

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke :  
Energy Ohio, Inc. for Approval to : Case No. 13-2417-GA-UNC  
Implement a Capital Expenditure :  
Program. :

In the Matter of the Application of Duke :  
Energy Ohio, Inc. for Approval to : Case No. 13-2418-GA-AAM  
Change Accounting Methods. :  
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**COMMENTS  
SUBMITTED ON BEHALF OF THE STAFF OF  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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**Michael DeWine**  
Ohio Attorney General

**William L. Wright**  
Section Chief

**Katie L. Johnson**  
Assistant Attorney General  
Public Utilities Section  
180 East Broad Street, 6<sup>th</sup> Fl.  
Columbus, OH 43215  
614-644-8588  
614-644-8764 (fax)  
[william.wright@puc.state.oh.us](mailto:william.wright@puc.state.oh.us)  
[katie.johnson@puc.state.oh.us](mailto:katie.johnson@puc.state.oh.us)

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**I. INTRODUCTION AND BACKGROUND**

On December 20, 2013, Duke Energy Ohio, Inc. (Duke or Company) filed an Application in the above captioned cases seeking authority from the Public Utilities Commission of Ohio (Commission) to implement an information technology capital expenditure program (IT-CEP or Program) and to modify its accounting procedures to provide for: (1) capitalization of post-in-service carrying costs (PISCC) on those IT-CEP assets that are placed into service but not yet reflected in the Company's rates as plant in service; (2) deferral of depreciation expense and property taxes directly attributable to the

IT-CEP; and (3) creation of a regulatory asset to defer the PISCC, depreciation expense, and property tax expense for recovery in a separate future proceeding.<sup>1</sup>

Duke filed its Application pursuant to R.C. 4909.18 and 4929.11.<sup>2</sup> R.C. 4929.111(A) provides that a natural gas company may file an application with the Commission under R.C. 4909.18, 4929.05, or 4929.11 to implement a CAPEX Program for any of the following:

1. Any infrastructure expansion, infrastructure improvement, or infrastructure replacement program;
2. Any program to install, upgrade, or replace information technology systems;
3. Any program reasonably necessary to comply with any rules, regulations, or orders of the Commission or other governmental entity having jurisdiction.

R.C. 4929.111(C) provides that the Commission shall approve a natural gas company's application for a CAPEX Program if the Commission finds that the CAPEX Program is consistent with the natural gas company's obligation to furnish necessary and adequate services and facilities under R.C. 4905.22 and that the services and facilities are just and reasonable. Further, R.C. 4929.111(D) provides that in approving an application for a CAPEX Program under Division (C), the Commission shall authorize the natural gas company to create regulatory assets for PISCC on that portion of the CAPEX

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<sup>1</sup> *In the Matter of the Application of Duke Energy Ohio, Inc. to Implement a Capital Expenditure Program and for Authority to Change Accounting Methods ("Duke Application")*, Case No. 13-2417-GA-UNC, *et al.* (Application at 1) (December 20, 2013).

<sup>2</sup> *Id.*

Program assets that are placed into service but not reflected in base rates as plant-in-service. The Commission shall also authorize a company to create a regulatory asset to recover incremental depreciation and property tax expense directly attributable to the CAPEX Program or to defer these costs for future recovery in an application pursuant to R.C. 4909.18, 4905.05, or 4929.11. R.C. 4929.111(F) authorizes the natural gas company to make any accounting accruals necessary to establish the regulatory assets authorized under R.C. 4929.111(D) and an allowance for funds used during construction (AFUDC). Lastly, R.C. 4929.111(G) provides that any accrual for deferral or recovery under R.C. 4929.111(D) shall be calculated according to the system of accounts established by the Commission under R.C. 4905.13.

On March 14, 2014, the Attorney Examiner in these cases issued an Entry setting a procedural schedule as follows:

- April 25, 2014 – Deadline for filing of motions to intervene;
- May 2, 2014 – Deadline for the filing of comments on the Application by Staff and intervenors; and
- May 16, 2014 – Deadline for all parties to file reply comments.

## **II. DUKE’S APPLICATION AND PROPOSED DEFERRALS**

In its Application, Duke states that the purpose of the IT-CEP is for substantial redesign and upgrades of its existing information technology systems. The Company maintains that the redesign and upgrades will improve operational efficiencies in areas

such as mapping; work management; and automated processes for electronic form submission, quality assurance review, and regulatory reporting.<sup>3</sup> The Company anticipates that the IT-CEP will be a five-year program, thus it seeks authority to continue the IT-CEP for a five year period beginning in 2013 and ending in approximately 2018.<sup>4</sup> In recognition of its request for ongoing authority to continue the IT-CEP for five years and in-lieu of annual applications, the Company proposes that it will make annual informational filings by April 30 each year that will detail the capital expenditures made in the previous year. It further proposes an automatic approval process where Staff and interveners would be required to file comments within thirty days of each annual informational filing. If no comments are filed within the period, then continuation of the IT-CEP and related deferral authority would be deemed approved.<sup>5</sup> In addition, it indicates that it expressly retains the right to apply to the Commission for authority to create other capital expenditure programs not covered by the Application.<sup>6</sup>

Duke estimates that the total cost of the IT-CEP will range between \$20 and \$25 million broken out into the following categories:

**Table 1 – Duke’s Estimate of Annual CAPEX Program Spending by Category<sup>7</sup>**

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<sup>3</sup>	<i>Duke Application</i> at 3.
<sup>4</sup>	<i>Id.</i>
<sup>5</sup>	<i>Id.</i>
<sup>6</sup>	<i>Id.</i>
<sup>7</sup>	<i>Id.</i> at Exhibit A.

