

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF
DUKE ENERGY OHIO, INC. TO AMEND ITS
POLE ATTACHMENT TARIFF.

CASE NO. 22-164-EL-ATA

ENTRY

Entered in the Journal on March 30, 2022

{¶ 1} Duke Energy Ohio, Inc. (Duke) is an electric light company as defined in R.C. 4905.03 and a public utility as defined in R.C. 4905.02, and, as such, is subject to the jurisdiction of the Commission.

{¶ 2} Ohio Adm.Code 4901:1-3-03 describes the pole attachment and conduit occupancy rules applicable to a public utility and an attaching entity.

{¶ 3} Pursuant to Ohio Adm.Code 4901:1-3-04, any changes in tariffed rates for access to poles, ducts, conduits, or rights-of-way shall be filed as an application for tariff amendment, and are subject to a sixty-day automatic approval process.

{¶ 4} On March 4, 2022, Duke filed an application for tariff amendment seeking to update charges for the use of its poles and conduits.

{¶ 5} On March 23, 2022, Ohio Cable Telecommunications Association (OCTA) filed a motion to intervene. In support of its motion to intervene, OCTA submits that it has members for which pole and conduit access is essential. Therefore, OCTA avers that it and its members have a direct and significant stake in ensuring that Duke's proposed rates fully comply with the Commission's pole attachment and conduit occupancy rules set forth in Ohio Adm.Code Chapter 4901:1-3 and are just and reasonable. According to OCTA, its interests are not represented by any other party in this proceeding. OCTA states that its intervention will contribute to a just and reasonable resolution of the issues involved in this proceeding and will not result in an undue delay. Further, OCTA notes that the Commission granted it intervention in a prior pole attachment case involving Duke. *In the*

Matter of the Application of Duke Energy Ohio, Inc. to Amend Its Pole Attachment and Conduit Occupancy Tariff, P.U.C.O No. 1, Case No. 15-965-EL-ATA.

{¶ 6} As of the date of this Entry, Duke has not filed a memorandum contra OCTA's motion to intervene. Upon review of the arguments raised in OCTA's motion to intervene, the attorney examiner finds that OCTA's motion is reasonable and should be granted.

{¶ 7} Also on March 23, 2022, OCTA filed a motion to expedite discovery schedule and request for expedited ruling. OCTA requests the establishment of an expedited schedule of 10 days for responding to all discovery sought by OCTA in the case. In support of its request, OCTA alleges that the described schedule will not be overly burdensome on Duke and will allow OCTA enough time to prepare a second round of discovery and then obtain and analyze important information for the purpose of preparing timely objections in the case. OCTA claims that its request should not be overly burdensome because it is the only party seeking discovery in the case.

{¶ 8} On March 28, 2022, Duke filed its memorandum contra OCTA's motion to expedite discovery schedule. Duke argues that the time period for responding to discovery should remain at 20 days, as described in Ohio Adm.Code 4901-1-19. Duke asserts that OCTA's discovery requests, which were served on March 24, 2022, are numerous and will require significant resources from Duke. In addition to the volume of the discovery requests, Duke specifically highlights the resources that are required to respond to OCTA's requests for information such as the identification of pole height and material by category for all of the approximately 250,000 poles in Duke's charge. Further, Duke alleges that OCTA contributed to its claimed need for expedited discovery by failing to issue discovery in the case until 19 days after Duke filed its application. Moreover, Duke contends that OCTA is able to complete its discovery without the need for a shortened response period.

{¶ 9} Upon review of the arguments raised by the parties, the attorney examiner denies OCTA's motion to expedite discovery finding that Duke's claimed need for the full

20 days to respond to discovery is credible, and that OCTA contributed to its claimed urgency as to the issue by failing to issue discovery until 19 days after the case commenced.

{¶ 10} It is, therefore,

{¶ 11} ORDERED, That OCTA's motion for intervention be granted, as described in Paragraph 6. It is, further,

{¶ 12} ORDERED, That OCTA's motion to expedite discovery schedule be denied, as described in Paragraph 9. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/Michael L. Williams

By: Michael L. Williams
Attorney Examiner

NJW/hac

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in

Case No(s). 22-0164-EL-ATA

Summary: Attorney Examiner Entry ordering that OCTA's motion for intervention be granted, as described in Paragraph 6 and that OCTA's motion to expedite discovery schedule be denied, as described in Paragraph 9 electronically filed by Heather A. Chilcote on behalf of Michael L. Williams, Attorney Examiner, Public Utilities Commission of Ohio