

**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.)	

**MOTION FOR SUBPOENA DUCES TECUM
TO OHIO VALLEY ELECTRIC CORPORATION
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

The Ohio Consumers' Counsel ("OCC") respectfully moves the Public Utilities Commission of Ohio ("Commission" or "PUCO"), any commissioner, the legal director, the deputy legal director, or an attorney examiner to issue a subpoena compelling the attendance of the following person(s) at the hearing in this proceeding, scheduled to begin on Wednesday, October 22, 2014, at 10:00 a.m., at the Offices of the Public Utilities Commission of Ohio, 180 East Broad Street, 11th Floor, Hearing Room 11-A, Columbus, Ohio, 43215.

Said persons shall appear at 10:00 a.m. on October 22, 2014 and shall make themselves available from day to day during the hearing to provide testimony when called by OCC as a witness concerning Duke Energy Ohio's¹ Electric Security Plan ("ESP") in the above-captioned case. The persons requested to attend and give testimony are:

1. John D. Brodt, Chief Financial Officer, Ohio Valley Electric Corporation, 3932 U.S. Route 23, Piketon, Ohio 45661.
2. Person(s) with knowledge of and expertise regarding:
 - a. Duke Energy Ohio's requests (including requests for consent) to sell or transfer its interest in Ohio Valley Electric Corporation ("OVEC") under the terms of the Amended and Restated Inter-Company Power Agreement ("ICPA") including communications made or received pertaining to such requests, and any documents

¹ References to Duke Energy Ohio as used in this Motion for Subpoena include any person or entity acting on behalf of Duke Energy Ohio.

showing actions taken by any Sponsoring Company or OVEC regarding such requests since January 1, 2012.²

The subpoena also compels the witnesses to bring with them, and provide to OCC at 9:30 a.m. on October 22, 2014:

1. All documents related to Duke's request(s) (including requests for consent) to sell or transfer ownership³ of all or part of its OVEC interest to an affiliate or third party since January 1, 2012;
2. All documents related to OVEC Board Meeting minutes (including resolutions) that pertain to consideration of Duke's sale or transfer of its ownership shares of OVEC to an affiliate or third party, since January 1, 2012;
3. All OVEC committee or subcommittee meeting minutes pertaining to consideration of Duke's sale or transfer of Duke's ownership shares of OVEC to an affiliate or third party since January 1, 2012;

² It is OCC's understanding that John D. Brodt will be able to testify on this subject matter. OCC is only issuing this corporate subpoena to the extent that Mr. Brodt lacks the necessary knowledge and expertise to testify on behalf of OVEC regarding this subject.

³ "Ownership" or "ownership shares" as used here includes all rights, title, interests, and obligations as used in Section 9.18 (and its subsections) of the ICPA.

4. All communications between OVEC (including OVEC's Board of Directors) and OVEC sponsoring companies pertaining to consideration of a sale or transfer of Duke's ownership shares of OVEC to an affiliate or third party, since January 1, 2012;
5. All communications between and among sponsoring companies pertaining to consideration of Duke's sale or transfer of ownership shares of OVEC to an affiliate or third party, since January 1, 2012;
6. All documents pertaining to any vote or poll that occurred among the sponsoring companies pertaining to Duke's request to sell or transfer its ownership shares of OVEC to an affiliate or third party, since January 1, 2012.
7. Updated OVEC budget projections not provided at the time of deposition of John Brodt.

Grounds for this Motion are set forth in the accompanying Memorandum in Support.

