

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Proper Procedures and)	
Process for the Commission's Operations)	Case No. 20-599-GE-UNC
and Proceedings During the Declared State of)	
Emergency and Related Matters.)	

In the Matter of the Application of Duke)	
Energy Ohio, Inc., Under the Commission's)	
Proceedings During the Declared State)	Case No. 20-0856-EL-AEC
Of Emergency, for a Reasonable)	
Arrangement with Customers Served Under)	
Rates DS, DP, and TS.)	

In the Matter of the Application of Duke)	
Energy Ohio to Modify its Economic)	Case No. 20-0857-EL-RDR
Competitiveness Fund Rider and Request)	
For Waivers.)	

**OHIO PARTNERS FOR AFFORDABLE ENERGY'S MEMORANDUM CONTRA TO
THE APPLICATION FOR REHEARING BY THE OFFICE OF THE OHIO
CONSUMERS' COUNSEL**

I. Introduction

On March 9, 2020, Governor DeWine declared a state of emergency regarding the COVID-19 pandemic and the Commission subsequently issued as series of Entries in Case No. 20-591-AU-UNC (Emergency Case) starting on March 12, 2020. In response to the Commission's directive in the Emergency Case, Duke Energy Ohio, Inc. ("Duke") filed a Motion to Suspend Procedures and Processes on March 19, 2020 and a Second Motion on May 5, 2020. On June 17, 2020 the Commission reviewed Duke's Motion to Suspend and the intervenors' Comments and issued its Finding and Order. The Commission directed Duke to work with Staff and file a comprehensive transition plan before resuming suspended activities. Finding and Order (June 17, 2020) at ¶24.

On July 17, 2020, the Office of the Ohio Consumers' Counsel (the "OCC") filed an Application for Rehearing alleging four Assignments of Error. In response, Ohio Partners for Affordable Energy ("OPAЕ") submits this memo contra in response to OCC's Application for Rehearing.

II. Argument

A. The OCC's first Assignment of Error should be denied because it is OCC attempting to substitute its judgment for that of the Commission's.

The OCC's first Assignment of Error claims the Commission erred in failing to require Duke to reconnect any customer who was disconnected for nonpayment within the thirty days or more prior to Governor's March 9, 2020 State of Emergency declaration. While OPAЕ generally agrees that Duke should work to reconnect its customers (to the extent it has not already) who have been disconnected as a result of the COVID-19 pandemic, OCC's alleged error is not an error at all.

The Commission considered the very request OCC now highlights and found it to be unnecessary. Finding and Order at ¶26. Again, the Commission's decision to decline to adopt a recommendation of a party does not amount to an error worthy of rehearing. The OCC's alleged the Commission's Finding and Order was in violation of R.C. 4903.09 because the Commission failed to explain why it rejected the OCC's recommendation. OCC's Application for Rehearing at p. 3. This is not the case. The Commission clearly stated that OCC's recommendation was unnecessary as it held in the AEP COVID docket but encouraged Duke to work with customers who need payment plans. The OCC simply disagrees with the Commission's decision and is rehashing its original argument.

The OCC's first Assignment of Error should be denied.

B. The OCC's second and third Assignments of Error should be rejected as premature.

The OCC's second and third Assignments of Error both attack the Commission's Finding and Order for failing to recognize the ongoing nature of the pandemic and to order and indefinite suspension on disconnections as a result. The OCC noted that while the Commission rejected these suggestions it did order Duke to file a transition plan. OCC's Application for Rehearing Memorandum in Support at pp. 3. The OCC posits that while it supports a transition plan customers need protection now. Id.

OPAЕ agrees with OCC that the pandemic is an ongoing concern that will need to be monitored closely and it is possible further action by the Commission will be necessary to protect customers during these challenging times. However, blanket, indefinite suspensions are not the best option to protect customers and, in the long-term, can make it harder for customers to get back on track with their utility. Instead, customers should utilize the bill payment assistance options and programs available to them as well as work with their utility to establish payment plans that fit their budgets.

Further, the issues contained in OCC's second and third Assignments of Error are premature as they should be decided in the Commission's consideration of Duke's transition plan. The Commission has ordered Duke to file a transition plan and Duke has done so. OCC availed itself of the opportunity to file comments on that plan. The Commission can properly decide the issues raised in OCC's second and third Assignments of Error when it considers Duke's transition plan and other intervenor comments.

The OCC's second and third Assignments of Error should be denied as premature.

C. The OCC's fourth Assignment of Error should be denied because it is simply the OCC attempting to substitute its judgment for that of the Commission's.

The OCC's fourth Assignment of Error claims the Commission erred by failing to adopt the consumer protection recommendations of the National Consumer Law Center as proposed by OCC. The Commission rejected this suggestion in its Finding and Order and noted that all the same issues are being dealt with on a utility by utility basis in each COVID-19 docket. Finding and Order at ¶28.

The OCC does not claim this rejection is unlawful or even unreasonable. Instead, OCC simply argues that the Commission should have adopted their suggestion. OCC's Application for Rehearing Memorandum in Support at p. 5. Yet, the OCC's provides no non-policy justification for this claim. Instead, the OCC simply disagrees with the Commission's decision and is rehashing its already considered and rejected arguments again in attempt to achieve a different outcome. The rehashing of these arguments does not present a basis for modification of the Commission's Finding and Order.

The OCC's fourth Assignment of Error should be denied.

III. Conclusion

For the foregoing reasons, OPAE respectfully request that the Commission deny the OCC's Application for Rehearing.

[Signature Block on the next page.]

/s/Robert Dove

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I certify that 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.

/s/ Robert Dove
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Case No(s). 20-0599-GE-UNC, 20-0856-EL-AEC, 20-0857-EL-RDR

Summary: Memorandum Contra the Office of the Ohio Consumers' Counsel's Application for Rehearing electronically filed by Mr. Robert Dove on behalf of Ohio Partners for Affordable Energy