

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke)
Energy Ohio for Authority to Establish a) Case No. 14-841-EL-SSO
Standard Service Offer Pursuant to)
Section 4928.143, Revised Code, in the)
Form of an Electric Security Plan,)
Accounting Modifications and Tariffs for)
Generation Service.)

In the Matter of the Application of Duke)
Energy Ohio for Authority to Amend its) Case No. 14-842-EL-ATA
Certified Supplier Tariff, P.U.C.O.)
No. 20.)

**REPLY TO
DUKE ENERGY OHIO’S MEMORANDUM CONTRA
JOINT MOTION FOR CONTINUANCE
BY
IGS ENERGY,
OFFICE OF THE OHIO CONSUMERS’ COUNSEL
OHIO ENERGY GROUP,
OHIO MANUFACTURERS’ ASSOCIATION
AND
OHIO PARTNERS FOR AFFORDABLE ENERGY**

This proceeding involves the requests of Duke Energy Ohio (“Duke” or “Utility”) for the Public Utilities Commission of Ohio (“PUCO” or “Commission”) to approve its proposed Electric Security Plan, on a rushed timeline that disserves process and parties.

IGS Energy, the Office of the Ohio Consumers’ Counsel (“OCC”), the Ohio Energy Group (“OEG”), the Ohio Manufacturers’ Association (“OMA”), and the Ohio Partners For Affordable Energy (“OPAE”) (together “Joint Movants”), file this Reply to the Memorandum Contra that Duke filed to oppose our June 18, 2014 Joint Motion for a Continuance. In the Joint Motion for a Continuance, the Joint Movants sought a two-

month continuance of the hearing (and related dates for intervenor and PUCO Staff testimony and discovery cut-off). The continuance will allow the PUCO Staff and interested parties needed time to review and analyze Duke's ESP proposal. Under the Joint Movants' proposal, the hearing would be continued until November 10, 2014.

Duke, in its Memorandum Contra, argues that the expedited procedural schedule set by the Entry dated June 6, 2014 is appropriate especially when considering the average time between the filing of an application and a hearing in ESP proceedings.¹ Duke alleges that the average time is 134 days.² It concludes that the existing 83-day time period under the Entry's established schedule is appropriate. Additionally, Duke avers that it did not unilaterally determine when to make its filing—rather Joint Movants agreed that Duke would file its application *no later than June 1, 2014*. Duke faults the Joint Movants for the delay in its filing of its ESP—the same delay that necessitates (in Duke's mind) an expedited schedule. Duke further asserts that the issues raised in its ESP are neither new nor cloaked in controversy.³ Thus, it claims that additional time to analyze Duke's application is not necessary. Duke also argues that under the Joint Movants' schedule there would be no meaningful time to engage in procurement-related activities for the first of the two auctions to be conducted some time before May 31, 2015.⁴ According to Duke, a shorter expedited procedural schedule is necessary.

¹ Duke Memorandum Contra at 2.

² Id.

³ Id. at 4.

⁴ Id. at 3.

The Attorney Examiner should find that Joint Movants have shown good cause for a continuance. The Attorney Examiner should adopt the Joint Movants' schedule with an evidentiary hearing beginning no earlier than November 10, 2014. The Joint Movants' schedule is reasonable and workable. And it should enable the PUCO Staff and interested parties sufficient time to review and analyze Duke's ESP proposal for purposes of providing the Commission with the recommendations it needs for its public decision-making.

The schedule imposed by the Entry, adopted upon Duke's urging that time was short for its ESP, is too short and its application is not without controversy. The 83-day period prompted by Duke and imposed by Entry (from filing to hearing) is 51 days less than the average 134-day time frame Duke calculates. This highlights the inadequacy of the procedural schedule currently established. Lengthening the procedural schedule consistent with the average 134-day time frame would extend the hearing to at least October 9, 2014, an improvement over the current compressed schedule. But that timeline is still much shorter than the 275 days that the General Assembly allowed for adequate process in R.C. 4928.143 when the timelines for processing ESPs became an issue during the legislative debate.

Duke is factually correct that the Joint Parties agreed that Duke would make its application no later than June 1, 2014. **But Duke alone unilaterally determined not to file the application earlier.** Had it filed its application earlier, the alleged time constraints that it complains of would not have existed. Instead, Duke waited. Duke should not now be able to take advantage of its own delay in filing by forcing the intervening parties to participate in an unnecessarily expedited proceeding.

Duke argues that the issues in its ESP are not new or cloaked in controversy.⁵ Duke is wrong. For instance, the issues surrounding the Price Stabilization Rider are new and are cloaked with controversy, as evidenced by the Ohio Power ESP proceeding, Case No. 13-2385-EL-SSO. Duke also requests in this ESP a rider that is new to it—the Distribution Capital Investment Rider. As part of this proceeding, the PUCO (and interested parties) must undertake a specific analysis of Duke’s unique modernization plan (with 19 new or expanded programs), its reliability, and whether its expectations and its customers’ expectations of reliability are aligned. Such an analysis is factual and not theoretical in nature. The fact that other utilities have such programs does not change the nature of the analysis that must be undertaken in this case, based on Duke’s specific proposal. This issue is but one of a number of fact specific issues presented in Duke’s ESP. And these issues require detailed factual examination, regardless of whether other utilities have filed for and received approval of similar issues in their ESPs.

Duke’s concerns over the timing of a Commission Order under Joint Movants’ proposed continuance are not persuasive. Duke claims that there would be no “meaningful time” to engage in procurement-related activities for the first of the two auctions to be conducted. But it fails to convincingly demonstrate that two auctions cannot occur sometime during the first six months of 2015 under Joint Movants’ continued hearing schedule. While pleading the case for prospective bidders needing

⁵ Duke Memo Contra at 4. Joint Parties would note that the issues surrounding the Price Stabilization Rider are new and are cloaked with controversy, as evidenced by the Ohio Power ESP proceeding, Case No. 13-2385-EL-SSO.

time to qualify for and participate in multiple auctions, Duke fails to note that no prospective bidder has filed objections to the proposed continuance.

On the other hand, Duke's Application will have a significant impact on customers' bills. The expedited timeframe reflected in the Entry would unnecessarily shorten the 275-day timeframe provided by the General Assembly and present an obstacle to the full and fair evaluation of the ESP plan.

The PUCO should grant the Joint Motion for the reasons discussed here and in the Joint Movants' Motion for a Continuance.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Reply has been served electronically upon those persons listed below this 26th day of June 2014.

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Summary: Reply Reply to Duke Energy Ohio's Memorandum Contra Joint Motion for Continuance by IGS Energy, Office of the Ohio Consumers' Counsel, Ohio Energy Group, Ohio Manufacturers' Association and Ohio Partners for Affordable Energy electronically filed by Ms. Deb J. Bingham on behalf of Grady, Maureen R. Ms.