Respectfully submitted,

BRUCE J. WESTON
OHIO CONSUMERS' COUNSEL

/s/ Maureen R. Grady

Maureen R. Grady, Counsel of Record

Joseph P. Serio

Edmund "Tad" Berger

Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel

10 West Broad Street, Suite 1800

Columbus, Ohio 43215-3485

Telephone: (Grady) (614) 466-9567

Telephone: (Serio) (614) 466-9565

Telephone: (Berger) (614) 466-1292

Maureen.grady@occ.ohio.gov

Joseph.serio@occ.ohio.gov

Edmund.berger@occ.ohio.gov

Dane Stinson

Dylan Borchers

Bricker & Eckler LLP

100 South Third Street

Columbus, OH 43215-4291

Telephone: (614) 227-2300

Facsimile: (614) 227-2390

dstinson@bricker.com

dborchers@bricker.com

Outside Counsel for the Office of the Ohio
Consumers' Counsel

**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.)

**MEMORANDUM IN SUPPORT OF
MOTION FOR SUBPOENA DUCES TECUM
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

In this proceeding Duke Energy Ohio ("Duke") is seeking to charge its customers, through its proposed Price Stabilization Rider ("PSR"), the difference between the market value of its interest in Ohio Valley Electric Corporation ("OVEC") and its 9% share of OVEC costs for the duration of its OVEC entitlement, which is currently through 2040. Under Duke's PSR, Duke is asking that the PUCO require customers to guarantee its profits on its generating units (Duke Energy Ohio's OVEC interest) that are supposed to be no longer regulated but subject to the forces of competition.

In accordance with R.C. 4928.17(A) and the Stipulation in Duke's last ESP proceeding,⁴ Duke was required to transfer its generation assets by the end of 2014. For contractual obligations arising before the signing of the Stipulation, Duke was permitted to retain its interest "but only to the extent that assuming or transferring such obligations is prohibited by the terms of the contract or would result in substantially increased liabilities for Duke Energy Ohio if Duke Energy Ohio were to transfer such obligations to its subsidiary or affiliate." Consequently, Duke was required to make a good faith effort to transfer its interest in OVEC that underlies its claim for the PSR. Since Duke is seeking approval of its PSR in this case, the PUCO should consider whether good faith efforts were made by Duke to sell or transfer its OVEC interest.

⁴ *In the Matter of the Application of Duke Energy Ohio for Authority to Establish a Standard Service Offer Pursuant to Section 49028.143, Revised Code, in the Form of an Electric Security Plan, Accounting Modifications and Tariffs for Generation Service, et al.*, Case No. 11-3549-EL-SSO, Stipulation, pp. 26-27 (October 24, 2011).

OCC's subpoena is also intended to address OVEC's budgeted cost projections for the term of Duke's proposed PSR.

OCC's requested subpoena for the appearance of John D. Brodt, Chief Financial Officer of OVEC, and for a corporate subpoena is intended to provide for testimony regarding these subject matters. Mr. Brodt has previously been deposed by OCC on these subject matters.

Respectfully submitted,

BRUCE J. WESTON
OHIO CONSUMERS' COUNSEL

/s/ Maureen R. Grady

Maureen R. Grady, Counsel of Record
Joseph P. Serio
Edmund "Tad" Berger
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel

10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
Telephone: (Grady) (614) 466-9567
Telephone: (Serio) (614) 466-9565
Telephone: (Berger) (614) 466-1292
Maureen.grady@occ.ohio.gov
Joseph.serio@occ.ohio.gov
Edmund.berger@occ.ohio.gov

Dane Stinson
Dylan Borchers
Bricker & Eckler LLP
100 South Third Street
Columbus, OH 43215-4291
Telephone: (614) 227-2300
Facsimile: (614) 227-2390
dstinson@bricker.com
dborchers@bricker.com

Outside Counsel for the Office of the Ohio
Consumers' Counsel

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion for Subpoena has been served electronically upon those persons listed below this 17th day of October 2014.

/s/ Maureen R. Grady
Maureen R. Grady
Assistant Consumers' Counsel

SERVICE LIST

Steven.beeler@puc.state.oh.us
Thomas.lindgren@puc.state.oh.us
Ryan.orourke@puc.state.oh.us
dboehm@BKLawfirm.com
mkurtz@BKLawfirm.com
jkylereohn@BKLawfirm.com
Schmidt@sppgrp.com
Judi.sobecki@aes.com
Bojko@carpenterlipps.com
Allison@carpenterlipps.com
cmooney@ohiopartners.org
stnourse@aep.com
mjsatterwhite@aep.com
yalami@aep.com
asonderman@keglerbrown.com
mkimbrough@keglerbrown.com
hussey@carpenterlipps.com
mhpetricoff@vorys.com
mjsettineri@vorys.com
glpetrucci@vorys.com
dmason@ralaw.com
mtraven@ralaw.com
rchamberlain@okenergylaw.com

