

possibility that Duke Energy Ohio might construct a nuclear power plant.¹ Decreasing Duke Energy Ohio's discovery response deadline when anticipating far-reaching discovery requests from OCC will place an unfair burden on Duke Energy Ohio, and, potentially put Duke Energy Ohio in a situation where it will not be able to both accurately and timely respond to OCC's discovery requests.

In addition, OCC has grown accustomed to frequently requesting expedited discovery. This Commission established the twenty day deadline after a full rulemaking procedure. To allow OCC to vary the discovery deadline with increasing frequency disregards the Commission's consideration of the comments submitted during rulemaking and the Commission's determination that a twenty day deadline was appropriate.

Finally, Staff has requested that a public in this matter be held within 90 days of the LTFR's filing, but then be continued to allow sufficient time for examination of the filing and the possibility of settlement discussions.² Staff has also requested than an evidentiary hearing be held sometime after the public hearing to allow for additional examination of the issues raised in the LTFR.³ If the Commission grants Staff's requests, OCC will have more ample time to review Duke Energy Ohio's discovery responses without the need for an expedited discovery schedule. Therefore, this Commission should deny OCC's Motion to Shorten the Response time for Discovery.

In the event this Commission does grant an expedited discovery schedule, Duke Energy Ohio respectfully requests that the Commission order that such discovery be conducted pursuant to reasonable parameters and that the response times to all discovery requests be mutual.

¹ *In the matter of the 2010 Long-Term Forecast Report of Duke Energy Ohio, Inc.*, Case No. 10-503-EL-FOR, OCC's Motion for Hearing and Motion to Shorten the Response Time for Discovery and Request for an Expedited Ruling, at 3.

² Case No. 10-503-EL-FOR, Staff's Motion for a Hearing, at 1 (June 25, 2010).

³ Case No. 10-503-EL-FOR, Staff's Motion for a Hearing, at 3.

Specifically, OCC frequently delivers its discovery requests electronically at or near 5:00 p.m. thereby effectively reducing Duke Energy Ohio's response time even further. Duke Energy Ohio therefore requests that the Commission require parties to this proceeding to electronically serve their discovery requests upon the receiving party no later than 4 p.m. on the day it chooses to serve those requests. Alternatively, discovery issued after 4 p.m. shall be treated as having been served on the following business day. This provision reasonably enables all parties to engage in expedited discovery, without unfairly penalizing the receiving party in those circumstances – over which it has no control – when discovery is submitted at the end of the business day.


B. Expedited Ruling

Duke Energy Ohio objects to OCC's request for an expedited ruling on the instant Motions. First, OCC has provided no argument why an expedited ruling on these matters is necessary. Second, as noted above, the first public hearing in this matter will not occur until mid-September. Thus, the Commission has ample time to rule on OCC's motions and still allow time for the regular discovery process to be completed before the public hearing occurs. Moreover, as also noted above, Staff has requested that additional hearings be set in this matter beyond the initial 90 day public hearing. If the Commission grants Staff's request, there will be yet additional time for the Commission to issue its ruling on OCC's motion and for the completion of the discovery process. Therefore, OCC has not demonstrated that it is entitled to an expedited ruling.

III. CONCLUSION

For the foregoing reasons, Duke Energy Ohio respectfully requests that this Commission deny OCC's Motion to Shorten the Response time for Discovery, and Request for an Expedited Ruling.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing was served via first-class mail delivery, postage prepaid, and/or electronic mail delivery on this the 28th day of June, 2010, to the following persons:

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