

**FILE**

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke )  
Energy Ohio, Inc. to Update Its ) Case No. 10-981-EL-RDR  
Transmission Cost Recovery Rider. )

RECEIVED-DOCKETING DIV  
2010 AUG 25 PM 4:46  
**PUCO**

---

**COMMENTS  
BY  
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

---

**I. INTRODUCTION AND STATEMENT OF THE CASE**

The Office of the Ohio Consumers' Counsel ("OCC") hereby submits Comments in the above-captioned case where Duke Energy Ohio, Inc. ("Duke" or the "Company") seeks approval by the Public Utilities Commission of Ohio ("PUCO" or "Commission") to update its transmission cost recovery rider ("TCRR") and to collect from customers certain costs identified in the Application ("Application") filed by Duke on July 16, 2010. OCC files on behalf of all the approximately 600,000 residential utility consumers of Duke.

Duke's Application was filed on July 16, 2010.<sup>1</sup> The OCC moved to intervene on August 12, 2010. With regard to transmission cost recovery, Ohio Adm. Code 4901:1-36-06 requires an electric utility to provide a biennial report regarding how the utility is minimizing any transmission-related costs that are within its control and that are included in its transmission cost recovery rider. OCC contacted Duke's counsel regarding the

---

<sup>1</sup> OCC is not submitting comments at this time regarding costs listed in Schedule C-1 of the Company's Application. OCC currently has outstanding discovery requests that inquire into the costs listed in Schedule C-1 of the Company's Application. OCC may have additional comments for the PUCO's consideration upon completion of discovery, pursuant to R.C. 4903.082 and Ohio Adm. Code 4901-1-16 *et seq.*

This is to certify that the images appearing are an  
accurate and complete reproduction of a case file  
document delivered in the regular course of business  
Technician Am Date Processed 8/26/10

status of the filing of the biennial report that had not been filed but is required to be filed under Ohio Adm. Code 4901:1-36-06. Thereafter, on August 17, 2010, Duke filed a Supplemental Report that the Company states is responsive to the requirements contained in Ohio Adm. Code 4901:1-36-06 for a biennial report.<sup>2</sup> OCC addresses the Supplemental Report in these Comments, subject to the *caveats* that the supplemental filing is lacking in detail and OCC, which promptly served discovery on the Report, is awaiting discovery responses regarding the Report.

## II. COMMENTS

Duke's Supplemental Report does not provide enough information to determine whether the Company is making sufficient efforts to reduce any of the costs in its TCRR over which it has control.<sup>3</sup> However, Duke is required to provide that information. Ohio Adm. Code 4901:1-36-06 states: "On a biennial basis, the electric utility shall provide additional information detailing the electric utility's policies and procedures for minimizing any costs in the transmission cost recovery rider where the electric utility has control over such costs." The information should permit the Commission to determine whether the electric utility is making sufficient efforts to ensure that its transmission-

---

<sup>2</sup> Supplemental Report filed by Duke Energy Ohio, Inc. (August 17, 2010) ("Supplemental Report").

<sup>3</sup> By contrast, the Commission should compare Duke's Supplemental Report to the biennial filing provided by the Columbus Southern Power Company and the Ohio Power Company ("AEP Ohio") in their recent transmission cost recovery proceeding. *In re AEP's Transmission Cost Recovery Rider*, PUCO Case No. 10-477-EL-RDR, AEP Ohio Application, Appendix A (April 14, 2010).

related charges—the charges Duke seeks to collect from customers—are just and reasonable.<sup>4</sup>

Duke mentions in its Supplemental Report that it seeks to minimize the “Real-Time Revenue Sufficiency Guarantee First Pass Distribution Amount” “by forecasting its load day ahead.”<sup>5</sup> Duke fails to explain how forecasting its load day ahead minimizes this cost. Duke also states that it tries to mitigate multiple costs “through the use of the Energy Management Systems Automatic Generation Control.”<sup>6</sup> But Duke fails to define the term “Energy Management System Automatic Generation Control” and fails to provide any description of its system. Duke also fails to explain how the system minimizes costs.<sup>7</sup>

The Commission should require further explanation by Duke, followed by an opportunity for parties to comment upon the additional Duke filing, regarding how and whether Duke’s procedures minimize the transmission-related costs that Duke wants customers to pay. After the process contemplated by the PUCO’s rule is complete, the Commission can determine whether the Company is making sufficient efforts to ensure

---

<sup>4</sup> See *In re AEP’s Transmission Cost Recovery Rider*, PUCO Case No. 10-477-EL-RDR, Finding and Order at 3 (June 23, 2010) (“The Commission finds that the proposed updates to AEP-Ohio’s TCRR . . . do not appear to be unjust or unreasonable, and should be approved.”) and *In re DP&L’s Transmission Cost Recovery Rider and PJM RPM Rider*, PUCO Case No. 10-88-EL-RDR, Finding and Order at 2 (April 28, 2010) (“The Commission finds that DP&L’s updated TCRR . . . does not appear to be unjust or unreasonable, and should be approved.”). R.C. 4905.22 provides: “All charges made or demanded for any service rendered, or to be rendered, shall be just, reasonable, and not more than the charges allowed by law or by order of the public utilities commission, and no unjust or unreasonable charge shall be made or demanded for, or in connection with, any service, or in excess of that allowed by law or by order of the commission.” R.C. 4928.02(A) is the state policy that provides for “reasonably priced retail electric service.” The Supreme Court of Ohio has recognized that the Commission must abide by the state policy in R.C. 4928.02. *Elyria Foundry Co. v. Pub. Util. Comm’n of Ohio*, 114 Ohio St. 3d 305 (2007).