Christine.pirik@puc.state.oh.us
Nicholas.walstra@puc.state.oh.us

Amy.Spiller@duke-energy.com
Elizabeth.watts@duke-energy.com
Rocco.dascenzo@duke-energy.com
Jeanne.Kingery@duke-energy.com
haydenm@firstenergycorp.com
jmcdermott@firstenergycorp.com
scasto@firstenergycorp.com
joliker@igsenergy.com
mswhite@igsenergy.com
joseph.clark@directenergy.com
sam@mwncmh.com
fdarr@mwncmh.com
mpritchard@mwncmh.com
callwein@wamenergylaw.com
tdougherty@theOEC.org
dhart@douglasshart.com
cloucas@ohiopartners.org
gpoulos@enernoc.com
swilliams@nrdc.org
tobrien@bricker.com
ghull@eckertseamans.com
jvickers@elpc.org
tony.mendoza@sierraclub.org
dstinson@bricker.com
dborchers@bricker.com

**STATE OF OHIO
PUBLIC UTILITIES COMMISSION
180 EAST BROAD STREET
COLUMBUS, OHIO 43266-0573**

John Kasich
GOVERNOR



**THE PUBLIC UTILITIES COMMISSION OF OHIO
SUBPOENA DUCES TECUM**

TO: John Brodt, Chief Financial Officer, OVEC
c/o The Prentice-Hall Corporation System, Inc.
Statutory Agent of the Ohio Valley Electric Corporation
50 West Broad Street, suite 1800
Columbus, Ohio 443215

Upon application of the Office of the Ohio Consumers' Counsel, John Brodt is hereby required to appear on October 22, 2014, beginning at 10:00 a.m. at the Offices of the Public Utilities Commission of Ohio, 180 East Broad Street, 11th Floor, Hearing Room 11-A, Columbus, Ohio, 43215. Mr. Brodt shall make himself available day-to-day during the hearing to provide testimony when called by OCC as a witness concerning Duke Energy Ohio's Electric Security Plan ("ESP") in the above-captioned case. Mr. Brodt will be subject to testifying as if on cross-examination by the Ohio Consumers' Counsel and other parties in the proceeding entitled "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 an Electric Security Plan, Accounting Modifications and Tariffs for Generation Service."

Mr. Brodt shall bring with him the following documents:

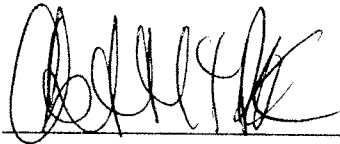
1. All documents related to Duke's request(s) (including requests for consent) to sell or transfer ownership¹ of all or part of its OVEC interest to an affiliate or third party since January 1, 2012;
2. All documents related to OVEC Board Meeting minutes (including resolutions) that pertain to consideration of Duke's sale or transfer of its ownership shares of OVEC to an affiliate or third party, since January 1, 2012;
3. All OVEC committee or subcommittee meeting minutes pertaining to consideration of Duke's sale or transfer of Duke's ownership shares of OVEC to an affiliate or third party since January 1, 2012;
4. All communications between OVEC (including OVEC's Board of Directors) and OVEC sponsoring companies pertaining to consideration of a sale or transfer of Duke's ownership shares of OVEC to an affiliate or third party, since January 1, 2012;
5. All communications between and among sponsoring companies pertaining to consideration of Duke's sale or transfer of ownership shares of OVEC to an affiliate or third party, since January 1, 2012;
6. All documents pertaining to any vote or poll that occurred among the sponsoring companies pertaining to Duke's request to sell or

¹ "Ownership" or "ownership shares" as used here includes all rights, title, interests, and obligations as used in Section 9.18 (and its subsections) of the ICPA.

transfer its ownership shares of OVEC to an affiliate or third party,
since January 1, 2012.

7. Updated OVEC budget projections not provided at the time of
deposition of John Brodt.

Dated at Columbus, Ohio, this 17th day of October, 2014.

A handwritten signature in black ink, appearing to be "Christine Pirik" or "Nicholas Walstra", written over a horizontal line.

Christine Pirik or Nicholas Walstra
Attorney Examiner

NOTICE: If you are not a party or an officer, agent, or employee of a party to this proceeding, then witness fees for attending under this subpoena are to be paid by the party at whose request the witness is summoned. Every copy of this subpoena for the witness must contain this notice.

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

10/17/2014 1:11:29 PM

in

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

Summary: Motion Motion for Subpoena Duces Tecum to Ohio Valley Electric Corporation by the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Grady, Maureen R. Ms.