

**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke )  
Energy Ohio, Inc., for a Waiver of Specific ) Case No. 21-1100-EL-WVR  
Sections of the Ohio Administrative Code. )

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**REPLY BY DUKE ENERGY OHIO, INC.,  
TO MEMORANDUM CONTRA  
MOTION FOR A CHANGE TO THE PROCEDURAL SCHEDULE**

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The Application of Duke Energy Ohio, Inc. (Duke Energy Ohio or the Company) for waivers in this proceeding was filed on November 1, 2021. Interstate Gas Supply, Inc. (IGS), the Retail Energy Supply Association (RESA), and the Office of the Ohio Consumers' Counsel (OCC) intervened in this case and filed initial comments on January 6, 2022. The procedural schedule in this proceeding did not provide for the filing of any reply comments. After reviewing the initial comments filed, the Company filed, on January 21, 2022, a motion for a change to the procedural schedule to permit the filing of limited reply comments to comments by RESA and IGS on two points only (Motion) and enclosed a copy of the proposed limited reply comments (Proposed Reply Comments).

On January 25, 2022, RESA filed a memorandum<sup>1</sup> opposing the Motion. The Company submits this reply in support of its Motion.

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<sup>1</sup> Memorandum of the Retail Energy Supply Association in Opposition to the Motion of Duke Energy Ohio, Inc. for a Change to the Procedural Schedule (January 25, 2022) (Memo Contra).

**The Proposed Reply Comments Do Not Seek To Amend The Application And There Is Nothing Contradictory About Their Submission.**

The Company is not seeking to “amend[] the application” with its Proposed Reply Comments.<sup>2</sup> The only departure from the Company’s Application was made in the Company’s initial comments, where the Company submitted that a 9-month waiver (instead of the 12 months originally requested) would permit a smooth transition to full elimination of non-jurisdictional charges from the bill.<sup>3</sup> The Company’s Proposed Reply Comments, rather, primarily respond to clarify the scope of the obligation placed by the rule revision on the Company (which, in turn, shaped the Application filed by the Company) and to rebut unsubstantiated assertions about the Company’s technical capabilities made in intervenors’ initial comments.

Even in its Memo Contra, RESA misapprehends the basis for the Company’s waiver when it argues that “parties had no notice that Duke would assert it needed a waiver because its current and proposed systems could not accommodate suppliers’ non-jurisdictional charges.”<sup>4</sup> The Company has never proposed an ongoing permanent waiver based on a permanent inability to accommodate, but rather proposed a temporary waiver to reach full compliance—by removing all non-jurisdictional charges—within nine months of an order in this case, of which complete notice was given in its Application (except that the Application initially requested twelve months).

Furthermore, there is no contradiction between the Company’s position that the Company requires no technical justification for declining to offer any non-jurisdictional charges on the bill and the need to correct intervenors’ misconceptions and misstatements about the Company’s existing technical capabilities. In the event the Commission does choose to address the Company’s immediate technical capabilities—though the Company believes it unnecessary—the

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<sup>2</sup> See Memo Contra, pg. 6.

<sup>3</sup> Comments of Duke Energy Ohio, Inc., pg. 2 (January 6, 2022).

<sup>4</sup> Memo Contra, pg. 6.

Company should be able to rebut such assertions. And even if the Commission does not reach the issue, the comments filed in this docket are publicly available and therefore it is important to correct statements which are incorrect.

**The Commission Has Discretion To Grant The Motion.**

The Commission has discretion to grant a motion for permission to file reply comments, when it wishes to afford a party an opportunity to respond or otherwise finds it proper to consider the proposed reply comments.<sup>5</sup>

**Conclusion**

For the above reasons and the reasons given in its earlier-filed Motion, the Company respectfully requests that the Commission grant its Motion and consider the Proposed Reply Comments.

Respectfully submitted,

DUKE ENERGY OHIO, INC.

/s/ Larisa M. Vaysman

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<sup>5</sup> See, e.g., *In The Matter Of The Application Of Ohio Power Company For Approval Of A Decoupling Mechanism. In The Matter Of The Application Of Ohio Power Company For Approval To Change Accounting Methods*, Case Nos. 20-1099-EL-ATA, *et al.*, Finding and Order, pp. 3-4 (July 15, 2020) (granting motion for leave to file reply comments “to afford . . . an opportunity to respond”); *In the Matter of the Commission Investigation Relative to the Establishment of Intrastate Access Charges*, Case Nos. 83-464-TP-COI, Entry, p. 8 (December 29, 1987) (granting leave to file reply comments).

### **CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing Reply by Duke Energy Ohio, Inc., to Memorandum Contra Motion for a Change to the Procedural Schedule was served via electronic mail or ordinary mail on the following parties this 1<sup>st</sup> day of February, 2022.

/s/ Larisa M. Vaysman

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Summary: Reply Reply by Duke Energy Ohio, Inc. to Memorandum Contra Motion for a Change to the Procedural Schedule electronically filed by Dianne Kuhnell on behalf of Duke Energy Ohio, Inc. and Rocco D'Ascenzo and Kingery, Jeanne W. and Vaysman, Larisa M.