(In Millions)

IT-CEP Category	Estimated Investment
Implementation/Hardware	\$9.0 – \$10.0
System Integration/Enhancements	\$8.0 – \$10.0
Data Availability/Reporting	\$3.0 – \$5.0
<b>Total Estimated IT-CEP</b>	<b>\$20.0 – \$25.0</b>

The Company, however, indicates that the actual IT-CEP costs could vary due to management of its capital expenditure budget and the stages in which the information system will be redesigned and upgraded.<sup>8</sup>

Duke maintains that its IT-CEP adheres to the statutes authorizing the capital expenditures program, is consistent with its obligation to furnish necessary and adequate service and facilities, and that related deferrals will be recorded pursuant to the system of accounts established by the Commission under R.C. 4905.13.<sup>9</sup> It also states that the rate for PISCC deferrals will be the long-term debt rate approved by the Commission in Duke's most recent base rate case, Case No. 12-1685-GA-AIR, *et al.* The Company further maintains that its Application is not for an increase in rates under R.C. 4909.18 so the Commission may approve the Application without a hearing.<sup>10</sup> Lastly, Duke

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<sup>8</sup> *Id.* at 5.

<sup>9</sup> *Id.* at 3-4.

<sup>10</sup> *Duke Application* at 4.



acknowledges that recovery of deferred amounts pursuant to the Application will be addressed in a separate proceeding.<sup>11</sup>

### **III. STAFF'S REVIEW**

The Staff reviewed Duke's Application to determine if, in the Staff's opinion, the proposed IT-CEP and associated deferrals meet the just and reasonable standards established in R.C. 4929.111 and generally comport with sound ratemaking principles regarding utility cost deferrals. As part of its review, the Staff reviewed Duke's Application, issued formal information requests, requested supplemental or clarifying information when needed, and conducted teleconferences with appropriate Company personnel. In these Comments, the Staff is taking no position on the amount or prudence of the capital spending proposed in the CAPEX Program. The Staff's lack of comments or objection to the proposed CAPEX Program investments should in no way be construed as the Staff's lack of objection or support for future recovery of the investments or related deferred amounts. The Staff will investigate and recommend any necessary adjustments to the deferral when DEO applies to recover the deferred asset.

### **IV. STAFF'S COMMENTS AND RECOMMENDATIONS**

Based on its review, the Staff makes the following comments and recommendations to the Commission regarding Duke's proposed IT-CEP and creation of a regulatory

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<sup>11</sup>

*Id.*

asset for deferral of the PISCC, depreciation expenses, and property tax expenses associated with the IT-CEP.

**A. The IT-CEP and associated deferrals are limited to capital expenditures related to Duke's gas operations.**

The Staff confirmed that the proposed IT-CEP and related deferrals apply only to Duke's gas operations. In the Staff's experience, information technology upgrades are often performed on systems and involve software packages that are shared between a utility's regulated and non-regulated services and between electric and natural gas services. This can be particularly true for new or improved systems for mapping, electronic form processing, and regulatory reporting, as Duke is proposing. Since the statutory provisions establishing the capital expenditure programs apply only to natural gas utility service, capital expenditures for information technology additions or system enhancements that are shared between services would need to be properly apportioned and allocated to each service to ensure that only expenditures directly related to the utility's natural gas operations are included in the utility's capital expenditure program. In this case, Duke informed Staff that the planned information technology redesign and upgrades described in its Application will be made on systems and functions that serve its natural gas distribution services exclusively.<sup>12</sup> As a result, no cost sharing or allocation is necessary.

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<sup>12</sup> Duke response to Staff Data Request No. 1.

**B. Staff confirmed that the capital expenditures for Duke’s proposed IT-CEP will not generate any incremental revenue. Therefore, the regulatory asset created to defer the PISCC, depreciation expenses, and property tax expenses does not need to be reduced.**

In its Finding and Orders approving capital expenditure programs for Columbia Gas of Ohio, Inc. (Columbia), Dominion East Ohio Gas (Dominion), and Vectren Energy Delivery of Ohio, Inc. (Vectren), the Commission directed that the regulatory asset created to defer the total monthly PISCC, depreciation expenses, and property tax expenses associated with the companies’ capital expenditure programs should be reduced by any incremental revenue directly attributable to the capital investments made under the programs.<sup>13</sup> In this case, in response to Staff Data Request 3, Duke stated that its planned capital investments under the IT-CEP are limited to information technology upgrades and will not involve any new products or services to customers. Thus, the IT-CEP investments will not generate incremental revenue. The Staff agrees. Therefore, no adjustment to reduce the Company’s monthly deferrals to recognize incremental revenue is necessary.

