

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke)
Energy Ohio, Inc. for Approval of a Grid) Case No. 14-1160-EL-UNC
Modernization Opt-Out Tariff and for a) Case No. 14-1161-EL-AAM
Change in Accounting Procedures Including)
a Cost Recovery Mechanism.)

**MOTION TO AMEND THE PROCEDURAL SCHEDULE
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

In these cases, Duke Energy Ohio, Inc. (“Duke”) is proposing to charge residential customers for **not** having an advanced electric meter at their homes. Duke seeks to establish a one-time removal charge¹ of \$1,073.10 and a monthly meter reading charge of \$40.63. Both charges would be new to Duke’s customers.

On August 5, 2015, the Public Utilities Commission of Ohio (“PUCO”) issued an Entry establishing a procedural schedule for these cases. Among other things, the Entry requires Duke and intervenors to file testimony by September 18, 2015.² The PUCO Staff’s testimony is due two weeks later, on October 2, 2015, and the hearing is scheduled for October 15, 2015.³

The Office of the Ohio Consumers’ Counsel (“OCC”), an intervenor in these cases,⁴ moves the PUCO to amend the procedural schedule. OCC asks the PUCO to

¹ Application (June 27, 2014) at 4. The charge is to remove the advanced meter that was installed and to replace it with a non-advanced meter. If Duke is granted the deferral authority it seeks, the charge would be \$126.70. Id.

² Entry (August 5, 2015) at 2.

³ Id.

⁴ OCC’s intervention was granted in the Entry, at 1.

move the due date of intervenor testimony to the same date that the PUCO Staff's testimony is due, i.e., October 2, 2015. The reasons the PUCO should grant OCC's Motion are further set forth in the attached Memorandum in Support.

Respectfully submitted,

BRUCE J. WESTON (0016973)
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/s/ Terry L. Etter

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MEMORANDUM IN SUPPORT

Duke is seeking PUCO approval to establish monthly and one-time charges to residential customers for **not** having an advanced electric meter installed at their homes.⁵ Duke is also seeking accounting authority to defer and collect from residential customers various alleged costs associated with the residential customers for not having advanced electric meters installed at their homes.⁶

Unless the PUCO grants the proposed deferral, Duke proposes to charge residential customers \$1,073.10 to remove the advanced meter and to install a non-advanced meter.⁷ If the PUCO approves the deferral authority, Duke proposes to set this one-time charge for residential customers at \$126.70.⁸ Residential customers who do not have an advanced meter would also be charged \$40.63 per month for meter reading, regardless of whether the PUCO approves the deferral authority and regardless of whether the meter is actually read.⁹ Duke claims that it would incur more than \$777,000

⁵ Application at 1.

⁶ See id.

⁷ See id.

⁸ See id.

⁹ See id.

in additional one-time expenses and more than \$358,000 in annual expenses because some residential customers may choose not to have an advanced electric meter installed at their homes.¹⁰

In the August 5 Entry, the PUCO set a procedural schedule in these cases. Motions to intervene are due by September 4, 2015; Duke and intervenors must file testimony by the same day, September 18, 2015; the PUCO Staff's testimony is due by October 2, 2015; and the hearing is scheduled for October 15, 2015.¹¹ OCC asks the PUCO to change just one of these dates, i.e., to make intervenor testimony due by October 2, 2015.

As the applicant in this proceeding, Duke has the burden of proof regarding its alleged costs for customers who do not want an advanced meter installed. Duke did not file supporting testimony with its Application. Instead, Duke included only an exhibit to the Application alleging the costs it would incur in serving customers with non-advanced meters.¹² But as OCC noted in Objections filed on August 27, 2014, the exhibit is insufficient to support Duke's claims regarding the costs to customers for not having an advanced meter.¹³ Hence the testimony to be filed by Duke on September 18 may be the first, and possibly only, time that Duke offers more than superficial information regarding the costs at issue in these proceedings.

Intervenors should be allowed an opportunity to fully examine Duke's claims before filing testimony of their own in these proceedings. This should include reviewing

¹⁰ See *id.* at 4.

¹¹ Entry at 2.

¹² Application, Exhibit 1. The exhibit is unmarked but is referenced on page 3 of the Application.

¹³ OCC Objections at 2-5.

Duke's filed testimony and, if necessary, deposing Duke's witness(es). OCC wants the opportunity to depose Duke's witness(es) before filing its own testimony. This will enable intervenors to have a better understanding of Duke's alleged costs which have been unexplained to date. It also aids the PUCO by having a more complete and a better-informed record on which to base its decision.¹⁴ But if intervenors must file testimony the same day as Duke, there will be no opportunity for intervenors to depose Duke's witness(es) before filing their own testimony.

By requiring intervenors to submit testimony on the Application at the same time Duke is required to file testimony, the procedural schedule in the Entry is inconsistent with PUCO practice. Traditionally, the utility files its application with supporting testimony, and then the intervening parties and the PUCO Staff are afforded the opportunity to file responsive testimony.¹⁵ Even when some parties enter into a stipulation, the PUCO has allowed parties opposing the application and stipulation time to file responsive testimony.¹⁶

That is why OCC asks the PUCO to amend the procedural schedule so that intervenor testimony will be due two weeks after Duke's testimony is due, i.e., October 2, 2015. This should provide intervenors time to depose Duke's witness(es) if necessary, assuming that Duke sponsors a reasonable number of witnesses, and to prepare

¹⁴ See e.g., *FirstEnergy ESP IV*, Case No. 14-1297-EL-SSO, Entry (May 1, 2015) at 10.

¹⁵ See e.g., *id.* See also *AEP Ohio ESP III*, Case No. 13-2385-EL-SSO, Entry (January 24, 2014) at 1; Duke ESP Case No. 14-841-EL-SSO, Entry (June 6, 2014) at 2; *East Ohio Gas Pipeline Replacement*, 11-2401-GA-ALT, Entry (April 11, 2011) at 3.

¹⁶ See, e.g., *FirstEnergy ESP III*, Case No. 12-1230-EL-SSO Entry (April 19, 2012) at 2, where FirstEnergy was permitted to file supplemental testimony in support of the stipulation by April 23, 2012 and non-signatory parties were granted two weeks to file responsive testimony on May 4, 2012. See also *AEP Ohio ESP II*, Case No. 11-346-EL-SSO, Entry at 3 (September 16, 2011), where the PUCO set forth a procedural schedule whereby testimony in support of the stipulation was due on September 13, 2011 while testimony opposing the stipulation was due two weeks afterwards.

testimony. Duke would not be disadvantaged because there would still be two weeks before the hearing to depose intervenors' witness(es), if Duke so desires. And adopting OCC's procedural schedule should not delay the proceeding. OCC is not asking for the evidentiary hearing to be rescheduled.

OCC's proposed amendment to the procedural schedule is reasonable. The PUCO should grant OCC's Motion to Amend.

Respectfully submitted,

BRUCE J. WESTON (0016973)
OHIO CONSUMERS' COUNSEL

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CERTIFICATE OF SERVICE

I hereby certify that a copy of this Motion to Amend the Procedural Schedule was served on the persons stated below via electronic transmission, this 19th day of August 2015.

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Summary: Motion Motion to Amend the Procedural Schedule by the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Etter, Terry L.