<sup>5</sup> Supplemental Report at 1.

<sup>6</sup> Id. at 1-2.

<sup>7</sup> Id. at 1.

that Duke's TCRR results in just and reasonable rates for consumers. Such a determination would comport with the state policy in R.C. 4928.02(E) which requires the Commission to "[e]ncourage cost-effective and efficient access to information regarding the operation of the transmission and distribution systems of electric utilities...."

Duke's Supplemental Report contains vague claims that require further explanation. For example, Duke notes that some charges are only incurred "in certain circumstances," but does not identify those circumstances.<sup>8</sup> The Company notes that some charges "cannot be completely avoided because of factors such as outages, derates, equipment limitations, and Midwest ISO commercial model limitations."<sup>9</sup> However, Duke does not explain how those factors would affect whether such costs can be avoided. Duke should be required to provide additional explanations for its unsupported assertions before its reporting can be considered compliant with Ohio Adm. Code 4901:1-36-06.

Duke's Supplemental Report does not explain how some costs are within its control while other costs included in its TCRR, but not addressed in the Supplemental Report, are outside of its control. The Commission should require Duke to clarify which TCRR costs are within its control and which are not so that parties can comment and the Commission can determine whether the Company is working to minimize every cost included in the Company's TCRR that is within the Company's control.

The Commission should require Duke to provide clear, detailed, and comprehensive information detailing its policies and procedures for minimizing any costs in the TCRR over which Duke has control. Such a report will assist the Commission in determining whether the Company is making sufficient efforts to ensure that the charges

---

<sup>8</sup> Id. at 1-2.

<sup>9</sup> Supplemental Report at 1-2.

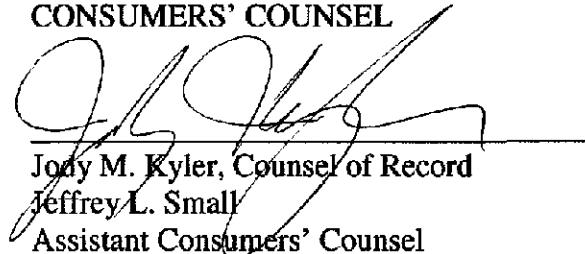
passed to consumers are just and reasonable. Further, upon Duke's re-filing of its biennial report so that it complies with Ohio Adm. Code 4901:1-36-06, the Commission should provide an opportunity for parties to comment upon the re-filed report, after adequate time for discovery under R.C. 4903.082, before the Commission rules in this case.

### **III. CONCLUSION**

The Commission should reject the Supplemental Report submitted by Duke in response to Ohio Adm. Code 4901:1-36-06. The Supplemental Report contains vague claims and unfounded assertions that Duke is making efforts to minimize transmission costs that are charged to Ohio customers. The Commission should require Duke to re-file its report to correct the reporting inadequacies that are the subject of these Comments and to provide sufficient justification for the costs included in its TCRR. Once Duke has re-filed its report, the Commission should provide parties the opportunity to comment on Duke's filing.

Respectfully submitted,

**JANINE L. MIGDEN-OSTRANDER  
CONSUMERS' COUNSEL**




Jody M. Kyler, Counsel of Record  
Jeffrey L. Small  
Assistant Consumers' Counsel

**Office of the Ohio Consumers' Counsel**  
10 West Broad Street, Suite 1800  
Columbus, Ohio 43215-3485  
Telephone: (614) 466-8574  
[kyler@occ.state.oh.us](mailto:kyler@occ.state.oh.us)  
[small@occ.state.oh.us](mailto:small@occ.state.oh.us)

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of OCC's Comments was served on the persons stated below via regular U.S. Mail Service, postage prepaid, this 25<sup>th</sup> day of August, 2010.

  
\_\_\_\_\_  
Jody M. Kyler  
Assistant Consumers' Counsel

**SERVICE LIST**

William L. Wright  
Attorney General's Office  
Public Utilities Commission of Ohio  
180 E. Broad St., 6<sup>th</sup> Fl.  
Columbus, OH 43215

Amy B. Spiller  
Elizabeth H. Watts  
Duke Energy Ohio, Inc.  
139 East Fourth Street, 25 Atrium II  
P.O. Box 960  
Cincinnati, OH 45202-0960