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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

FILE

In the Matter of the Application of Duke Energy Ohio, Inc. for an Increase in Electric Distribution Rates.	)	Case No. 08-709-EL-AIR
In the Matter of the Application of Duke Energy Ohio, Inc. for Tariff Approval.	)	Case No. 08-710-EL-ATA
In the Matter of the Application of Duke Energy Ohio, Inc. for Approval to Change Accounting Methods.	)	Case No. 08-711-EL-AAM

OBJECTIONS TO THE STAFF REPORT OF INVESTIGATION OF OHIO PARTNERS FOR AFFORDABLE ENERGY AND SUMMARY OF MAJOR ISSUES

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INTRODUCTION

On June 25, 2008, Duke Energy Ohio, Inc. ("Duke" or "Company") filed a Notice of Intent to file an application for an increase in distribution rates to be charged for electric service in its service area. Subsequently, on July 25, 2008, Duke filed the instant application for an increase in distribution rates, an application for tariff approval and an application to change accounting methods in Case Nos. 08-710-EL-AIR, 08-710-EL-ATA and 08-711-EL-AAM respectively. Pursuant to R.C. 4909.19 and Ohio Adm. Code 4901-1-28(B), OPAE, a party to the above-captioned cases, hereby submits these objections to the Staff Report of Investigation ("Staff Report") filed on January 27, 2008, and a summary of major issues.

OBJECTIONS

I. OPAE objects to the Staff Report recommendation that the rate of return be set in the range of 8.34% to 8.87% because this range provides an excessive return when compared to the risk faced by Duke as a provider of monopoly electric distribution service.

The Staff Report fails to quantify the level of reduction of the rate of return that is appropriate given the reduced risk to Duke as a provider of monopoly electric distribution service. The Staff Report errs in not reducing the rate of return sufficiently to reflect the minimal risk faced by the Company for purposes of a return on its investment to provide monopoly electric distribution service.

II. OPAE objects to the Staff Report recommendation that Duke's proposed Rider DR-Ike is an appropriate mechanism to evaluate deferred storm damage costs and any recovery thereof.

OPAE objects to the establishment of the distribution rider, Rider DR-Ike, to recover deferred storm damage restoration costs. The establishment of a new distribution rider to recover storm damage related to Hurricane Ike violates the concepts of test-year and recurring expenses that are fundamental to statutory ratemaking in Ohio. The proper mechanism for Duke to seek an increase in its distribution rates due to increased operating and maintenance expenses is the filing of an application pursuant to R.C. 4909.18. Such an application would be subject to the statutory ratemaking requirements of R.C. Chapter 4909. The reasonableness and lawfulness of the deferred amounts, and any recovery from customers, should be examined and addressed only in a future rate case proceeding under R.C. 4909.15 and 4909.18.

III. OPAE objects to the revenue conversion factor recommended in the Staff Report for failing to use actual effective federal and state tax rates paid by Duke.

Ohio employs an approach to developing the revenue conversion factor that includes elements that gross up recovery for federal and state taxes. This is appropriate, but the level of federal and state taxes used -- the statutory level of taxes without consideration of credits or other offsets -- is not. The effective tax rates paid by utilities should be used to develop the revenue conversion factor. Otherwise, customers are paying far more to compensate a utility for taxes than the utility actually pays to the government.

IV. OPAE objects to acceptance by the Staff Report of the peak and average method of allocating cost to the various classes because the procedure fails to represent the utility system's characteristics.

The allocation to each customer class of costs associated with the distribution function should be based on each class's actual use of the system, i.e., energy consumption rather than a coincident peak analysis. The latter results establish a demand cost for each class, which is used in turn to establish the revenue responsibility. While this approach may have some efficacy when allocating costs for generation, which deals primarily with the adequacy of capacity to service load, it is inappropriate to use this convention when allocating distribution costs. OPAE objects to the Staff Report's acceptance of Duke's cost of service study based on peak and average class group peak methodologies.

V. OPAE objects to the Staff Report's allocation of costs to the residential class based on the peak and average method of allocating costs because this method results in an excessive cost responsibility for the residential class.

As stated in the above objection, the Staff Report accepted a cost of service study that is inappropriate for costs associated with electric distribution service. Therefore, the Staff Report's allocation of costs to the residential class is excessive and not supported by sound regulatory and public policies. The Staff erred by accepting the cost of service study proposed by Duke.

VI. OPAE objects to the Staff Report's increase in the residential customer charge from $4.50 to $5.71.

The Staff Report recommends a residential customer charge of $5.71, which is a 26.9% increase over the present residential customer charge of $4.50. This increase would harm customers with low usage and reduce incentives for large users to achieve greater energy efficiency. It also violates regulatory principles of gradualism and a balancing of interests between the utility and customers. The residential customer charge should be maintained at $4.50.

VII. OPAE objects to the failure of the Staff Report to require that Duke offer affordable payment plans based on the customer's energy burden and income.

Customers are not well served by 'one size fits all' payment plans which are often unaffordable and ultimately put customers in danger of disconnection once again. Data clearly indicates that the number of disconnections is increasing. Payment plans should be customized based on a customer's income and the resulting energy burden – the percentage of income spent on utility bills. The Staff Report erred by failing to require Duke to offer affordable payment plans based on the customer's energy burden and income.

VIII. OPAE objects to the failure of the Staff Report to require Duke to undertake educational efforts so customers understand the difference between authorized and non-authorized payment stations.

Many merchants hold themselves out as utility payment stations though not all stores taking utility payments are authorized payment centers. To ensure customer payments are promptly credited to accounts to prevent the issuance of disconnection notices or actual disconnections, Duke should be required to undertake an education program designed to alert customers to the need to use only authorized payment stations. The Staff Report errs by failing to require an education effort designed to ensure customers use authorized payment centers.

MAJOR ISSUES

Pursuant to R.C. 4903.083, OPAE proposes the following summary of major issues:

1. The appropriateness of residential and commercial tariffs which over-allocate costs to these customer classes because of a cost of service approach which does not accurately reflect the utility system;

2. The appropriate rate design and customer charge for residential customers.

3. The appropriate rate of return for ratemaking purposes

4. The appropriate level of test-year revenues;

5. The appropriate level of operating and maintenance expenses;

6. The appropriate level of rate base;

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On Behalf of Ohio Partners for Affordable Energy

CERTIFICATE OF SERVICE

I hereby certify that a copy of these Objections and Major Issues was served by regular U.S. Mail, postage prepaid, upon the parties of record identified below on this 26th day of February, 2008.

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