on an expedited basis. The Commission Staff, Duke Energy Ohio, Inc., Ohio Energy Group and Ohio Partners for Affordable Energy do not object to the PUCO issuing an expedited ruling nor do they object to granting the continuance of the procedural schedule.

#### **IV. CONCLUSION**

For the reasons stated above, there is good cause for this Motion. Accordingly, the Commission should grant the Motion, and rule on an expedited basis.

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER  
CONSUMERS' COUNSEL



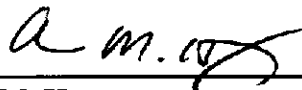
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### **CERTIFICATE OF SERVICE**

It is hereby certified that a true copy of the foregoing *Motion to Continue the Hearing by the Office of the Ohio Consumers' Counsel* was served by Regular U.S. Mail Service, postage prepaid, (also electronically as a courtesy copy, where possible), to all parties this 23rd day of June, 2010.



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Assistant Consumers' Counsel

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