

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke)
Energy Ohio, Inc. for Approval of its) Case No. 13-431-EL-POR
Energy Efficiency and Peak Demand)
Reduction Portfolio Programs.)

ENTRY

The attorney examiner finds:

- (1) Duke Energy Ohio, Inc. (Duke) is a public utility as defined in Section 4905.02, Revised Code, and, as such, is subject to the jurisdiction of this Commission.
- (2) On April 15, 2013, as amended on May 9, 2013, Duke filed an application for approval of its energy efficiency and peak demand reduction program portfolio pursuant to Rule 4901:1-39-04, Ohio Administrative Code (O.A.C.). Duke also attached testimony in support of the application.
- (3) By entry issued June 13, 2013, the attorney examiner established the following procedural schedule in this matter:
 - (a) Objections to the application shall be filed by July 1, 2013.
 - (b) Motions to intervene shall be filed by July 1, 2013.
 - (c) Testimony on behalf of all intervenors shall be filed by August 20, 2013.
 - (d) Testimony on behalf of Staff shall be filed by August 27, 2013.
 - (e) The evidentiary hearing shall commence on September 4, 2013, at 10:00 a.m., at the offices of the Commission, 180 E. Broad Street, 11th Floor, Hearing Room 11-A, Columbus, Ohio 43215-3793.

In addition, Duke was directed to publish legal notice of the scheduled hearing in a newspaper of general circulation in each county in Duke's service territory by August 2, 2013. On August 19, 2013, Duke filed its proofs of publication.

- (4) Motions to intervene in this matter were filed by: the Ohio Environmental Council (OEC); the Environmental Law and Policy Center (ELPC); the Greater Cincinnati Energy Alliance, Inc. (Energy Alliance); the Ohio Consumers' Counsel (OCC); Ohio Partners for Affordable Energy (OPAE); Ohio Advanced Energy Economy (Ohio AEE); Ohio Energy Group (OEG); The Kroger Co. (Kroger); EMC Development Company, Inc. (EMC); Natural Resources Defense Council (NRDC); and the Sierra Club. No one filed memoranda contra these motions to intervene. Accordingly, the attorney examiner finds that the motions to intervene should be granted.
- (5) On August 16, 2013, as amended on August 19, 2013, Duke, OPAE, Energy Alliance, Kroger, EMC, OEC, OEG, ELPC, the Sierra Club, and Staff (joint movants) filed a joint motion to continue the hearing and requested an expedited ruling. In support of the motion, joint movants state that they require additional time for negotiation and preparation of a potential stipulation to resolve the issues in this case.
- (6) Rule 4901-1-12(C), O.A.C., states that a motion may include a request for an expedited ruling. If the movant certifies that no party objects to the issuance of such ruling, an immediate ruling may be issued; however, if a party objects to the ruling, or if the movant fails to certify that no party objects, memoranda contra are due within seven days after the service of the motion.
- (7) Since not all parties in this case signed on to the joint motion and, in light of the fact that joint movants failed to certify that no party objects to the motion, Rule 4901-1-12(F), O.A.C., requires that the nonsignatory parties be afforded seven days to file memoranda contra the joint motion. However, in light of the limited timeframe afforded by the joint movants for consideration of this motion and an understanding that no party will be adversely affected, the attorney examiner finds it necessary to invoke Rule 4901-1-12(F), O.A.C., and rule upon the joint motion on her own motion.
- (8) Upon consideration of the joint motion filed on August 16, 2013, as amended on August 19, 2013, the attorney examiner

finds that it should be granted, in part. While the joint movants requested a continuation of the hearing, in light of the fact that notice of the hearing date and time has been published, the attorney examiner finds that the hearing must convene on September 4, 2013, in the event members of the public wish to provide testimony. Once an opportunity for the public to testify has been provided, the hearing will then be adjourned and will reconvene on September 11, 2013, for the evidentiary portion of the hearing, in accordance with the schedule set forth in finding (9) below.

- (9) Accordingly, the attorney examiner finds that the following process should be established for this proceeding:
- (a) Testimony on behalf of all intervenors shall be filed by August 27, 2013.
 - (b) Testimony on behalf of Staff shall be filed by September 4, 2013
 - (c) The evidentiary hearing shall reconvene on September 11, 2013, at 10:00 a.m., at the offices of the Commission, 180 E. Broad Street, 11th Floor, Hearing Room 11-A, Columbus, Ohio 43215-3793.

It is, therefore,

ORDERED, That the motions to intervene filed by OEC, ELPC, Energy Alliance, OCC, OPAC, Ohio AEE, OEG, Kroger, EMC, NRDC, and the Sierra Club be granted. It is, further,

ORDERED, That the joint movants' motion be granted, in part, in accordance with finding (8). It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

s/ Christine M.T. Pirik

By: Christine M.T. Pirik
Attorney Examiner

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in

Case No(s). 13-0431-EL-POR

Summary: Attorney Examiner Entry granting, in part, joint motion for continuation of the hearing; electronically filed by Vesta R Miller on behalf of Christine M.T. Pirik, Attorney Examiner, Public Utilities Commission of Ohio