

FILE

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

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

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MEMORANDUM CONTRA JOINT MOTION

**I. Introduction**

Duke Energy Ohio, Inc. (Duke Energy Ohio or Company) responds herein to the motion filed on January 19, 2011, by the Office of the Ohio Consumers' Counsel (OCC), the Natural Resources Defense Council (NRDC) and the Sierra Club (collectively, Movants). Duke Energy Ohio submitted its application in this matter for approval of its Long-Term Forecast and Resource Plan on June 15, 2010, in compliance with new rules promulgated by the Commission subsequent to the enactment of Amended Substitute Senate Bill 221. Thereafter, Duke Energy Ohio amended its application with a corrected filing on October 2, 2010. Additionally, and in an effort to clarify the record, Duke Energy Ohio submitted a letter to the Commission indicating that it was not seeking any finding of need or cost recovery for the construction of a nuclear generation facility.

The motion under consideration asks that the Commission extend the hearing schedule to allow more time for the Movants to prepare for hearing.

**II. Argument**

Duke Energy Ohio also believes that a continuance in this case is warranted, although for reasons different than those stated by the Movants. The Movants' representations with regard to

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discovery responses are inaccurate and in some instances simply incorrect. However, a continuance of this matter will allow time for remaining discovery disputes to be resolved.

As was noted above, the Company has sought to clarify its intentions with respect to the involvement of plans for nuclear construction and its resource planning. When its resource plan was initially filed, the Company had not yet determined its course of action for requesting a standard service offer beyond 2011. Also, as the Company demonstrated need for nuclear energy significantly beyond the required forecast period for the filed long term forecast and resource plan, it was thought that issues surrounding nuclear construction would not play a role in this year's application. However, the Movants have sought to discover volumes of materials related to nuclear construction. Indeed, the bulk of the Movants' discovery requests have focused on this issue. As a result, the Parties have reached a discovery impasse.

In the intervening months, Duke Energy Ohio has submitted an Application for a market rate offer. Obviously, such an application does not provide for cost recovery for nuclear construction, since there is no statutory support for such a request. Therefore, to satisfy the needs of the Movants and to again clarify the Company's intentions with respect to its resource plan and the potential for nuclear power in the Company's service territory, the Company will submit one additional amended resource plan within the next thirty days. It is anticipated that this will resolve the concerns of the Movants with respect to outstanding discovery requests and further streamline the review process of the filed plan such that the Parties will potentially have an opportunity to reach an understanding without the need for a hearing.

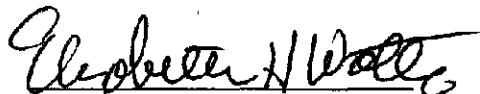
Consequently, Duke Energy Ohio respectfully requests that the filing dates for the Company's testimony, along with all other dates for testimony and hearing be rescheduled to

allow time for the Company to submit its amended filing, for the Movants to determine what, if any discovery may still be in dispute, and for the Parties to have time to resolve the matter without need for a hearing.

### III. Conclusion

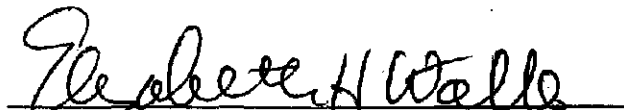
For the reasons above stated, Duke Energy Ohio concurs with the motion submitted by the Movants for an extension of time within which to file testimony and to prepare for hearing.

Respectfully submitted,

  
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### Certificate of Service

I hereby certify that a true and accurate copy of the foregoing has been served upon the following parties via electronic mail, regular mail or by hand delivery this 24th day of January, 2011.

  
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