

FILE

RECEIVED--DOCKETING DIV
2011 APR 18 PM 3:36

8

PUCO

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of the Ohio)
Department of Development for an Order)
Approving Adjustments to the Universal) Case No. 08-658-EL-UNC
Service Fund Riders of Jurisdictional Ohio)
Electric Distribution Utilities.)

JOINT MOTION TO STAY PROCEDURAL SCHEDULE

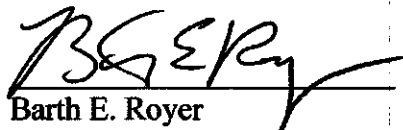
Pursuant to Rule 4901-1-13(A), Ohio Administrative Code, Duke Energy Ohio, Inc., the Ohio Department of Development, and the Office of the Ohio Consumers' Counsel hereby move for an order staying the procedural schedule in this matter as established by the attorney examiner's entry in this docket of January 6, 2011. The reasons for this motion are set forth more fully in the attached memorandum. An expedited ruling is requested pursuant to Rule 4901-1-12(C), Ohio Administrative Code.

Respectfully submitted,

Elizabeth H. Watts / BY BER PER
Amy B. Spiller 4/18/11 EMAIL
Deputy General Counsel AUTHORIZATION
Elizabeth H. Watts (Counsel of Record)
Associate General Counsel
155 East Broad Street, 21st Floor
Columbus, Ohio 43215
(614) 222-1330 - Phone
(513) 222-1337 - Fax
amy.spiller@duke-energy.com - Email
elizabeth.watts@duke-energy.com - Email

Attorneys for Duke Energy Ohio, Inc.

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.
Technician SM Date Processed APR 18 2011



Barth E. Royer
Bell & Royer Co., LPA
33 South Grant Avenue
Columbus, Ohio 43215-3927
(614) 228-0704 - Phone
(614) 228-0201 - Fax
BarthRoyer@aol.com - Email

Attorney for
The Ohio Department of Development



Janine L. Migden Ostrander
Consumers' Counsel
Richard C. Reese (Counsel of Record)

Ann M. Hotz
Assistant Consumers' Counsel
Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
(614) 466-8574 - Phone
(614) 466-9475 - Fax
reese@occ.state.oh.us - Email
hotz@occ.state.oh.us - Email

/BY BER PER
4/18/11 PHWC
AUTHORIZATION

Attorneys for
The Office of the Ohio Consumers' Counsel

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of the Ohio)
Department of Development for an Order)
Approving Adjustments to the Universal) Case No. 08-658-EL-UNC
Service Fund Riders of Jurisdictional Ohio)
Electric Distribution Utilities.)

**MEMORANDUM IN SUPPORT
OF
JOINT MOTION TO STAY PROCEDURAL SCHEDULE**

By the foregoing motion, Duke Energy Ohio, Inc. ("Duke Energy Ohio"), the Ohio Department of Development ("ODOD"), and the Office of the Ohio Consumers' Counsel ("OCC") (collectively, "Joint Movants") request a stay of the procedural schedule established by the attorney examiner's entry in this docket of January 6, 2011. In support of their motion, Joint Movants state as follows.

By its motion of December 23, 2010, ODOD requested that the Commission establish a procedural schedule for the adjudication of three unresolved issues resulting from exceptions reported by Schneider Downs & Co., Inc. ("Schneider Downs") as a result of its application of agreed-upon procedures to test the timeliness and accuracy of the PIPP-related accounting and reporting of Duke Energy Ohio. As explained in the motion, these issues, among others, were identified by ODOD in the Supplement to its Notice of Intent ("NOI") filed herein on April 15, 2009. As a result of responses submitted by Duke Energy Ohio and subsequent discussions, ODOD was generally satisfied that, to the extent exceptions reported by Schneider Downs may have indicated the existence of systemic problems, in most instances, there was no basis for a

finding that Duke Energy Ohio ratepayers had been materially adversely affected. However, discussions continued regarding three specific issues: (1) reimbursements for electric service provided to PAC 2 arrearage crediting customers; (2) the application of security deposits to electric PIPP customer accounts upon the customers enrollment in PIPP; and (3) the allocation of payments by PIPP customers between the gas and electric accounts of PIPP customers that received both gas and electric service from Duke Energy Ohio. Although ODOD and Duke Energy Ohio continued their efforts to resolve these issues over the ensuing months, and although Duke Energy Ohio did provide certain additional information bearing on these issues, ODOD ultimately determined that these issues should be presented to the Commission for adjudication pursuant to the procedure specified in the stipulation approved by the Commission's September 10, 2008 finding and order in the NOI phase of this case.

As a part of its motion for a procedural schedule, ODOD proposed certain milestone dates. In granting ODOD's motion, the attorney examiner established a deadline for serving discovery of April 6, 2011, a due date for ODOD's testimony as April 20, 2011, a due date for Duke Energy Ohio and intervenor testimony of May 2, 2011, and a hearing date of May 10, 2011, all of which were generally consistent with the timeframes proposed by ODOD.

