

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke)
Energy Ohio, Inc., to Update Its) Case No. 15-795-EL-RDR
Distribution Capital Investment Rider.)

**REPLY SUPPORTING MOTION TO INTERVENE
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

Duke Energy Ohio (“Duke” or “Utility”) attempts to re-characterize (and mischaracterize) the Office of the Ohio Consumers’ Counsel’s (“OCC”) interests in this case in an effort to block OCC from representing the interests of its clients—the residential customers of the Utility. In doing so, Duke argues that OCC seeks “to relitigate matters already considered and rejected by the Commission.”¹ But OCC’s intervention is to ensure that Duke’s customers will not be charged more than what is reasonable and lawful in this action where Duke seeks to increase customers’ bills by 4.931 percent.²

Duke’s quarterly update for Rider DCI will be automatically approved 60 days after filing,³ unless the PUCO orders otherwise. This 60 day period allows time for the PUCO – and intervenors, such as OCC – to ensure the accuracy of the tariffs and their supporting calculation(s).

¹ Duke Memorandum Contra OCC Motion to Intervene at 3 (June 19, 2015).

² OCC Motion to Intervene at 2-3 (June 5, 2015).

³ *In the Matter of Application of Duke Energy Ohio, Inc. for Authority to Establish a Standard Service Offer Pursuant to R.C. 4928.143 in the Form of an Electric Security Plan, Accounting Modifications, and Tariffs for Generation Service*, Case No. 14-841-EL-SSO, Opinion and Order at 70, 72 (April 2, 2015).

This safeguard is not intended to be a mere exercise in futility. Utilities are not impervious to mistakes in their filings.⁴ For instance, within weeks after OCC intervened in the Ohio Power Company's ("AEP Ohio") update to its energy efficiency and peak demand reduction cost recovery rider tariffs in 2013, AEP Ohio "discovered a formulaic error in the EE/PDR rider rate on Schedule 1 of the 2013 Application."⁵ This formulaic error resulted in a nearly \$100 million reduction to the proposed update to AEP Ohio's energy efficiency and peak demand reduction cost recovery rider. Here, OCC has an interest in ensuring that Duke's quarterly update⁶ for the costs of Rider DCI are properly calculated and the tariffed charges, to be collected from customers, are accurate.

OCC should not be denied intervention simply because "the Commission has already approved, in another proceeding, the creation of Rider DCI, the annual filings to be made by the Company, and the audit process to which the rider will be subject,"⁷ as Duke asserts. Many riders in Ohio's post-SB221 regulatory landscape find their roots in a previous electric security plan or other similar proceeding. This does not, however,

⁴ Duke made one here – in its cover letter, it asserted that the Rider DCI tariff page was to be automatically approved but the PUCO's Opinion and Order in the underlying ESP case clearly provides for a 60 day window before automatic approval.

⁵ *In the Matter of the Application of Ohio Power Company to Update its Energy Efficiency and Peak Demand Reduction Rider*, Case No. 13-1201-EL-RDR, Correspondence including Revised Schedule 1 and Proposed Compliance Tariffs (July 15, 2014).

⁶ Calling this a "quarterly update" is somewhat of a misnomer, as it is Duke's *first* under its most recently approved ESP.

⁷ Duke Memorandum Contra OCC Motion to Intervene at 3

mean that subsequent rider filings and updates go uncontested. In fact, OCC is routinely granted intervention in rider cases that were initially approved in a previous proceeding.⁸

Finally, OCC would be remiss to not raise its substantive concerns about Rider DCI when it is not yet subject to a final appealable order. Duke's electric security plan is subject to a number of applications for rehearing, including OCC's, which raise concerns about Rider DCI and how it should be calculated.⁹ As long as there is no final appealable order, it is incumbent upon OCC to raise its concerns that Rider DCI is an inappropriate attempt at single-issue ratemaking that does not take the Utility's total revenues and expenses into account within the parameters of the Rider DCI Audit process.

OCC's Motion to Intervene should be granted.

⁸ See e.g., *In the Matter of the Application of Duke Energy Ohio, Inc. for Recovery of Program Costs, Lost Distribution Revenue, and Performance Incentives Related to its Save-A-Watt Programs*, Case No. 12-1857-EL-RDR, Opinion and Order at 7 (October 16, 2014) (Rider DR-IM was established in Case No. 08-920-EL-SSO); *In the Matter of the Review of the Distribution Investment Rider Contained in the Tariffs of Ohio Power Company*, Case No. 13-4165-EL-RDR, Entry at 2 (February 6, 2014) (Rider DIR was established in Case No. 11-346-EL-SSO); *In the Matter of the Review of the Smart Grid Modernization Initiative Contained in the Tariffs of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case Nos. 12-406-EL-RDR, 13-549-EL-RDR, Opinion and Order at 2 (October 1, 2014) (Rider AMI was established in Case No. 09-1820-EL-ATA).

⁹ *In the Matter of Application of Duke Energy Ohio, Inc. for Authority to Establish a Standard Service Offer Pursuant to R.C. 4928.143 in the Form of an Electric Security Plan, Accounting Modifications, and Tariffs for Generation Service*, Case No. 14-841-EL-SSO, Application for Rehearing by The Office of the Ohio Consumers' Counsel at 43-47, 62-63 (May 4, 2015).

Respectfully submitted,

BRUCE J. WESTON
OHIO CONSUMERS' COUNSEL

/s/ William J. Michael

William J. Michael, Counsel of Record
(Reg. No. 0070921)

Michael J. Schuler (0082390)
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel

10 West Broad Street, Suite 1800

Columbus, Ohio 43215-3485

Telephone: (Michel) 614-466-1291

Telephone: (Schuler) 614-466-9547

William.michael@occ.ohio.gov

(will accept service via email)

Michael.schuler@occ.ohio.gov

(will accept service via email)

CERTIFICATE OF SERVICE

I hereby certify that a copy of this *Reply Supporting Motion to Intervene* was served on the persons stated below via electronic transmission, this 25th day of June, 2015.

/s/ William J. Michael
William J. Michael
Assistant Consumers' Counsel

SERVICE LIST

William Wright
Attorney General's Office
Public Utilities Commission of Ohio
180 E. Broad St., 6th Fl.
Columbus, Ohio 43215
William.wright@puc.state.oh.us

Attorney Examiners:

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

Amy B. Spiller,
Counsel of Record
Elizabeth H. Watts
139 E. Fourth Street, 1303-Main
P.O. Box 961
Cincinnati, Ohio 45201-0960
Amy.Spiller@duke-energy.com
Elizabeth.watts@duke-energy.com

Counsel for Duke Energy-Ohio

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

6/25/2015 4:33:15 PM

in

Case No(s). 15-0795-EL-RDR

Summary: Reply Reply Supporting Motion to Intervene by the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Michael, William J. Mr.