

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke)
Energy Ohio, Inc. to Initiate Adjust Rider) Case No. 14-1051-GE-RDR
DR-IM and Rider AU for 2013 Grid)
Modernization Costs.)

**REPLY OF THE RETAIL ENERGY SUPPLY ASSOCIATION
TO THE MEMORANDUM CONTRA OF
DUKE ENERGY OHIO, INC.**

The Retail Energy Supply Association (“RESA”),¹ for good cause, has moved to intervene in this proceeding filed by Duke Energy Ohio, Inc. (“Duke”). In accordance with Rule 4901-1-11(B)(2), Ohio Administrative Code, RESA hereby replies to Duke’s opposition to RESA’s intervention. This proceeding will affect the rates and retail costs for electric and natural gas service in Duke’s service territory because of the deployment of grid modernization in 2013. RESA’s members have existing and potential business interests in Duke’s service territory and will be affected by the outcome of the proceeding. RESA has set forth good cause and a sufficient basis for intervention, satisfying the criteria for intervention. Duke’s arguments should be rejected and RESA’s motion to intervene granted.

I. Background and Intervention Standard

On June 13, 2014, Duke filed the instant application, seeking authority to adjust its advanced utility rider (Rider AU) and its distribution reliability – infrastructure modernization rider (Rider DR-IM). On September 15, the Attorney Examiner issued a procedural entry maintaining the intervention deadline of September 18, but extending the filing deadline for

¹ RESA’s members include: AEP Energy, Inc.; Champion Energy Services, LLC; Consolidated Edison Solutions, Inc.; Constellation NewEnergy, Inc.; Direct Energy Services, LLC; GDF SUEZ Energy Resources NA, Inc.; Homefield Energy; IDT Energy, Inc.; Integrys Energy Services, Inc.; Interstate Gas Supply, Inc. dba IGS Energy; Just Energy; Liberty Power; MC Squared Energy Services, LLC; Mint Energy, LLC; NextEra Energy Services; Noble Americas Energy Solutions LLC; NRG Energy, Inc.; PPL EnergyPlus, LLC; Stream Energy; TransCanada Power Marketing Ltd. and TriEagle Energy, L.P. The comments expressed in this filing represent only those of RESA as an organization and not necessarily the views of each particular RESA member.

initial comments until October 17th and Reply Comments by October 31st. RESA timely filed its motion to intervene, in accordance with the procedural schedule.

The Commission's intent to open the application up for the public to submit comments is established by the fact that the procedural schedule established by the Attorney Examiner called for an intervention deadline beyond the deadline established by rule. The criteria for intervention established by the General Assembly for Commission hearing participation is found in Section 4903.221, Revised Code. The statute provides that the Public Utilities Commission of Ohio ("Commission") shall consider the nature of the intervenor's interest, the extent that interest is represented by existing parties, the intervenor's potential contribution to a just and expeditious resolution of the issues involved, and whether intervention would result in an undue delay of the proceeding. To implement the statute the Commission promulgated Rule 4901-1-11, Ohio Administrative Code, which states in part:

(A) Upon timely motion, any person shall be permitted to intervene in a proceeding upon a showing that:

* * *

(2) The person has a real and substantial interest in the proceeding, and the person is so situated that the disposition of the proceeding may, as a practical matter, impair or impede his or her ability to protect that interest, unless the person's interest is adequately represented by existing parties

II. RESA has a Direct Interest in This Proceeding and Good Cause for Intervention Exists

Many of RESA's members are certificated as competitive providers, and several are active in the Duke Energy Ohio service area. RESA's members have existing and potential business interests in Duke's service territory which will be affected by the outcome of the proceeding as the case affects rates and retail costs for electric and natural gas service. Duke

acknowledged in the second line of its memorandum contra that the instant application is intended to affect its rates, stating that the proceeding is for “the purpose of recovering costs related to deployment of grid modernization” in its service territory. RESA’s members will be affected by the outcome of this proceeding.

Duke challenges RESA’s intervention, making a variety of unsupported claims. First, Duke claims that RESA wishes to debate the degree of deployment of Duke’s grid modernization.² RESA did not introduce a new debating point into this proceeding. In the testimony filed by Duke in support of its application, Duke pointed out that the deployment activity in 2013 would be reviewed in the instant proceeding because Duke is attempting to recover the costs for its 2013 deployment activities³. RESA only seeks now the right to weigh the deployment to the cost, which the Duke testimony correctly identified as a focal point of this proceeding.

Second, Duke also states that it has a Grid Modernization Collaborative, and suggests that RESA can learn about the current deployment and be more productive in participating in that forum.⁴ RESA members have participated in Duke’s Grid Modernization Collaborative. Additionally, RESA representatives even attended an October 2012 presentation from Duke related to its Grid Modernization. None of these facts alter the bottom line here – this case involves possible changes to rates and retail costs for electric and natural gas service because of Duke’s Grid Modernization activities in 2013, which is an issue that affects RESA’s members.

Third, Duke boldly claims that RESA has nothing to contribute to this proceeding.⁵ Duke ignores the fact that RESA members have expertise and knowledge from their extensive

² Duke Memorandum Contra at 2.

³ Need to add a cite.

⁴ *Id.*

⁵ *Id.* at 3.

participation in the competitive retail and wholesale markets in Ohio and elsewhere. The service territories include areas where smart meters have been deployed. RESA's expertise and knowledge can contribute significantly to the development of a full and complete record for the Commission. Along this same point, Duke passes over the fact that the Commission just recently found that RESA possessed sufficient interest and granted RESA intervention in a parallel proceeding involving Ohio Power Company.⁶ RESA has a similar interest in Duke's proceeding and seeks to advocate that interest.

Fourth, Duke declares that intervention is not appropriate because RESA will raise issues and claims in this proceeding that RESA has pursued in other Commission proceedings.⁷ RESA has made no such statements. RESA unequivocally stated in its motion to intervene that RESA's comments will address the issues raised in this proceeding.⁸

Lastly, Duke argues that RESA's intervention "by definition" will unduly prolong and/or delay the proceeding.⁹ The procedural schedule at the comment consists submission dates for initial comments and reply comments. Whether RESA submits comments on those dates or not the procedural schedule will not be changed. It should also be noted that RESA has had no role in the procedural schedule that was established in this proceeding. So there is no merit in the claim that RESA has delayed or will delay this proceeding.

III. Conclusion

Duke's allegations regarding RESA's interest are without merit and seemed aimed at should be rejected. RESA's members have existing and potential business interests in Duke's service territory and will be affected by the outcome of the proceeding. RESA has set forth good

⁶ *In the Matter of the Application of Ohio Power Company to Update Its gridSMART Rider*, Case No. 13-345-EL-RDR, Finding and Order (February 19, 2014).

⁷ Duke Memorandum Contra at 3-4.

⁸ RESA Motion to Intervene at 3.

⁹ Duke Memorandum Contra at 4.

cause and a sufficient basis for intervention, satisfying the criteria for intervention. Duke's arguments should be rejected.

WHEREFORE, RESA respectfully requests that the Commission grant its motion to intervene as a full party of record.

Respectfully submitted,



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CERTIFICATE OF SERVICE

The Public Utilities Commission of Ohio's e-filing system will electronically serve notice of the filing of this document on the parties referenced on the service list of the docket card who have electronically subscribed to the case (those individuals are marked with an asterisk below). In addition, the undersigned certifies that a courtesy copy of the foregoing document is also being served (via electronic mail) on 3rd day of October 2014 upon all persons/entities listed below:



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