

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke)
Energy Ohio, Inc. to Adjust and Set the) Case No. 23-457-EL-RDR
Rate for Rider BTR.)

**MOTION TO SHORTEN THE PERIOD OF TIME TO RESPOND TO
DISCOVERY
AND
REQUEST FOR EXPEDITED RULING
BY
OFFICE OF THE OHIO CONSUMERS' COUNSEL**

The Office of the Ohio Consumers' Counsel ("OCC") files this Motion to shorten the period of time to respond to discovery from twenty days to seven (7) calendar days, as permitted under O.A.C. 4901-1-17(G) and per our discovery rights under R.C. 4903.082. As grounds for this Motion, O.A.C. 4901:1-36-03(E) only provides 40 days from the date of the filing of the application in this matter for the submission of comments on any issues concerning the application. The requested shortened time period is necessary to provide an opportunity to review the discovery responses and provide comments to the Commission within the forty (40) days.

OCC also moves for an expedited ruling on this Motion under O.A.C. 4901-1-12(C). At the time of this filing, OCC cannot certify that no other parties oppose an expedited ruling.

Respectfully submitted,

Bruce Weston (0016973)
Ohio Consumers' Counsel

/s/ Donald J. Kral

Donald J. Kral (0042091)
Assistant Consumers' Counsel
Counsel of Record
Angela D. O'Brien (0097579)
Deputy Consumers' Counsel

Office of the Ohio Consumers' Counsel

65 East State Street, Suite 700
Columbus, Ohio 43215
Telephone [Kral]: (614) 466-9571
Telephone: [O'Brien]: (614) 466-9531
donald.kral@occ.ohio.gov
angela.obrien@occ.ohio.gov
(willing to accept service by e-mail)

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MEMORANDUM IN SUPPORT

The Office of the Ohio Consumers’ Counsel (“OCC”) seeks to provide comments to the Commission regarding Duke’s proposed charges to residential consumers through the Base Transmission Rate Rider (“BTR”). Through the BTR, Duke charges consumers for noncompetitive-based transmission charges,¹ including charges approved by the Federal Energy Regulatory Commission.² These charges are intended to be used to support the electric transmission system but are also often used to charge consumers for expensive supplemental transmission projects that are not adequately reviewed for necessity and prudence.

In the present filing, Duke proposes to charge consumers \$88,658,127.20 through the BTR. That is for the period October 2023 through September 2024.³ It is anticipated that some portion of charges through the BTR relate to Duke’s costly supplemental transmission projects, which escape adequate regulatory review by the PUCO and federal regulators. Residential consumers, who have no ability to opt-out of the BTR, should

¹ See Case No. 11-2641-EL-RDR, et al., Opinion and Order at 7 (“Rider BTR shall be created as an unavoidable rider to allow for recovery of MTEP [Midwest Transmission Expansion Planning] and RTEP [Regional Transmission Expansion Plan] charges, NITS [Network Integration Transmission Services] charges that will be paid by Duke for all shopping and nonshopping load, and other nonmarket-based charges, including but not limited to Commission audits.”)

² See Application (July 14, 2023) at ¶ 2.

³ Application (July 14, 2023) at Schedule B-2.

have “ample rights of discovery”⁴ (through their statutory advocate, OCC) regarding what they are paying for through the BTR.

On July 28, 2023 OCC served discovery on Duke regarding Duke’s proposed charges to consumers under the BTR. However, given the expedited timeframe for this proceeding, which requires comments to be filed within 40 days of the application, the 20-day timeframe for discovery responses under the PUCO’s rules is unreasonable. Indeed, the 20-day timeframe for discovery provides little to no opportunity for any follow-up requests if the utility does not respond to the discovery requests.

OCC is filing this Motion, as permitted by O.A.C. 4901-1-12, to request that the Attorney Examiner shorten the period of time for Duke to respond to OCC’s discovery to seven (7) calendar days. Under O.A.C. 4901-1-17(G), an Attorney Examiner may, for good cause shown, shorten the time period for discovery. For the reasons explained above, there is good cause for OCC’s proposal. An abbreviated response time for discovery is appropriate to permit OCC adequate time to review Duke’s discovery responses and conduct any necessary follow-up discovery in order to provide meaningful comments to the PUCO within 40 days.

O.A.C. 4901-1-12(C) allows the PUCO to rule on an expedited basis. Given the expedited timeframe for filing comments regarding Duke’s BTR update, OCC requests an expedited ruling on this motion. OCC cannot certify that no other parties oppose an expedited ruling.

⁴ R.C. 4903.082.

Respectfully submitted,

Bruce Weston (0016973)
Ohio Consumers' Counsel

/s/ Donald J. Kral

Donald J. Kral (0042091)
Assistant Consumers' Counsel
Counsel of Record
Angela D. O'Brien (0097579)
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Office of the Ohio Consumers' Counsel

65 East State Street, Suite 700
Columbus, Ohio 43215
Telephone [Kral]: (614) 466-9571
Telephone: [O'Brien]: (614) 466-9531
donald.kral@occ.ohio.gov
angela.obrien@occ.ohio.gov
(willing to accept service by e-mail)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion to Shorten the Period of Time to Respond to Discovery and Request for Expedited Ruling has been served electronically upon those persons listed below this 1st day of August 2023.

/s/ Donald J. Kral
Donald J. Kral
Assistant Consumers' Counsel

The PUCO's e-filing system will electronically serve notice of the filing of this document on the following parties:

SERVICE LIST

john.jones@ohioago.gov

Attorney Examiners:

matthew.sandor@puco.ohio.gov

nicholas.walstra@puco.ohio.gov

rocco.dascenzo@duke-energy.com

jeanne.kingery@duke-energy.com

larisa.vaysman@duke-energy.com

elyse.akhbari@duke-energy.com

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Case No(s). 23-0457-EL-RDR

Summary: Motion Motion to Shorten the Period of Time to Respond to Discovery
and Request for Expedited Ruling by Office of the Ohio Consumers' Counsel
electronically filed by Ms. Alana M. Noward on behalf of Kral, Donald J. Mr..