

IN THE
COURT OF APPEALS OF INDIANA

No. 20A-EX-1404

INDIANA OFFICE OF UTILITY
CONSUMER COUNSELOR, et al.,
Appellants,

v.

DUKE ENERGY INDIANA, LLC,
INDIANA UTILITY REGULATORY
COMMISSION, and INDIANA COAL
COUNCIL, INC.,
Appellees.

Appeal from the Indiana Utility
Regulatory Commission,

No. 45253,

Hon. James F. Huston, Chairman,
Hon. Sarah E. Freeman, Commissioner,
Hon. Stefanie Krevda, Commissioner,
Hon. David L. Ober, Commissioner,
Hon. David E. Zieigner, Commissioner,

Hon. David E. Veleta,
Senior Administrative Law Judge.

**INDIANA UTILITY REGULATORY COMMISSION'S AND DUKE ENERGY
INDIANA, LLC'S JOINT, UNOPPOSED VERIFIED MOTION FOR AN
EXTENSION OF TIME**

The Indiana Utility Regulatory Commission, by counsel, and Duke Energy Indiana, LLC, by counsel, respectfully request a 30-day extension of time, up to and including December 14, 2020, to file their respective appellee's briefs.

1. The Commission issued its final order on June 29, 2020. The Indiana Office of Utility Consumer Counselor timely filed its notice of appeal on July 29. The notice of completion of clerk's record was served on August 28, and the notice of completion of transcript was served on September 14.

2. On October 14, 2020, OUCC and the Duke Industrial Group filed their opening briefs and appendix.

3. Under Appellate Rules 25 and 45, the appellees' briefs are due to be filed by Friday, November 13, 2020.

4. Counsel will be unable to complete their appellee's briefs by the current deadline owing to other litigation responsibilities.

5. The undersigned counsel for Duke Energy Indiana, Inc., has responsibility for the following:

Litigation Presentation to Joint Executive Session of Newton County Commissioners and Council, October 19, 2020.

Mike Raisor Auto Group Inc. et al. v. Sidney A. Schroeder, No. 20A-PL-01718 (Ind. Ct. App.): reply in support of motion to accept jurisdiction over interlocutory appeal, filed October 22, 2020.

Ridings v. American Family Ins. Co., No. 1:20-cv-05715 (N.D. Illinois): motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(6), filed October 30, 2020.

Nathan Kras v. Dick's R U Crazy, Inc. et al., No. 20-2916 (7th Cir.): Circuit Mediation on October 30, 2020.

LBL Development, LLC, No. 45D04-2007-PL-000502 (Lake Sup. Ct.): Brief in Support of Petition for Judicial Review filed October 30, 2020.

Charles v. American Family Mutual Ins. Co., S.I., No. 3:20-cv-50423 (N.D. Illinois): notice of removal, filed November 2, 2020.

Doe v. Community Health Network, Inc., No. 49D11-1911-CT-047951 (Marion Sup. Ct.): hearing on Community's pending motion to dismiss, November 5, 2020.

Charles v. American Family Mutual Ins. Co., S.I., No. 3:20-cv-50423 (N.D. Illinois): motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(6) due November 9, 2020.

City of Hammond et al. v. Lake County Convention and Visitors Bureau, No. 45D01-1908-PL-000468 (Lake Superior Court): Hearing on Pending Motions, November 10, 2020.

HollyFrontier Cheyenne Refining, LLC et al. v. Renewable Fuels Association, et al., No. 20-472 (U.S. Supreme Court): amicus brief due November 12, 2020.

6. In addition to this matter, the undersigned counsel for the Commission has responsibility for the following litigation matters, among others:

Culver Community Teachers Ass’n v. Indiana Education Employment Relations Board, No. 19A-PL-2989 (Ind.): reply in support of petition to transfer due October 26, 2020.

Nicole K. v. Stigdon, No. 20-1525 (7th Cir.): oral argument held October 26, 2020 (lead counsel and heavily involved in preparation, but did not personally argue).

Jones v. Cummings, No. 20-1898 (7th Cir.): oral argument held November 2, 2020.

Solarize Indiana, Inc. v. Southern Indiana Gas & Electric Co., No. 20A-EX-1384 (Ind. Ct. App.): appellee’s brief due November 23, 2020.

Perez v. Brown, No. 20-2079 (7th Cir.): appellee’s brief due November 25, 2020.

Realgy LLC v. Northern Indiana Public Service Co., No. 20A-EX-1417 (Ind. Ct. App.): appellee’s brief due November 30, 2020.

League of Women Voters of Indiana v. Lawson, Nos. 20-2815 & 20-2816 (7th Cir.): appellants’ brief and required short appendix due December 4, 2020.

Indiana v. Simmons, No. 1:20-cv-2494-RLY-DLP (S.D. Ind.): appellant’s brief anticipated to be due December 10, 2020 (bankruptcy appeal).

Grashoff v. Payne, No. 20-2739 (7th Cir.): appellees’ brief due December 21, 2020.

