

**BEFORE THE**  
**PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of    )  
Duke Energy Ohio, Inc. for a        )    Case No. 19-0165-EL-WVR  
Waiver of Rule 4901:1-39-04.        )

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**MOTION FOR A WAIVER  
AND REQUEST FOR EXPEDITED RULING  
OF DUKE ENERGY OHIO, INC.**

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Duke Energy Ohio, Inc. (Duke Energy Ohio or the Company), an electric utility as defined in R.C. 4928.01(A)(11), moves the Public Utilities Commission of Ohio to grant a waiver that will extend the filing requirement for the April 15 filing requirement set forth in Rule 4901:1-39-04, O.A.C., until September 15, 2019. The Commission has authority to grant a waiver pursuant to Rule 4901:1-39-02(B). Good cause exists for such a waiver and Duke Energy Ohio respectfully requests that the Commission grant this motion on an expedited basis pursuant to Rule 4901-1-12(C). Reasons for this motion for a waiver are set forth more fully in the attached Memorandum in Support.

Respectfully submitted,

/s/Elizabeth H. Watts  
Rocco O. D'Ascenzo (0077651)  
Deputy General Counsel  
Elizabeth H. Watts (0031092)  
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## **MEMORANDUM IN SUPPORT**

Pursuant to the requirements set forth in Rule 4901:1-39-04, O.A.C., Duke Energy Ohio would be required to submit an application for a new energy efficiency and peak demand reduction portfolio that would enable Duke Energy Ohio to continue compliance with state of Ohio energy efficiency mandates. Duke Energy Ohio's current portfolio was approved in September of 2017 for a period that includes 2017 through 2019. As the Company's portfolio is only approved through 2019, a new application would be due on April 15 of this year.

On December 19, 2018, the Commission issued a Finding and Order adopting new rules for management of energy efficiency programs. Among the rules that are proposed to be amended is new rule 4901:1-39-04. The Commission's proposed new rule contemplates the filing of portfolios on September 1 annually. The timing of the promulgation of new rules at the time the Company is required to file an application for approval of a portfolio causes some dissonance.

If the Company files its portfolio for three years in April, it is more than likely that the regulatory process to approve the portfolio would continue as the Commission finalizes its new rules. Accordingly, the timing creates difficulties in applying the new rules v. the old rules.

Rule 4901:1-39-02(B) states that the Commission may, upon an application or motion filed by a party, waive any requirement of Chapter 39, for good cause. Good cause exists for this request. The process of developing and filing a portfolio is lengthy and time consuming. It requires the work of many people over a period of months. The data that is to accompany the application is set forth in the rules and that too may be changed as the rule-making process continues. Duke Energy Ohio has requested that the Commission reopen the rulemaking process to allow additional comments from stakeholders. That too can impact what is ultimately filed. Thus, the most expedient way forward is for Duke Energy Ohio to file on September 1, pursuant to the new rules.

Or if the new rules are not yet final, the Company can be ready to submit a portfolio at that time if the Commission deems it prudent to do so.

Accordingly, the Company requests that it be permitted to file its application for approval of a new energy efficiency portfolio on September 1, 2019. Rule 4901-1-12(C) states that any motion may include a specific request for an expedited ruling. The grounds for this request relate to the timing of a portfolio filing and the work leading up to the filing. The Company is presently preparing for an April filing "just in case". If the Commission grants the requested waiver, the Company will cease that process and begin looking forward to a September filing by preparing information relevant to that time-line. As this request does not yet relate to an open docket, the Company did not contact any other parties for acquiescence in the filing.

For the reasons set forth above, the Company respectfully requests that the Commission grant its motion and permit Duke Energy Ohio to file its energy efficiency portfolio in September of 2019.

Respectfully submitted,

DUKE ENERGY OHIO, INC.

/s/Elizabeth H. Watts

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Summary: Motion Motion for a Waiver and Request for Expedited Ruling of Duke Energy Ohio, Inc. electronically filed by Mrs. Debbie L Gates on behalf of Duke Energy Ohio Inc. and D'Ascenzo, Rocco O. Mr. and Watts, Elizabeth H