

THE PUBLIC UTILITIES COMMISSION OF OHIO

**IN THE MATTER OF THE COMPLAINT OF
DIRECT ENERGY BUSINESS, LLC,**

COMPLAINANTS,

CASE No. 14-1277-EL-CSS

v.

DUKE ENERGY OHIO, INC.,

RESPONDENT.

ENTRY ON REMAND

Entered in the Journal on December 16, 2020

I. SUMMARY

{¶ 1} On remand from the Supreme Court of Ohio, the Commission finds that the April 10, 2019 Opinion and Order should be vacated, and the complaint filed by Direct Energy Business, LLC against Duke Energy Ohio, Inc. should be dismissed for lack of jurisdiction.

II. DISCUSSION

{¶ 2} Duke Energy Ohio, Inc. (Duke) is a public utility as defined in R.C. 4905.02, and, as such, is subject to the jurisdiction of this Commission.

{¶ 3} On June 22, 2014, Direct Energy Business, LLC (Direct) filed a complaint against Duke. On August 13, 2014, Duke filed its answer to the complaint.

{¶ 4} A hearing was held as scheduled on June 13, 2017. At the hearing, the parties stipulated to the submission of all exhibits, including prefiled testimony, and waived all cross examination. Initial briefs were filed on August 11, 2017, and reply briefs were filed on September 1, 2017.

{¶ 5} Thereafter, on April 10, 2019, the Commission issued an Opinion and Order finding in favor of Direct. Duke filed a timely application for rehearing on May 10, 2019, which was denied by the Commission in an Entry on Rehearing issued June 5, 2019.

{¶ 6} On August 2, 2019, Duke filed a Notice of Appeal with Supreme Court of Ohio.

{¶ 7} The Supreme Court of Ohio issued its Opinion on September 17, 2020. In its decision, the Court determined that the Commission lacked jurisdiction to hear Direct's complaint, finding that Duke was not acting as a public utility under the facts of this case. The Court thus remanded this case back to the Commission with instructions to dismiss the complaint for lack of jurisdiction. *In re Complaint of Direct Energy Business, L.L.C. v. Duke Energy Ohio, Inc.*, 2020-Ohio-4429 at ¶ 25-26. Thereafter, Direct's motion for reconsideration was denied by the Supreme Court of Ohio on November 24, 2020.

{¶ 8} Accordingly, consistent with the Supreme Court of Ohio's findings and instructions regarding this case, the Commission finds that Direct's complaint should be dismissed for lack of jurisdiction.

III. ORDER

{¶ 9} It is, therefore,

{¶ 10} ORDERED, That Direct's complaint be dismissed for lack of jurisdiction. It is, further,

{¶ 11} ORDERED, That a copy of this Entry on Remand be served upon all parties of record.

COMMISSIONERS:

Approving:

M. Beth Trombold
Lawrence K. Friedeman
Daniel R. Conway
Dennis P. Deters

NJW/hac

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Case No(s). 14-1277-EL-CSS

Summary: Entry on remand from the Supreme Court of Ohio, the Commission finds that the April 10, 2019 Opinion and Order should be vacated, and the complaint filed by Direct Energy Business, LLC against Duke Energy Ohio, Inc. should be dismissed for lack of jurisdiction electronically filed by Heather A Chilcote on behalf of Public Utilities Commission of Ohio