7. In addition to his own caseload, the Commission's counsel, as section chief for civil appeals in the Office of the Attorney General, is involved in all litigation matters handled by the section and regularly consults with other sections of the office—some of those matters require significant attention and involvement.

8. The Commission's undersigned counsel also was not involved in this case at the administrative level and, based on his preliminary assessment, will need significant time to familiarize himself with the record and legal issues.

9. Additionally, the Commission's undersigned counsel has preplanned travel during the week of November 23 for the Thanksgiving Holiday.

10. Under the circumstances, the Commission and Duke believe that a 30-day extension of time, up to and including Monday, December 14, 2020, is reasonable and necessary.

11. On November 4 and 5, the Commission sent emails to counsel of record for the other parties in this appeal apprising them of this motion. Respective counsel for appellants Duke Industrial Group, OUCC, and Citizens Action Coalition, Indiana Community Action Association, and Environmental Working Group, as well as counsel for appellee Indiana Coal Council, each have represented that they do not object to this request for an extension of time.

WHEREFORE, the Commission and Duke, by counsel, respectfully request that the Court extend the deadline for their respective appellee's briefs by 30 days, up to and including December 14, 2020, and for all other just and proper relief.

Respectfully submitted,

CURTIS T. HILL, JR., No. 13999-20
Attorney General

/s/ Aaron T. Craft
AARON T. CRAFT, No. 29215-53
Section Chief, Civil Appeals
OFFICE OF THE ATTORNEY GENERAL
IGCS, 5th Floor
302 West Washington Street
Indianapolis, Indiana 46204
(317) 232-4774
[Aaron.Craft\[atg.in.gov](mailto:Aaron.Craft[atg.in.gov)

*Attorneys for Appellee Indiana Utility Regulatory
Commission*

/s/ Jenny R. Buchheit

Kay E. Pashos (Atty. No. 20969-49)
Derek R. Molter (Atty. No. 27260-53)
Mark R. Alson (Atty. No. 27724-64)
Jenny R. Buchheit (Atty. No. 26653-49)
ICE MILLER LLP
One American Square, Suite 2900
Indianapolis, IN 46282
(317) 236-2100

Attorneys for Appellee Duke Energy Indiana, LLC

VERIFICATION

I affirm under the penalties for perjury that the foregoing representations are true to the best of my knowledge and belief.

/s/ Aaron T. Craft

Aaron T. Craft

Section Chief, Civil Appeals

CERTIFICATE OF SERVICE

I certify that on November 5, 2020, I electronically filed the foregoing document using the Indiana E-Filing System. I also certify that on November 5, 2020, the foregoing document was served upon the following persons electronically through the IEFS:

William Fine

wfine@oucc.in.gov

Randall C. Helmen

rhelmen@oucc.in.gov

Lorraine Hitz-Bradley

lhitzbradley@oucc.in.gov

Scott Franson

sfranson@oucc.in.gov

*Indiana Office of the Utility Consumer
Counselor*

Erin C. Borissov

eborissov@parrlaw.com

Zeco Systems, Inc. d/b/a Greenlots

Robert Johnson

rjohnson@utilitylaw.us

Steel Dynamics, Inc.

David T. McGimpsey

david.mcgimpsey@dentons.com

ChargePoint, Inc.

Kelley A. Karn

kelley.karn@duke-energy.com

Melanie D. Price

melanie.price@duke-energy.com

Kay E. Pashos

kay.pashos@icemiller.com

Mark R. Alson

mark.alson@icemiller.com

Derek R. Molter

derek.molter@icemiller.com

Jenny R. Buchheit

jenny.buchheit@icemiller.com

Duke Energy Indiana, LLC

Joseph P. Rompala

JRompala@lewis-kappes.com

Todd A. Richardson

TRichardson@lewis-kappes.com

Tabitha L. Balzer

TBalzer@lewis-kappes.com

Aaron A. Schmoll

ASchmoll@lewis-kappes.com

Duke Industrial Group

Randolph G. Holt
rholt@parrlaw.com
Jeremy L. Fetty
jfetty@parrlaw.com
Liane K. Steffes
lsteffes@parrlaw.com
Wabash Valley Power Association, Inc.

Jeffrey A. Earl
jearl@boselaw.com
Indiana Coal Council, Inc.

Eric E. Kinder
ekinder@spilmanlaw.com
Walmart Inc.

Neil E. Gath
ngath@gathlaw.com
Brandon R. Magner
bmagner@gathlaw.com
Indiana Laborers District Council

Anne E. Becker
abecker@lewis-kappes.com
Nucor Steel

Kathryn A. Watson
kwatson@kkclegal.com
Sierra Club

Cheryl Ann Stone
Cheryl.Stone1@navy.mil
Department of the Navy

Jennifer A. Washburn
jwashburn@citact.org
*Citizens Action Coalition of Indiana/
Indiana Community Action Association/
Environmental Working Group*

/s/ Aaron T. Craft
Aaron T. Craft
Section Chief, Civil Appeals