

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Annual Application of :
Duke Energy Ohio for an Adjustment to : Case No. 09-1849-GA-RDR
Rider AMRP Rates. :

In the Matter of the Application of Duke :
Energy Ohio for Tariff Approval. : Case No. 09-1850-GA-ATA
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**COMMENTS
AND
RECOMMENDATIONS
SUBMITTED ON BEHALF OF THE STAFF OF
THE PUBLIC UTILITIES COMMISSION OF OHIO**

April 2, 2010

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INTRODUCTION

In accordance with the Stipulation adopted in Case No. 07-589-GA-AIR, *In the Matter of the Application of Duke Energy Ohio, Inc. for an Increase in Rates*, the Commission's Staff has conducted its investigation in the above-referenced matter and hereby submits its findings in these comments to the Commission.

These comments were prepared by the Commission's Utilities Department in conjunction with the Service Monitoring and Enforcement Department. Included are financial reviews of additions to plant-in-service and to the Applicant's proposed revenue requirement and other matters.

In accordance with past practice in other AMRP cases, copies of these comments have been filed with the Commission's Docketing Division.

These comments contain the results of the Staff's investigation, and do not purport to reflect the views of the Commission, nor is the Commission bound in any manner by the representations and/or recommendations set forth herein.

BACKGROUND

Duke Energy Ohio, Inc. ("Company" or "Applicant") was incorporated in Ohio on April 3, 1897, as Cincinnati Gas, Light and Coke Company. It was renamed Cincinnati Gas & Electric Company in 1901 and its present name Duke Energy Ohio, Inc. was adopted in 2006. Growth, acquisitions, and mergers throughout the years have resulted in the present operation in which the Applicant renders electric or gas service, or both, in ten counties in Ohio. The Applicant is a public utility engaged in the business of distribution and sale of natural gas to approximately 425,000 customers in eight southwestern Ohio counties.

On October 24, 1994, CG&E merged with PSI Resources, Inc. to form Cinergy Corporation. Prior to the merger, PSI Resources, Inc. was the parent company of PSI Energy, Inc., an electric utility serving Indiana. Following the merger, Cinergy Corporation was the parent company to both CG&E and PSI Energy, Inc.

On June 1, 2005, Cinergy Corporation and Deer Holding Corporation filed an application with the Commission requesting authorization to merge Cinergy Corporation

and Duke Energy Corporation. The Commission approved the merger and the Applicant was renamed Duke Energy Ohio, Inc. effective April 3, 2006.

On May 30, 2002, the Commission approved a Stipulation resolving all outstanding issues associated with CG&E Case Nos. 01-1228-GA-AIR, 01-1478-GA-ALT, and 01-1539-GA-AAM including the establishment of the Accelerated Main Replacement Program (AMRP) rider. Under this rider, rates were established for each year and for each class of service through 2007, with rates established in 2007 to continue until the effective date of the rates set in the Applicant's next base rate case. The purpose of the rider was to recover expenditures associated with the Company's ten-year replacement of all twelve inch and smaller cast iron and bare steel gas mains in its distribution system. Under the Stipulation, the Company agreed to file annual applications supporting proposed adjustments to its rates and the Staff was directed to review and report on the viability the proposed rates.

On July 18, 2007 the Applicant filed applications to increase its gas distribution rates, for authority to implement an alternative rate plan for its gas distribution services, and for approval to change accounting methods. On February 28, 2008, the parties to these cases filed a joint stipulation ("2008 Stipulation") resolving all issues raised in the applications except for the issue of residential rate design. As part of the 2008 Stipulation, the parties agreed that the Applicant would file actual data to support a Rider AMRP adjustment for the last nine months of 2007 (the months not included in the test year for the base rate case) and that the revenue requirement for 2008 rates would be modified to include deferred curb-to-meter and riser expenses, net of maintenance savings, for cal-

endar year 2007. The parties further agreed and recommended that the Applicant be allowed to recover the deferred expense in any annual AMRP filing, provided that the recovery does not exceed the cumulative residential rate caps that, for 2008, 2009 and 2010 rates, respectively, were set at \$1.30, \$2.60 and \$3.90. In addition, the parties agreed to a procedure for review of Company applications by Staff and other interested parties similar to that created in Case No. 01-1228-GA-AIR, et al., and used for prior AMRP filings. The Applicant will file a pre-filing notice each November containing nine months of actual AMRP data and three months of projected data and establishing a date certain of December 31. By February 28 of the following year, the Applicant will file an application with updates to a full year of actual data. The Staff will conduct an investigation and, unless the Staff finds the application to be unjust or unreasonable or if any other party files an objection that is not resolved by the Applicant, the Staff will recommend Commission approval of the application. The Commission approved the 2008 Stipulation in Case Nos. 07-589-GA-AIR, et al., on May 28, 2008.

