

Nancy M. Cole
7730 Camp Road
Camp Dennison, OH 45111

V.

Respondent.

1

MEMORANDUM IN SUPPORT

Duke Energy Ohio seeks a continuance of the hearing for two reasons: (1) in light of the holidays and already scheduled vacations, the company cannot adequately prepare for a hearing in this matter on December 15 with such short notice; and (2) until it received the Entry scheduling the hearing, Duke Energy Ohio was under the impression that all matters had been resolved months ago and, therefore, no hearing was necessary.

Hearing Date

The main witness for the Company will be on vacation the week of November 23, and the undersigned counsel will be out of town on vacation from December 5-12. With other matters and scheduled obligations, Duke Energy Ohio cannot properly and adequately prepare for a hearing in this case on December 15. A hearing on that date would require Duke Energy Ohio to file its written expert testimony by December 8 when counsel is out of town. Duke Energy Ohio does not have adequate time to prepare and file expert testimony before the scheduled deadline.

Resolution of Issues

As set forth in the Complaint, Complainant took issue with the rates at which she was charged for gas and electric service at her property. Complainant maintained that she should be charged only residential rates when, in fact, Complainant operates a business known as "Derbyshire Stables" at the property. After Complainant filed this action on June 23, 2014, the parties had two settlement conferences, the second of which took place on December 4, 2014. At the end of the second settlement conference, the parties confirmed that the outstanding issues concerning the gas service would be resolved by January 30, 2015, Complainant would file an amended complaint by February 20, 2015, Complainant would answer twenty days later, and a hearing may be scheduled in late May 2015.

Following the second settlement conference, Duke Energy Ohio did exactly what it agreed to do: the company verified that Complainant's gas service at the property only goes to the house where Complainant lives and not to the barn where her business operates. As a result, the company separated the service so that the gas and electric meters would be billed separately to avoid further confusion, re-billed the gas account at the residential rate, and promptly refunded the credit on Complainant's account once the services were re-billed, as Complainant requested. Duke Energy Ohio also provided Complainant with information about the Smart Saver Incentive Program, which Complainant appreciated.

Thereafter nothing happened in this case. Complainant did not file an amended complaint, nor did Duke Energy Ohio hear anything further from Complainant about any outstanding issues or complaints. The company also did not receive notice of a hearing in May as was discussed at the second settlement conference in December 2014.

Accordingly the company was very surprised to receive the recent Entry scheduling a hearing for December 15. As noted, Duke Energy Ohio was not aware of anything still being in dispute between the parties. The company's representative recently reached out to Complainant, who indicated that she would talk to her husband and contact Duke Energy Ohio about whether Complainant wanted to go to hearing. As of yet Complainant has not responded.

Continuance is Both Necessary and Appropriate

The request to continue the hearing is not being filed for purposes of delay. Rather, the hearing was scheduled without adequate notice for a date immediate following scheduled vacations of both Duke Energy Ohio's witness and its counsel. After having the gas issues resolved back January and going months without taking action, Complainant will not be

prejudiced by any short delay in the hearing. Assuming Complainant even wants to go to a hearing or has any outstanding issues or claims to be addressed at a hearing, Duke Energy Ohio can be available for the hearing on January 25 or 26, 2016.

WHEREFORE, Respondent Duke Energy Ohio, Inc. requests that the Commission vacate the hearing scheduled for December 15, 2015, and re-set this matter for hearing on January 25 or 26, 2016.

Respectfully Submitted,

/s/ Robert A. McMahon
Robert A. McMahon (0064319)
Eberly McMahon Copetas LLC
2321 Kemper Lane, Suite 100
Cincinnati, OH 45206
513-533-3441
513-533-3554 Fax
bcmahon@emclawyers.com
Attorney for Respondent,
Duke Energy Ohio, Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document was served on Complainant by first class U.S. Mail, postage prepaid, on this 19th day of November, 2015.

Nancy M. Cole
7730 Camp Road
Camp Dennison, OH 45111

/s/ Robert A. McMahon

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

11/19/2015 2:30:30 PM

in

Case No(s). 14-0805-EL-CSS

Summary: Motion Respondent Duke Energy Ohio, Inc.'s Motion To Continue Hearing and Request For Expedited Treatment electronically filed by Mr. Robert A. McMahon on behalf of Duke Energy Ohio, Inc.