

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

Fredrick William Vonderhaar,)	
)	Case No. 23-1102-EL-CSS
Complainant,)	
)	
v.)	
)	
Duke Energy Ohio, Inc.,)	
)	
Respondent.)	
)	
)	

**DUKE ENERGY OHIO INC.’S
MEMORANDUM CONTRA COMPLAINANT’S
MOTION TO POSTPONE FEBRUARY 6, 2024, SETTLEMENT CONFERENCE
TO ON OR AFTER MAY 1, 2024**

I. INTRODUCTION

Mr. Vonderhaar (Complainant) made the first of multiple complaint filings in this case against Duke Energy Ohio, Inc. (Duke Energy Ohio or the Company) on November 30, 2023. On December 6, 2023, the Attorney Examiner issued an Entry, staying the Company’s vegetation management activity on the property relevant to the complaint during the pendency of this complaint or until otherwise ordered.¹ On January 9, 2024, an Entry issued, scheduling a settlement conference at the Commission’s offices in Columbus, Ohio for February 6, 2024.²

On January 29, 2024, Mr. Vonderhaar filed a “Correspondence,” which Duke Energy Ohio construes as a motion, requesting to reschedule the settlement conference to “on/after May 1st,

¹ Entry, p. 2 (December 6, 2023).
² Entry, p. 3 (January 9, 2024).

2024.”³ In support of this request, Mr. Vonderhaar stated that he is “currently in Arizona for a business/personal trip and currently [has] no plans to return back to Ohio until approximately mid-April.”⁴

For the reasons given below, Mr. Vonderhaar’s request to postpone the settlement conference for nearly three months for a “business/personal trip” should be denied. Either Mr. Vonderhaar should be required to appear as scheduled to prosecute his complaint or, if Mr. Vonderhaar’s extended trip is truly a necessity, Duke Energy Ohio would respectfully propose that the settlement conference be conducted telephonically or via online video conference (*e.g.*, TEAMS) to minimize delay in this proceeding. If the settlement conference is converted to a telephonic or virtual conference, then Duke Energy Ohio would not object to a reschedule for up to 14 days after the currently scheduled date of February 6, if that would be preferable to Mr. Vonderhaar.

II. DISCUSSION

Ohio Administrative Code (O.A.C.) 4901-9-01(G) provides that “[u]nless good cause is shown, settlement conferences shall be held at the offices of the commission.” Presently, Duke Energy Ohio is prepared to appear at the offices of the Commission on February 6, for the currently scheduled conference. However, if it is found that Mr. Vonderhaar has good cause to remain out of state for the full duration of his “business/personal trip,” it would not be efficient or fair to the Company to postpone the settlement conference for such a long time when there is a stay pending and alternative conference format options are available.

Mr. Vonderhaar appears to argue that the Company will not be prejudiced because it has been offered opportunities to “trim” vegetation, but this ignores the nature of the vegetation

³ Correspondence, p. 1 (January 29, 2024).

⁴ *Id.*

management work that has been identified to be performed, which includes both pruning and removal of vegetation. Removal of the subject vegetation, where identified, is necessary to ensure safe and reliable power to Duke Energy Ohio customers. Perpetual pruning is simply not an adequate substitute. This work should ideally be completed before the upcoming growing season, and delay is prejudicial. Returning to the same property repeatedly, as the Company has already had to with Mr. Vonderhaar, requires the incurring of additional costs and is a cumbersome and inefficient use of personnel and contractors. The Company has made many attempts to resolve issues with Mr. Vonderhaar in one-on-one meetings and site visits over the past several years and Mr. Vonderhaar should not be permitted to unilaterally suspend the prosecution of his own complaint for three months and delay things further.

Duke Energy Ohio respectfully submits that, in the event Mr. Vonderhaar is permitted to remain on his “business/personal trip” for the requested amount of time, the magnitude of the resulting delay should be considered “good cause” under O.A.C. 4901-9-01(G) to conduct the settlement conference telephonically or by virtual conferencing technology (the Company is equally open to both in this proceeding). Indeed, the Commission recently made a deliberate decision to preserve its “ability to make determinations about hearing format on a case-by-case basis.”⁵ In this instance, Duke Energy Ohio will not object to an alternative format in the interest of proceeding efficiently with this case. The Company also does not object to a delay of up to two weeks from the originally scheduled date, whether virtual, telephonic, or in-person.

III. CONCLUSION

⁵ See *In the Matter of the Review of Ohio Adm. Code Chapter 4901-1 Rules Regarding Practice and Procedure Before the Commission*, Case No. 18-275-AU-ORD, Finding and Order, p. 68 (October 18, 2023).

The Complainant's motion to postpone the settlement conference until "on/after May 1st, 2024," should be denied. Either the settlement conference should proceed as scheduled or should proceed in an alternative format within two weeks of the original date of February 6, 2024.

Respectfully submitted,

/s/ Larisa M. Vaysman

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Memorandum Contra Complainant's Motion To Postpone February 6, 2024, Settlement Conference To On Or After May 1, 2024 of Duke Energy Ohio, Inc., was served via regular US mail and electronic mail, this 2nd day of February 2024, upon the following:

Fredrick William Vonderhaar
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The PUCO's e-filing system will electronically serve notice of the filing of this document on the parties who have electronically subscribed to this case.

/s/ Larisa M. Vaysman
Larisa M. Vaysman

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Case No(s). 23-1102-EL-CSS

Summary: Memorandum Duke Energy Ohio, Inc.'s Memorandum Contra Complainant's Motion to Postpone February 6, 2024, Settlement Conference to on or After May 1, 2024 electronically filed by Mrs. Tammy M. Meyer on behalf of Duke Energy Ohio Inc. and D'Ascenzo, Rocco and Vaysman, Larisa and Akhbari, Elyse Hanson.