On November 27, 2009, the Applicant filed a notice of intent to file an application to increase existing AMRP rider rates, along with a request to establish a test period of twelve months ending December 31, 2009 and a date certain of December 31, 2009. The Applicant also provided Schedules 1 through 26 containing nine months of actual data through September 2009 and three months of projected data covering October through December 2009 in support of its notice. On February 26, 2010, the Applicant filed its application to increase its AMRP rates and provided updated schedules with actual data through December 31, 2009.

SCOPE OF STAFF'S INVESTIGATION

The Staff investigated the Company's application to evaluate the reasonableness of the revenue requirement proposed by the Company and the resulting proposed increase to the AMRP rider rate. These comments summarize the Staff's review, identify exceptions to the Applicant's rate filing, and provide explanations and recommendations to address the exceptions.

The Staff performed an overview of the Applicant's progress towards implementing its AMRP and Riser Replacement Program (RRP) and its contractor selection process. The Staff also reviewed and analyzed the documentation filed by the Applicant by tracing it to supporting work papers and source data. As part of the review, the Staff issued data requests, conducted investigative interviews, and performed independent analyses when necessary.

To investigate the proposed rate base, the Staff reviewed and tested the Applicant's plant accounting system to ascertain if the information on mains and services assets contained in the Applicant's plant ledgers and supporting continuing property records represented a reliable source of original cost data. The Staff also examined the computation of the Allowance for Funds Used During Construction (AFUDC) and verified the existence and the used and useful nature of plant additions through physical inspections. The Staff selected a sample of transactions for detailed review and Gas Pipeline Safety staff conducted on-site inspections. In addition, the Staff reviewed post in-service carrying costs and its deferred income tax effect as well as deferred taxes on liberalized depreciation. Finally, the Staff verified the amount of the deferred expense

related to curb-to-meter services that was agreed to in the Stipulation filed in Case No. 07-589-GA-AIR, et al. This deferred expense can be recovered in the AMRP filing for any year provided that its recovery does not exceed the residential rate cap in effect for that year.

To examine the Applicant's proposed operating expenses, the Staff reviewed expenses associated with depreciation, amortization of post in-service carrying charges, meter relocations, property taxes, amortization of the deferred curb-to-meter expense, and maintenance savings.

AMRP PROGRESS

The Applicant reports that prior to commencing the AMRP in 2001 it had approximately 1,200 miles of cast iron and bare steel mains in service and that, at the end of 2009, it had replaced approximately 792 miles (approximately 66%) of these mains. The Applicant replaced 80 miles of cast iron and bare steel mains in 2009. The Applicant estimates that it has approximately 366 miles of mains left to replace. In addition, the Applicant reports that it has replaced approximately 73,250 main-to-curb service lines. The Applicant maintains that accelerated replacement of the cast iron and bare steel mains has resulted in substantially fewer leaks on its distribution system which has enhanced safety and lowered maintenance costs. In addition, the Applicant claims that it has avoided frequent rate cases and that its assumption of ownership of curb-to-meter service lines allows a more consistent determination of when such lines should be replaced.

CONTRACTOR SELECTION PROCESS

During the test period of this AMRP review, the Applicant again utilized its competitive bid process for selecting contractors to perform AMRP and riser replacement work. Applicant used two criteria to determine which bidder was awarded contract(s): 1.) low bid, which was the primary criterion; and 2.) resource availability. For the test period, 2009, the Applicant awarded 65 AMRP contracts to outside firms through competitive bidding and two contracts through a negotiated process. That equates to 97.6% and 2.4%, respectively, calculated by percentage of contractor bid dollar amount awarded to outside firms to perform AMRP work. None of the contracts awarded during 2009 were awarded to affiliated companies. Except for certain circumstances provided for by prior agreement, the Applicant used unit-based pricing in its contracts and paid contractors unit-based prices specified in those contracts. The 2004 AMRP Stipulation at Paragraph 4 provides four types of situations where the Applicant may deviate from paying unit-based prices to its AMRP contractors. They are: (1) where unanticipated and unusual field conditions exist, (2) where a governmental entity imposes additional construction requirements for work in the right-of-way, (3) where the actual work units exceeded the work units planned in the original drawings, and (4) where the Applicant determines that it would result in lower costs for a contractor to perform the required work utilizing a different pricing methodology.

APPLICANT'S PROPOSED RECOVERY

For collection beginning with the first billing cycle in May 2010, the Applicant proposes a revenue requirement of \$27,791,740.28 for the AMRP and \$2,149,412.42 for the RRP for a total revenue requirement of \$29,941,152.70. Using the allocation percentages and billing determinants for the AMRP and RRP established in the 2008 Stipulation approved by the Commission in Case No. 07-589-GA-AIR, the Applicant proposes that Rider AMRP rate be set at \$3.69 for residential customers, \$29.30 for General Service & Firm Transportation customers, and \$0.14/Mcf for Interruptible Transportation customers.

