

## THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF  
THE CITY OF CINCINNATI FOR  
INTEGRATION OF MERCANTILE CUSTOMER  
ENERGY EFFICIENCY OR PEAK-DEMAND  
REDUCTION PROGRAMS WITH DUKE  
ENERGY OHIO, INC.

CASE NO. 14-1409-EL-EEC

### ENTRY ON REHEARING

Entered in the Journal on May 3, 2017

#### I. SUMMARY

{¶ 1} The Commission denies Duke's application for rehearing.

#### II. DISCUSSION

{¶ 2} Duke Energy Ohio, Inc. (Duke or Company) is an electric distribution utility as defined in R.C. 4928.01(A)(6), and a public utility as defined in R.C. 4905.02 and, as such, is subject to the jurisdiction of this Commission.

{¶ 3} R.C. 4928.01(A)(19) defines a mercantile customer as a commercial or industrial customer that consumes more than 700,000 kilowatt hours of electricity per year or that is part of a national account involving multiple facilities in one or more states. R.C. 4928.66 imposes certain energy efficiency and peak demand reduction requirements upon Ohio's electric distribution utilities, but also enables mercantile customers to commit their peak demand reduction, demand response, and energy efficiency (EE/PDR) programs for integration with the electric utility's programs in order to meet the statutory requirements. Ohio Adm.Code 4901:1-39-05(G) permits a mercantile customer to file, either individually or jointly with an electric utility, an application to commit the customer's EE/PDR programs for integration with the electric utility's programs, pursuant to R.C. 4928.66.

{¶ 4} On August 14, 2014, the City of Cincinnati, Ohio (City) filed an application, pursuant to Ohio Adm.Code 4901:1-39-05(G), requesting a cash rebate of \$298,255 for integration of its streetlight upgrade project with the EE/PDR programs of Duke Energy Ohio, Inc. (Duke or Company).

{¶ 5} On September 9, 2014, Duke filed comments objecting to the City's application on the grounds that the application referred to Duke's Efficient Outdoor Lighting SmartSaver Prescriptive Incentive Program (EOLS Program) that is part of the Company's EE/PDR portfolio supported by Duke's energy efficiency rider, Rider EE-PDR, whereas, the City's streetlight service is provided under Duke's Unmetered Outdoor Lighting Electric Service, which does not include a volumetric charge for energy consumed or any charges towards Duke's Rider EE-PDR. Therefore, Duke argued, the City should not be eligible to participate in the Company's EOLS Program since it does not contribute towards that program, which is paid for by other customers.

{¶ 6} On March 8, 2017, the Commission issued a Finding and Order (March 8, 2017 Order) granting the application, and directing Duke to remit an energy rebate payment of \$298,255 to the City, and adjust its baselines pursuant to R.C. 4928.66(A)(2)(c), and Ohio Adm. Code 4901:1-39-05.

{¶ 7} On April 7, 2017, Duke filed an application for rehearing of the March 8, 2017 Order, asserting that the City filed the wrong application and is only eligible for a mercantile rebate of \$106,175, rather than the \$298,255 incentive amount had the City requested the incentive under Duke's EOLS Program.

{¶ 8} On April 17, 2017, the City filed a memorandum contra Duke's application for rehearing asserting that, even if the City was potentially eligible for rebates under multiple programs as Duke claims, the City reasonably relied on Duke's representations that it was eligible for a cash rebate in the amount of \$298,255. The City requests that the Commission should deny Duke's application for rehearing and remind Duke to work closely with mercantile customers on future applications under the EEC Pilot to minimize

customer confusion regarding current practices, as directed in the March 8, 2017 Order at 6.

### III. CONCLUSION

{¶ 9} R.C. 4903.10 states that any party who has entered an appearance in a Commission proceeding may apply for rehearing with respect to any matters determined in that proceeding, by filing an application within 30 days after the entry of the order upon the journal of the Commission.

{¶ 10} The Commission finds that Duke's application for rehearing should be denied. As noted in the March 8, 2017 Order at 4, the City entered into a contract to upgrade approximately 4,500 streetlights in reliance upon Duke's representation that the City would be eligible for a cash rebate payment of \$298,255 under Duke's EE/PDR program. We find that the City's reliance on Duke's estimate of the incentive amount was reasonable. We believe, therefore, it would now be unreasonable, at this late date, to reduce the cash rebate to \$106,175, even if the City used the wrong application form. The use of the wrong form does not make the City's reliance on Duke's estimate unreasonable. Further, we note that Duke asserts that the incentive should be reduced to the lower amount in the interest of fairly calculating rebates for all customers in the same way. Duke apparently misses the point that any reduction would penalize the City for its reasonable reliance on the Company's advice. Finally, we will repeat our expectation that the Company will work more closely with mercantile customers on future EE/PDR applications to minimize customer confusion regarding current practices.

### IV. ORDER

{¶ 11} It is, therefore,

{¶ 12} That Duke's application for rehearing be denied. It is, further

{¶ 13} ORDERED, That a copy of this Entry on Rehearing be served upon all parties of record.

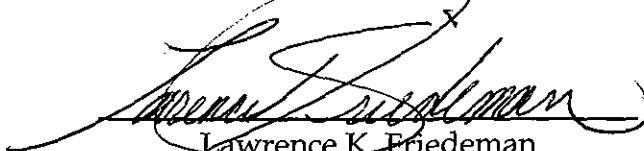
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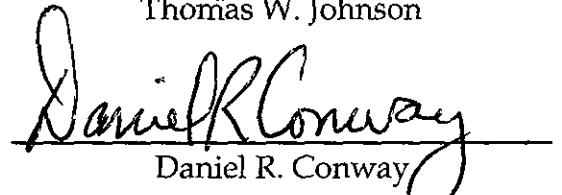
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Asim Z. Haque, Chairman

  
M. Beth Trombold

  
Thomas W. Johnson

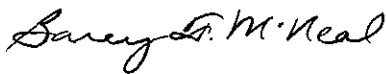
  
Lawrence K. Friedeman

  
Daniel R. Conway

RMB/dah

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**MAY 03 2017**



Barcy F. McNeal  
Secretary