

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke)
Energy Ohio for Authority to Establish a)
Standard Service Offer Pursuant to Section)
4928.143, Revised Code, in the Form of) Case No. 14-841-EL-SSO
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.)

**DUKE ENERGY OHIO'S MEMORANDUM CONTRA
JOINT MOTION FOR A PREHEARING CONFERENCE TO ADDRESS
PENDING MOTIONS AND REQUEST FOR EXPEDITED RULING**

Pursuant to the provisions of O.A.C. 4901-1-12(C), Duke Energy Ohio, Inc., (Duke Energy Ohio or Company) hereby files its memorandum contra (Memorandum Contra) a Joint Motion for a Prehearing Conference to Address Pending Motions and Request for Expedited Ruling (Joint Motion), filed with the Public Utilities Commission of Ohio (Commission) on July 28, 2014, by the several of the intervenors in these proceedings (Joint Movants).¹

While Duke Energy Ohio is ready to participate in a prehearing conference, should the Commission determine that such a conference is necessary, Duke Energy Ohio

¹ The Joint Movants comprise the City of Cincinnati, Constellation NewEnergy Inc., Environmental Law and Policy Center, Exelon Generation Company LLC, Industrial Energy Users-Ohio, Interstate Gas Supply, Inc., the Kroger Company, Natural Resources Defense Council, the Office of the Ohio Consumers' Counsel (OCC), Ohio Environmental Council, Ohio Partners for Affordable Energy, People Working Cooperatively, Retail Energy Supply Association, and Sierra Club.

disagrees with the rationale for the Joint Motion and with the requested prehearing conference date.

Joint Movants seek to force the Commission to rule on all pending motions on Joint Movants' schedule, rather than allowing the Commission to proceed as it deems appropriate. Although the Commission is indisputably aware of the motions in question, as well as their content, Joint Movants have chosen to detail all of those filings yet again. This approach is a waste of the Commission's valuable time and resources.

Joint Movants, in attempting to support this tactic, also misstate reality in their attempt to summarize the arguments in pending motions. Most egregious is their false assertion that Duke Energy Ohio "has refused to provide most intervenors with information that it alone has determined deserves confidential treatment. The PUCO's rules were promulgated to prevent such actions."² The truth is that:

- Duke Energy Ohio has refused to release its proprietary information under contractual terms that experience has shown to be ineffective in preventing misuse of such information.
- OCC has refused even to consider signing a confidentiality agreement that differs from the version previously used.
- Negotiations over the terms of a confidentiality agreement continued with another party, with both sides compromising to reach a reasonable outcome.
- Without an effective confidentiality agreement, the information that Duke Energy Ohio believes to be proprietary cannot be released.

² Joint Motion, pg. 3.

- As of the filing of the Joint Motion, only three of the fourteen movants had even requested a confidentiality agreement with the Company.³ The circumstances involving OCC with regard to terms of a confidentiality agreement are well known and will not be restated here. The only other movants to have sought a confidentiality agreement have yet to provide substantive comments.
- As of the filing of this Joint Motion, only five of the fourteen movants had tendered discovery upon Duke Energy Ohio and thus have affirmatively sought any information, whether confidential or public, that would assist them in evaluating the Company's application from the perspective of their individual business interests.

It is not, as Joint Movants assert, that Duke Energy Ohio refuses to provide the agreement. Rather, of those few Joint Movants that have even broached the subject of a confidentiality agreement, they either refuse to compromise or have not followed up with the Company, and it is under these circumstances that Duke Energy Ohio refuses to release its confidential information publicly.

Duke Energy Ohio does not disagree that a prehearing conference is one method by which the Commission could decide these issues. However, it seems unlikely, after the plethora of motions that have been filed, that any more argument is necessary. The more typical written order would suffice.

If the Commission does wish to schedule a prehearing conference, sufficient notice would be necessary in order to ensure that all interested parties have the

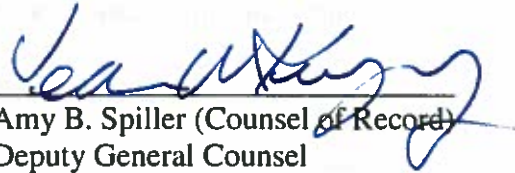
³ As the Company had standard confidentiality agreements available at the technical conference, additional Movants may have also picked up copies. However, no other Movants have discussed the matter with Company counsel.

opportunity to have counsel present. Joint Movants have asked the Commission to schedule such a conference for the week of July 28, 2014. As the Motion was only filed on July 28, 2014, this is an astonishing request. Given such short notice, many of Duke Energy Ohio's necessary participants would not be available.

Duke Energy Ohio respectfully submits that the Commission should deny the Joint Motion.

Respectfully submitted,

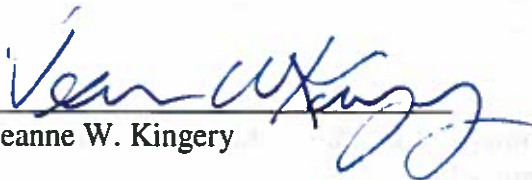
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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was delivered by U.S. mail (postage prepaid), personal, or electronic mail, on this 30th day of July, 2014, to the parties listed below.


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This foregoing document was electronically filed with the Public Utilities

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7/30/2014 3:34:14 PM

in

Case No(s). 14-0841-EL-SSO, 14-0842-EL-ATA

Summary: Memorandum Memorandum Contra Joint Motion for Prehearing Conference electronically filed by Jeanne W Kingery on behalf of Duke Energy Ohio