

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 August 25, 2020

{¶ 1} Duke Energy Ohio, Inc. (Duke or the 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.

{¶ 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.

{¶ 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} On January 9, 2020, Hamilton County filed a motion for continuance seeking a 90-day extension of the discovery deadline and evidentiary hearing date. By Entry issued January 14, 2020, the attorney examiner granted Hamilton County's motion and directed that the parties serve discovery requests, except for notices of deposition, by April 10, 2020, comport with Ohio Adm.Code 4901-1-29(A)(1)(h) with respect to direct, expert testimony, and scheduled the evidentiary hearing to commence on May 19, 2020.

{¶ 10} Subsequently, on March 9, 2020, the governor signed Executive Order 2020-01D (Executive Order), declaring a state of emergency in Ohio to protect the well-being of Ohioans from the dangerous effects of COVID-19. As described in the Executive Order, state agencies are required to implement procedures consistent with recommendations from the Department of Health to prevent or alleviate the public health threat associated with COVID-19. Additionally, all citizens are urged to heed the advice of the Department of Health regarding this public health emergency in order to protect their health and safety.

{¶ 11} As a result of the Executive Order, beginning March 13, 2020, the Commission

reduced on-site staffing, and most employees began working from home to reduce exposure to COVID-19.

{¶ 12} By Entry issued April 30, 2020, the attorney examiner, among other things, rescheduled the evidentiary hearing to September 2, 2020.

{¶ 13} Since the issuance of the May 6, 2020 Entry, the attorney examiner has been informed that the parties are continuing to engage in settlement discussions, and the current state with respect to the COVID-19 health emergency remains unchanged. The attorney examiner finds it appropriate to set a new procedural schedule. Accordingly, the following procedural schedule shall take effect:

- (a) Discovery requests, except for notices of deposition, should be served by October 6, 2020. All discovery requests should be conducted in accordance with Ohio Adm.Code 4901-1-16 to 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 November 3, 2020, at 10:00 a.m. Given the current COVID-19 health emergency, this hearing will be remotely, unless otherwise ordered. The attorney examiner will provide additional details to the parties as those details emerge.

{¶ 14} 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).

{¶ 15} It is, therefore,

{¶ 16} ORDERED, That discovery requests be served no later than October 6, 2020, and the evidentiary hearing be rescheduled to November 3, 2020, in accordance with Paragraph 13. It is, further,

{¶ 17} 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

GAP/kck

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

Summary: Attorney Examiner Entry ordering that discovery requests be served no later than 10.6.20 and re-scheduling the evidentiary hearing to 11.3.20 at 10:00 a.m., to be held remotely. electronically filed by Kelli C. King on behalf of Lauren Augustini, Attorney Examiner, Public Utilities Commission of Ohio