

THE PUBLIC UTILITIES COMMISSION OF OHIO

**IN THE MATTER OF THE COMPLAINT OF
HAMILTON COUNTY,**

COMPLAINANT,

CASE NO. 18-114-EL-CSS

v.

DUKE ENERGY OHIO, INC.,

RESPONDENT.

ENTRY

Entered in the Journal on January 14, 2020

{¶ 1} Duke Energy Ohio, Inc. (Duke or the Company) is an electric services company as defined in R.C. 4928.01(A)(9), and, as such, is subject to the jurisdiction of this Commission.

{¶ 2} Pursuant to R.C. 4905.26, the Commission has authority to consider written complaints filed against a public utility by any person or corporation regarding any rate, service, regulation, or practice furnished by the public utility that is in any respect unjust, unreasonable, insufficient, or unjustly discriminatory. Pursuant to R.C. 4928.16, the Commission has jurisdiction under R.C. 4905.26, upon complaint of any person, regarding the provision by an electric services company subject to certification under R.C. 4928.08 of any service for which it is subject to certification.

{¶ 3} On January 18, 2018, Hamilton County filed a complaint against Duke. Hamilton County states, in 2009, the Commission approved a stipulation that, among other things, authorized Duke to establish a backup delivery point rider (Rider BDP). Hamilton County's complaint concerns Duke's recent application of Rider BDP to Hamilton County, specifically, Paul Brown Stadium. Hamilton County maintains that Duke recently began assessing Rider BDP charges to Paul Brown Stadium. According to Hamilton County, this is unreasonable, as Rider BDP should only apply to new backup

delivery points, and the county should not be charged for preexisting feeders, such as those at Paul Brown Stadium.

{¶ 4} On February 7, 2018, Duke filed its answer to the complaint, denying all allegations.

{¶ 5} Since that time, the parties have continued to have ongoing discussions. Additionally, on December 19, 2018, the Commission approved Duke's current electric security plan, which included revisions to Rider BDP. *In re Duke Energy Ohio, Inc.*, Case No. 17-1263-EL-SSO, et al., Opinion and Order (Dec. 19, 2018).

{¶ 6} By Entry dated October 1, 2019, the attorney examiner directed the parties to file a status update by October 31, 2019, indicating whether the issues in this case are resolved or whether this matter should be set for hearing.

{¶ 7} On October 31, 2019, Hamilton County and Duke filed their respective status updates in this docket.

{¶ 8} By Entry issued on November 22, 2019, the attorney examiner set deadlines for discovery and testimony and scheduled the evidentiary hearing in this matter to convene on February 11, 2020.

{¶ 9} Subsequently, on January 9, 2020, Hamilton County filed a motion for continuance seeking a 90-day extension of the discovery deadline and evidentiary hearing date. In support of its request, Hamilton County states that the parties are seeking to resolve the dispute and more time is necessary to engage in negotiations, citing the December holidays and additional litigation matters. Hamilton County suggests that discovery requests be completed by April 10, 2020, and the evidentiary hearing convene on May 18, 2020, or later. As a final matter, Hamilton County represents that Duke does not object to the requested continuance.

{¶ 10} Upon review, the attorney examiner finds that Hamilton County's motion for continuance is reasonable and should be granted. Accordingly, the following procedural schedule shall apply:

- (a) Discovery requests, except for notices of deposition, should be served by April 10, 2020. All discovery requests should be conducted in accordance with Ohio Adm.Code 4901-1-16 and 4901-1-24.
- (b) Any party intending to present direct, expert testimony should comply with Ohio Adm.Code 4901-1-29(A)(1)(h), which requires that all such testimony be filed and served upon all parties no later than seven days prior to the commencement of the hearing.
- (c) An evidentiary hearing shall commence on May 19, 2020, at 10:00 a.m. at the offices of the Commission, Hearing Room 11-D, 180 East Broad Street, 11th Floor, Columbus, Ohio 43215.

{¶ 11} As is the case in all Commission complaint proceedings, the complainant has the burden of proving the allegations of the complaint. *Grossman v. Pub. Util. Comm.*, 5 Ohio St.2d 189, 214 N.E.2d 666 (1966).

{¶ 12} It is, therefore,

{¶ 13} ORDERED, That discovery requests be served no later than April 10, 2020, and the evidentiary hearing be rescheduled to May 19, 2020, in accordance with Paragraph 10. It is, further,

{¶ 14} ORDERED, That a copy of this Entry be served upon each party of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/Lauren L. Augostini

By: Lauren L. Augostini
Attorney Examiner

JRJ/hac

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Case No(s). 18-0114-EL-CSS

Summary: Attorney Examiner Entry granting motion for continuance and setting forth new procedural schedule electronically filed by Heather A Chilcote on behalf of Lauren L. Augustini, Attorney Examiner, Public Utilities Commission of Ohio