The Applicant presented the calculation of its proposed 2009 revenue requirement for the AMRP on Schedule 1 of the Application and for the RRP on Schedule 2. These schedules are supported by more detailed schedules contained in the application. The Applicant's calculation of the proposed revenue requirements for the AMRP and RRP include the following:

For AMRP:

- The original cost and accumulated depreciation reserve for AMRP property used and useful on December 31, 2007 (the date certain for Case No. 07-589-GA-AIR) as adjusted for 2009 additions to the plant-in-service that was used and useful by December 31, 2009 and retirement of existing assets.
- Calculation of Post in Service Carrying Charges (PISCC) on net plant additions and related deferred taxes calculated from the date that the applicable assets are used and useful until the next effective date of AMRP rider.
- Calculation of deferred taxes on liberalized depreciation.

- Gross-up of 11.67% for rate of return (approved in Case No. 07-589-GA-AIR) assigned to the recovery of all AMRP net capital expenditures.
- Retirement and associated amortization of the final portion of the deferred regulatory asset for curb-to-meter expense up to the residential rate cap as provided in the approved stipulation for Case No. 07-589-GA-AIR.
- Calculation of the annualized depreciation expense for 2009 additions and retirements.
- Meter relocation expense.
- Annualized property tax expense associated with the plant additions and retirements from the date certain in Case No. 07-589-GA-AIR through 2009.
- Annualized amortization of the PISCC accrued from the date certain from Case No. 07-789-GA-AIR (December 31, 2007) through 2009.

For the RRP:

- The original cost of 2009 riser additions to plant-in-service as adjusted for depreciation.
- Calculation of Post in Service Carrying Charges (PISCC) on net plant additions and related deferred taxes calculated from the date that the applicable assets are used and useful until the next effective date of AMRP rider and recorded in unique sub-accounts of Account 182.3 ("Other Regulatory Assets").
- Calculation of deferred taxes on liberalized depreciation.
- Gross-up of 11.67% rate of return (approved in Case No. 07-589-GA-AIR) assigned to the recovery of certain riser net capital expenditures.
- Calculation of the annualized depreciation expense for 2009 additions and retirements.
- Annualized property tax expense associated with the plant additions and retirements from the date certain in Case No. 07-589-GA-AIR through 2009.
- Annualized amortization of the PISCC accrued from the date certain from Case No. 07-789-GA-AIR (December 31, 2007) through 2009.

STAFF'S EXCEPTIONS AND RECOMMENDATIONS

While, based upon its review, the Staff believes that the Company has supported its filing with adequate data and information, the Staff recommends the following adjustments to ensure that the AMRP revenue requirement is just and reasonable:

1. The Staff found an error in the Riser Replacement calculation of the Provision for Depreciation which resulted in a decrease of \$5,719 thereby causing an increase in rate base amounting to \$5,719.
2. On Schedule 21, the Company calculated "Gas Maintenance Account Savings." It did so by totaling 2009 expenses in Accounts 885000 (Maintenance Supervision/Engineering), 887000 (Maintenance of Mains, and 892000 (Maintenance of Services) and comparing the result to the baseline for these accounts presently included in base rates established in Case No. 07-589-GA-AIR, *et.al.* Schedule 21 shows an increase of \$1,113,147 in 2009 composite expenses over the baseline expense levels, due to increased expenses in the Maintenance of Mains Account. The expenses for the other two accounts were below baseline levels. The Company states that increased expenses in the Maintenance of Mains Account were attributable to prior drought conditions and additional requirements associated with its Integrity Management Program. The Company records zero 2009 savings on Line 39 of Schedule 1. Consistent with the Commission's order in Dominion East Ohio, Case No. 09-458-GA-RDR, Staff recommends that

Duke's 2009 expenses in the Maintenance of Mains Account be capped at the baseline level included in the Company's current rates in order to ensure that customers receive the full benefits of AMRP-related savings.

The extra expenses incurred in 2009 in the Maintenance of Mains Account were unrelated to infrastructure replacements during the test year for this case and should not be permitted to cancel out savings that would be otherwise be due customers as a result of the AMRP. The Staff's adjustment to the Maintenance of Mains Account on Schedule 21 results in a savings of \$316,930.37 for the composite of the 2009 maintenance accounts over baseline levels for these same accounts. This results in a reduced revenue requirement of \$27,474,809.91 that translates into the following customer rates on Schedule 24:

Residential	\$3.66/month
General Service/Firm Transportation	\$28.97/month
Interruptible Transportation	\$0.14/Mcf*

* Remains unchanged due to relatively small adjustment and rounding.


3. Staff recommends adoption of Duke's proposed RRP revenue requirement (\$2,149,412.42).

Subject to the Staff-recommended adjustments, the Staff supports a Commission finding that the Applicant's proposed revenue requirements and rate class allocations are just and reasonable and support the proposed increase to Rider AMRP. With adoption of the Staff's recommended adjustments noted above, the Staff recommends approval of the Applicant's application in this case.

Respectfully submitted,

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PROOF OF SERVICE

I hereby certify that a true copy of the foregoing **Comments and Recommendations** submitted on behalf of the Staff of the Public Utilities Commission of Ohio, was served by regular U.S. mail, postage prepaid, or hand-delivered, upon the following parties of record, this 2nd day of April, 2010.



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