

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the 2010 Electric Long-)
Term Forecast Report of Duke Energy) Case No. 10-503-EL-FOR
Ohio, Inc.)

ENTRY

The attorney examiner finds:

- (1) On March 25, 2010, the Commission initiated this case, involving the electric long-term forecast report (LTFR) of Duke Energy Ohio, Inc. (Duke).
- (2) On June 15, 2010, Duke filed its 2010 electric LTFR in this docket.
- (3) The Ohio Consumers' Counsel (OCC), the Ohio Environmental Council (OEC), and the Environmental Law and Policy Center (ELPC) have filed motions to intervene on June 15, 2010, June 17, 2010, and June 21, 2010, respectively. Additionally, ELPC has filed a motion for admission *pro hac vice* on behalf of Robert Kelter. No one filed memoranda contra the motions to intervene or the motion for admission *pro hac vice*. The attorney examiner finds that the motions to intervene and the motion *pro hac vice* are reasonable and should be granted.
- (4) On June 25, 2010, Staff filed a motion for a hearing. Staff requests that a public hearing be held within 90 days of June 15, 2010, and that such hearing be called and continued to a date to be determined, for reasons set forth in the memorandum in support. In the memorandum, Staff states that Section 4935.04(D)(3)(c)(iii), Revised Code, requires the Commission to conduct a hearing on a LTFR upon a demonstration of good cause by an interested party. Staff maintains that good cause exists in this case because Duke's LTFR discusses imminently planned generating facilities for which Duke may seek a reasonable allowance, a non-bypassable charge, or both, pursuant to Section 4928.143(B)(2)(b) and (c), Revised Code, in a future electric security plan (ESP) proceeding. Staff explains that, if Duke seeks such an allowance or charge in a future ESP case, Section 4928.143(B)(2), Revised Code, requires that, before approving the allowance or charge, the Commission must determine that, based on the electric utility's resource planning

projections, there was, in fact, a need for the facilities for which the allowance or charge is sought. According to Staff, any determination of need in a future Duke ESP case regarding the facilities referenced in Duke's LTFR must be informed by an examination of whether Duke reasonably included those facilities in its resource planning projections in this case. No memoranda contra was filed.

- (5) On June 16, 2010, OCC filed a motion for a hearing, a motion for electronic service of discovery, and a motion for a shortened discovery period. In its motion, OCC argues that the inclusion of a nuclear facility in Duke's LTFR is sufficient to demonstrate the substantial change required under Section 4935.04(D)(3)(c), Revised Code, to trigger a hearing within 90 days after the filing of the LTFR. In addition, OCC states that Section 4928.143(B)(2)(b), Revised Code, provides for the review of the need for facilities in order to permit financial recovery for construction work in progress and non-bypassable surcharges. Therefore, according to OCC, the resource planning projections contained in the LTFR could be important to the Commission's evaluation of the proposed nuclear facility and any later cost recovery requests. No memoranda contra was filed.
- (6) Section 4935.04(D)(3)(c), Revised Code, requires that the Commission hold a public hearing after the filing of an LTFR that contains a substantial change from the preceding report. Pursuant to Section 4935.04(D)(3)(c)(ii), Revised Code, the definition of substantial change includes good cause demonstrated by an interested party.
- (7) In reviewing the request for a hearing, the attorney examiner is mindful that Duke did not file a memo contra OCC's or Staff's motions for a hearing. Moreover, both Staff and OCC have demonstrated good cause for a hearing. Therefore, the motions for a hearing will be granted.
- (8) Accordingly, the attorney examiner finds that the following procedural schedule should be established in this matter:
 - (a) Motions to intervene should be filed by July 27, 2010.
 - (b) A prehearing conference should be held on July 28, 2010, at 9:30 a.m., at the offices of the Commission, 180 East Broad Street, 11th floor, Hearing Room 11-C, Columbus, Ohio 43215-3793.

- (c) The evidentiary hearing shall commence on September 13, 2010, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, 11th floor, Hearing Room 11-C, Columbus, Ohio 43215-3793
- (9) Duke should cause the following notice to be published once, not less than 15 days nor more than 30 days prior to September 13, 2010, in at least one newspaper of general circulation in each county in which Duke has or intends to locate a major utility facility and will provide service during the period covered by the LTFR:

LEGAL NOTICE

The Public Utilities Commission of Ohio has scheduled a public hearing in Case No. 10-503-EL-FOR to review the 2010 electric long-term forecast report filed by Duke Energy Ohio, Inc. The long-term forecast report contains information regarding the company's annual energy demand, peak load, reserves, and a description of the resource plan to meet demand over the forecast period. The public hearing will begin at 10:00 a.m., on Monday, September 13, 2010, at the offices of the Commission, 180 East Broad Street, 11th floor, Hearing Room 11-C, Columbus, Ohio 43215.

Further information may be obtained by contacting the Public Utilities Commission of Ohio, 180 East Broad Street, Columbus, Ohio 43215-3793, viewing the Commission's web page at <http://www.puc.state.oh.us> or contacting the Commission's hotline at 1-800-686-7826.

- (10) As a final matter, the attorney examiner finds that, at the July 28, 2010, prehearing conference, the parties should come prepared to discuss procedural matters, including Duke's June 15, 2010, motion for protective order and, OCC's June 16, 2010, motion for expedited discovery.

It is, therefore,

ORDERED, That the motions to intervene filed by OCC, OEC, and ELPC be granted. It is, further,

ORDERED, That the motion for admission *pro hac vice* of Robert Kelter be granted. It is, further,

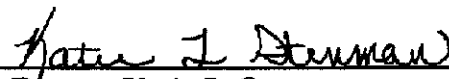
ORDERED, That the procedural schedule set forth in Finding (8) be observed. It is, further,

ORDERED, That a hearing be scheduled for Monday, September 13, 2010, at 10:00 a.m., at the offices of the Commission. It is, further,

ORDERED, That Duke cause notice of the public hearing to be published as set forth in finding (9). It is, further,

ORDERED, That a copy of this entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

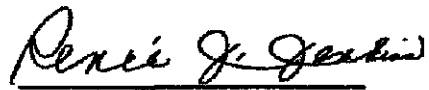


By: Katie L. Stenman
Attorney Examiner

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Entered in the Journal

JUL 15 2010



Renee J. Jenkins
Secretary