

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of            )  
Duke Energy Ohio, Inc., for an                )    Case No. 12-1682-EL-AIR  
Increase in Electric Distribution Rates.       )

In the Matter of the Application of            )  
Duke Energy Ohio, Inc., for Tariff            )    Case No. 12-1683-EL-ATA  
Approval.    )

In the Matter of the Application of            )  
Duke Energy Ohio, Inc., for Approval        )    Case No. 12-1684-EL-AAM  
to Change Accounting Methods.                )

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**MOTION FOR AN EXTENSION OF TIME TO FILE TESTIMONY  
AND  
REQUEST FOR EXPEDITED RULING  
BY  
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL,  
THE CITY OF CINCINNATI,  
THE KROGER COMPANY,  
INTERSTATE GAS SUPPLY, INC., AND  
OHIO PARTNERS FOR AFFORDABLE ENERGY**

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The Office of the Ohio Consumers' Counsel ("OCC"), the City of Cincinnati ("City"), the Kroger Company ("Kroger"), Interstate Gas Supply, Inc. ("IGS") and Ohio Partners for Affordable Energy ("OPAE") (collectively, "Joint Movants") move the Public Utilities Commission of Ohio ("PUCO" or "Commission") for an extension of time for the filing of intervenor testimony.<sup>1</sup> Specifically, Joint Movants request that the due date for intervenor testimony be extended fifteen days, from February 4, 2013, to February 19, 2013.<sup>2</sup> Joint movants also seek an expedited ruling under Ohio Adm. Code

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<sup>1</sup> Ohio Adm. Code 4901-1-12 and 4901-1-13(A).

<sup>2</sup> February 18, 2013 is a holiday.

4901-1-12(C). The reasons supporting these requests, along with an explanation of the need to determine the filing date on an expedited basis, are set forth in the attached Memorandum in Support.<sup>3</sup>

Respectfully submitted,

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/s/ Terry L. Etter

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<sup>3</sup> OCC, Kroger, the City of Cincinnati and OPAC are simultaneously also filing a Motion for an Extension of time and Request for Expedited Consideration in the Duke Gas Rate Case, Case No. 12-1685-EL-AIR et al., requesting a 21-day extension for the filing of testimony.

For The Kroger Co.

/s/ Kimberly W. Bojko

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**MEMORANDUM IN SUPPORT**

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**I. INTRODUCTION**

On June 7, 2012, Duke Energy Ohio, Inc. (“Duke” or the “Company”) filed a Notice of Intent that opened this proceeding. Duke subsequently filed an Application on July 9, 2012, that, among other matters, sought an increase in distribution rates. On January 4, 2013, the PUCO Staff filed its Report of Investigation (“Staff Report”) in this proceeding and in the Duke gas distribution rate case (Case Nos. 12-1685-GA-AIR, et al.). As such, February 4, 2013<sup>4</sup> is the deadline for filing direct expert testimony in this proceeding and in the gas distribution rate case, in accordance with the Commission’s procedural rules.<sup>5</sup>

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<sup>4</sup> The PUCO established a procedural schedule in its January 10, 2013 Entry, setting February 4, 2013 as the due date for testimony in both this proceeding and in the Duke gas rate case.

<sup>5</sup> Ohio Adm. Code 4901-1-29(A)(1)(b).

## **II. APPLICABLE PROCEDURAL RULES**

Ohio Adm. Code 4901-1-13(A) specifically permits parties to move for extensions of time to file testimony. That rule provides such motions may be granted for “good cause shown.”

Ohio Adm. Code 4901-1-12(C) allows parties to request an expedited ruling on their motions. The rule also notes that if the moving party certifies that no party objects to the motion being granted without the filing of a memorandum contra, the Commission or the Attorney Examiner may issue an immediate ruling.

## **III. ARGUMENT**

Pursuant to Ohio Adm. Code 4901-1-13(A), Joint Movants seek an extension of time to file intervenor testimony fifteen days later than currently scheduled. This extension of time would change the due date for written testimony from February 4, 2013 to February 19, 2013.

The extension is requested because testimony and objections in both the Duke electric and gas distribution rate cases are currently due on the same day. In this regard, parties must review the Staff Reports in both Duke rate proceedings, develop objections and draft testimony in support of the objections to be filed concurrently in both proceedings. Many of the Joint Movants have witnesses who are involved in preparing testimony and objections in both proceedings. The additional time requested will allow the witnesses the opportunity to address the numerous issues in these cases—each of which could significantly raise customer rates.

The extension requested will not cause undue delay, and should not work to prejudice any party. Any delay from this request should be evaluated compared to the

benefit of permitting all parties ample time to address for the Commission the many important issues in the Duke gas and electric rate cases. For these reasons, the Commission should grant Joint Movants' Motion for an Extension of Time to File Testimony ("Motion").

Finally, because the date for filing testimony in both cases is less than a month away, Joint Movants ask for an expedited ruling on this Motion. Joint Movants have 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. However, at the time of filing, Joint Movants cannot certify that no party objects to an expedited ruling. Joint Movants request a ruling on this Motion in the shortest period of time possible for the purposes of permitting all parties to plan their schedules.

#### **IV. CONCLUSION**

Joint Movants have shown good cause for the Commission to extend the deadline to file intervenor testimony in this proceeding by fifteen days, and the Commission should thus grant this Motion. For the benefit of all parties in this proceeding, the Commission should grant this Motion as soon as possible.

Respectfully submitted,

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### **CERTIFICATE OF SERVICE**

It is hereby certified that a true copy of the foregoing *Motion for Extension of Time to File Testimony and Request for Expedited Ruling*, was served by electronic service to all parties this 11<sup>th</sup> day of January, 2013.

/s/ Terry L. Etter

Terry L. Etter

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Summary: Motion Motion for an Extension of Time to File Testimony and Request for Expedited Ruling by the Office of the Ohio Consumers' Counsel, the City of Cincinnati, the Kroger Company, Interstate Gas Supply, Inc. and Ohio Partners for Affordable Energy electronically filed by Ms. Deb J. Bingham on behalf of Etter, Terry L.