In accordance with this procedural schedule, ODOD and OCC have served discovery upon Duke Energy Ohio. However, Duke Energy Ohio has not yet completed its responses to ODOD's outstanding discovery requests, which obviously affects ODOD's ability to prepare testimony by the April 20, 2011 due date. More importantly, the Joint Movants believe that, due to the fact-intensive nature of the issues involved, there may be significant benefit to be derived from a meeting of the parties' respective subject matter experts to work through the information provided. It may well be that, once the information is fully explored, Joint Movants will be able

to resolve one or more of the open issues without the need for litigation. Moreover, even if no agreement is reached, a clearer understanding of the facts will serve to sharpen the focus of the testimony and the hearing, thereby reducing the burden on both the parties and the Commission itself.

Rather than proposing specific extensions of the existing milestone dates, Joint Movants believe that the better course is to stay the procedural schedule in its entirety. This approach will provide flexibility to accommodate any scheduling issues that may arise, and will allow the parties to exhaust settlement possibilities before devoting time and resources to preparing testimony and otherwise gearing up for hearing. However, in making this request, it is not Joint Movants' intent that this be an open-ended process. Thus, if the Joint Movants are unable to agree upon a mutually-acceptable procedural schedule to be proposed to the Commission once it is determined that a complete settlement cannot be reached, each Joint Movant individually reserves the right to move for the establishment of a new procedural schedule.

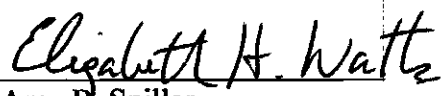
In view of the proximity of the April 20, 2011 due date for the filing of ODOD's testimony under the current procedural schedule, Joint Movants request an expedited ruling on their motion. In accordance with Rule 4901-1-12(C), OAC, undersigned counsel for ODOD has contacted all other parties affected by this phase of this proceeding, and hereby certifies that no affected party objects to the issuance of an expedited ruling without the filing of memoranda.¹

¹ Although all the state's jurisdiction electric distribution utilities ("EDUs") were, of course, parties to the underlying proceeding on ODOD's 2008 USF rider rate adjustment application, only Duke Energy Ohio and the AEP Ohio operating companies (Columbus Southern Power Company and Ohio Power Company) were subject to audit in connection with the 2008 USF case. The issues relating to the AEP Ohio companies' PIPP-related accounting and reported identified in the Supplement have since been resolved by the ODOD-AEP Ohio settlement agreement approved by the Commission's Finding and Order in this docket dated February 24, 2010. Thus, other than the Joint Movants, the only parties to this case that are affected by this phase of the proceeding are Ohio Partners for Affordable Energy ("OPAE")

Moreover, said counsel is authorized to represent that these parties have no objection to the stay of the procedural schedule as proposed in the motion.

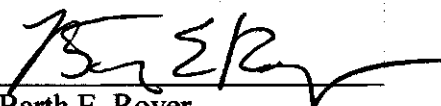
WHEREFORE, Joint Movants respectfully request an expedited ruling and that their motion to stay the procedural schedule established by the attorney examiner's entry in this docket of January 6, 2011 be granted.

Respectfully submitted,


Amy B. Spiller
Deputy General Counsel
Elizabeth H. Watts (Counsel of Record)
Associate General Counsel
155 East Broad Street, 21st Floor
Columbus, Ohio 43215
(614) 222-1330 – Phone
(513) 222-1337 – Fax
amy.spiller@duke-energy.com – Email
elizabeth.watts@duke-energy.com – Email

*4/10/11 BER PER
EMAIL
AUTHORIZATION*

Attorneys for Duke Energy Ohio, Inc.


Barth E. Royer
Bell & Royer Co., LPA
33 South Grant Avenue
Columbus, Ohio 43215-3927
(614) 228-0704 - Phone
(614) 228-0201 – Fax
BarthRoyer@aol.com - Email

and the Industrial Energy Users – Ohio (“IEU-Ohio”). As indicated above, counsel for OP&E and IEU-Ohio have no objection to the issuance of an expedited ruling or to a stay of the procedural schedule as requested in the motion.

Attorney for
The Ohio Department of Development

Richard C. Reese / BY BER PER
4/10/11 PHONE
AUTHORIZATION
Janine L. Migden Ostrander
Consumers' Counsel
Richard C. Reese (Counsel of Record)
Ann M. Hotz
Assistant Consumers' Counsel
Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
(614) 466-8574 - Phone
(614) 466-9475 - Fax
reese@occ.state.oh.us - Email
hotz@occ.state.oh.us - Email

Attorneys for
The Office of the Ohio Consumers' Counsel

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing has been served upon the following parties by first class mail, postage prepaid, and by electronic mail this 18th day of April 2011.


Barth E. Royer

Steven T. Nourse
Matthew J. Satterwhite
AEP Service Corporation
1 Riverside Plaza
Columbus, Ohio 43215

Randall V. Griffin
Judi L. Sobecki
The Dayton Power & Light Company
MacGregor Park
1065 Woodman Avenue
Dayton, Ohio 45432

Carrie Dunn
Kathy J. Kolich
FirstEnergy Corp.
76 South Main Street
Akron, Ohio 44308

Samuel C. Randazzo
Gretchen J. Hummel
McNees, Wallace & Nurick
Fifth Third Center
Suite 910
21 East State Street
Columbus, Ohio 43215

David C. Rinebolt
Colleen L. Mooney
Ohio Partners for Affordable Energy
PO Box 1793
231 West Lima Street
Findlay, Ohio 45839-1793