

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke)	
Energy Ohio, Inc., for Implementation of)	Case No. 18-1185-EL-UNC
the Tax Cuts and Jobs Act of 2017.)	

In the Matter of the Application of Duke)	
Energy Ohio, Inc., for Approval of Tariff)	Case No. 18-1186-EL-ATA
Amendments.)	

**REPLY OF
THE OHIO CABLE TELECOMMUNICATIONS ASSOCIATION**

The Ohio Cable Telecommunications Association supports the establishment of a procedural schedule for these proceedings so all parties can present their views to the Public Utilities Commission of Ohio and the Commission can address all parties' concerns, including those of the OCTA. Duke Energy Ohio, Inc., however, seeks in its January 2, 2019 pleading in these cases to preclude everyone but it and the Staff from truly participating. First, Duke wrongly claims that these cases are decisional and a procedural schedule would delay these cases. Second, Duke wrongly argues that a procedural schedule is unwarranted because it does not propose to increase its electric rates. Third, Duke overlooks that a procedural schedule may also encourage discussions about the concerns with Duke's application and assist in reaching a mutual resolution. The Commission concluded only a few months ago that it intends to employ "a deliberative and thorough approach to evaluating the complicated effects of the TCJA on each Ohio rate-regulated utility,"¹ and intends to address in the company-specific cases the concerns that had been raised by interested stakeholders in its investigation docket, **including those concerns raised by the OCTA and the effect of the Tax Cuts and Jobs Act of 2017**

¹ See, *In the Matter of The Commission's Investigation of the Financial Impact of the Tax Cuts and Jobs Act of 2017 on Regulated Ohio Utility Companies*, Case No. 18-47-AU-COI, Finding and Order at ¶¶28 and 29 (October 24, 2018).

(“TCJA”) on pole attachment rates.² The Commission, therefore, should reject Duke’s claims here and set a procedural schedule that allows all parties a fair opportunity to present their positions relative to Duke’s proposal and the effect of the TCJA on Duke.

By way of background, Duke presents an electric-specific TCJA-related proposal that it filed in July 2018 (nearly seven months ago), asking the Commission to approve a new credit rider for passing along the tax savings resulting from the TCJA. Multiple parties filed intervention motions, including the OCTA who explained that the proposal filed by Duke is silent on the OCTA’s concerns. The intervention motions await a ruling. No schedule has been established yet. The Staff filed a Review and Recommendation on December 17, 2018. The Ohio Energy Group requested a procedural schedule on December 19, 2018, and Duke opposed that request in a memorandum contra filed on January 2, 2019. The OCTA files this reply in response.

I. These cases are not yet decisional and a procedural schedule will allow the parties, including the OCTA, to present their concerns without undue delay.

Duke claims on page one of its memorandum contra that there is no need for a procedural schedule for these proceedings because its application is decisional. Duke relies on the Staff’s Review and Recommendation, but that filing does not render these cases decisional. It reflects the Staff’s thoughts, but none of the other parties have been given the opportunity to present their positions. Seven other parties have filed motions to intervene identifying their interests and await a schedule in order to present their concerns. Without a procedural schedule, the Commission will not hear fully from the parties, denying them due process which is contrary to the Commission’s intended approach for TCJA-related cases like these. Furthermore, having a

² *Id.* at ¶30.

procedural schedule will create a framework and times for the parties to present their concerns. No undue delay will be caused.

II. A procedural schedule is warranted regardless of how rates will be affected by Duke's application.

Duke also claims on page one of its memorandum contra that there is no need for a procedural schedule for these proceedings because Duke is not asking to increase its electric rates in these proceedings. The lack of a rate-increase proposal does not justify a review that precludes all parties except the applicant and the Staff from presenting their views. Moreover, the Commission knew that the TCJA-related cases would not be rate increases and it nonetheless determined that it wants to **thoroughly** review the utility proposals for passing along the tax savings TCJA benefits. That thorough review should include a fair opportunity for all interested stakeholders, such as the OCTA, to fully present their concerns. A procedural schedule will provide the structure for the review.

III. A procedural schedule may assist the parties in discussing their concerns with Duke's application and in reaching a resolution for these cases.

The Ohio Energy Group requested at page one of its motion for a procedural schedule that the schedule include a prehearing conference among the parties. Such a conference would encourage the parties to discuss their concerns with Duke's application and may prompt settlement discussions. The Commission has supported a settlement in another electric utility's TCJA-related cases.³ For this reason alone, setting a procedural schedule that includes such a prehearing conference is reasonable.

³ *Id.* at ¶30, citing *In the Matter of Ohio Power Company's Implementation of the Tax Cuts and Jobs Act of 2017*, Case Nos. 18-1007-EL-UNC et al., Finding and Order (October 3, 2018).

IV. Conclusion

Setting a procedural schedule for these cases is a reasonable step that would be consistent with the Commission's stated intentions and with due process. As explained above, Duke's arguments against a procedural schedule do not hold water and should be swiftly rejected. The OCTA urges the Commission to include in the procedural schedule a prehearing conference among the parties so as to encourage discussions.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

The Public Utilities Commission of Ohio's e-filing system will electronically serve notice of the filing of this document on the parties referenced on the service list of the docket card who have electronically subscribed to the case. In addition, the undersigned hereby certifies that a copy of the foregoing document is also being served (via electronic mail) on the 9th day of January 2019 upon the entities and persons listed below.

/s/ Gretchen L. Petrucci
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Summary: Reply electronically filed by Mrs. Gretchen L. Petrucci on behalf of Ohio Cable
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