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<sup>13</sup>

*In the Matter of the Application of Columbia Gas of Ohio, Inc. for Approval of a Capital Expenditure Program and for Approval to Change Accounting Methods (“Columbia Case No. 11-5351-GA-UNC”), Case No. 11-5351-GA-UNC (Finding and Order) (August 29, 2012); In the Matter of the Application of The East Ohio Gas Company d/b/a/ Dominion East Ohio to Implement a Capital Expenditure Program and for Authority to Change Accounting Methods (“Dominion Case No. 11-6024-GA-UNC”), Case No. 11-6024-GA-UNC, et al. (Finding and Order) (December 12, 2012); and In the Matter of the Application of Vectren Energy Delivery of Ohio to Implement a Capital Expenditure Program and for Authority to Change Accounting Methods (“Vectren Case No. 12-530-GA-UNC”), Case No. 12-530-GA-UNC, et al. (Finding and Order) (December 12, 2012).*

**C. The deferred PISCC should be applied to net plant rather than gross plant.**

In response to Staff Data Request No. 2, Duke described the formula it proposes to use to calculate the PISCC that will apply to the IT-CEP investments and be deferred via the regulatory asset.<sup>14</sup> The proposed formula calls for applying the PISCC to gross plant additions that have not been adjusted to net out accumulated depreciation or the retirement of existing plants. The Company's proposal will result in PISCC being applied to inflated plant balances and deferral of inflated PISCC amounts. This is inconsistent with past practice and Commission rulings on this topic. In Finding and Orders approving capital expenditure programs for Columbia and Dominion, the Commission directed that these companies compute the PISCC deferral on a net plant basis (i.e., gross plant additions less retirements, accumulated depreciation, and cost of removal (if applicable)). The Staff recommends that the Commission direct Duke to do the same.

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<sup>14</sup>

DEO Response to Staff Data Request No. 2 at 1 (February 15, 2012).

- D. Staff generally supports Duke's proposal for a five-year \$20 - \$25 million IT-CEP and recognizes that the Company may file for authority to create additional capital expenditure programs. However, accrual of deferred amounts pursuant to the IT-CEP or the IT-CEP in conjunction with other capital expenditure programs should be capped at \$1.50 per month for residential customers if the deferrals were included in residential rates.**

As summarized above, Duke's Application estimates that its IT-CEP will range between \$20 - \$25 million, exclusive of carrying costs. In addition, it proposes that the program remain in place for five years. The Company also indicates that it reserves the right to file additional applications for approval of additional capital expenditure programs. Subject to the recommended modifications in these Comments, the Staff supports Duke's Application and recognizes that the Company may file for additional capital expenditure programs in the future. However, the Staff recommends that the Commission cap accrual of deferrals made under the IT-CEP and/or total deferrals for the IT-CEP in conjunction with other capital expenditure programs that Duke may establish in the future at the \$1.50 per month cap established for other gas companies' capital expenditure programs. By Finding and Orders in Columbia, Dominion, and Vectren's capital expenditure programs, the Commission ordered that the companies may only accrue capital expenditure program deferrals up until the point where the accrued deferrals, if included in residential rates, would cause the rates charged to the residential class to increase up to \$1.50 per month. Accrual of future capital expenditure program-related deferrals must cease once the \$1.50 per month threshold is surpassed. The

companies must then file for recovery of the deferred amounts.<sup>15</sup> The purpose of the cap is to prevent the program deferrals from accruing to excessive levels that could cause rate shock to customers when the deferred amounts are ultimately placed into rates. The Commission should set the same \$1.50 per month cap on accrual of deferrals under Duke's IT-CEP and future capital expenditure programs that Duke may establish.

**E. The Commission should direct Duke to maintain records to support its ongoing IT-CEP, associated deferrals, and ultimate recovery of the deferred amounts.**

In its Application, Duke requests authority to continue the IT-CEP for a five-year period, to submit annual informational filings in-lieu of annual applications, and to have an abbreviated automatic approval process for annual continuation of the IT-CEP based on the annual filings. Except as noted in these Comments, the Staff generally agrees with Duke's establishment of the IT-CEP and process for ongoing continuation of the Program. Duke's IT-CEP and proposed process for authority to continue the Program are similar to capital expenditure programs and processes approved by the Commission for the other large gas utilities in the state. Like in those other programs, however, the Staff recommends that the Commission direct Duke to maintain records to fully support the development and ongoing continuation of the IT-CEP, associated deferrals, and any future recovery of any amounts deferred under the program.

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<sup>15</sup> See *Columbia Case No. 11-5351-GA-UNC*, *Dominion Case No. 11-6024-GA-UNC*, and *Vectren Case No. 12-530-GA-UNC*, (Commission Findings and Orders).

**F. The Commission should acknowledge that actual IT-CEP costs could vary from the estimates that Duke provided; however Duke should be required to explain significant variances and such variances should not impair the Staff's ability to monitor the IT-CEP**

In its Application, Duke states that its “actual [IT-CEP] cost could vary [from the cost estimates provided], due to the Company’s management of its capital expenditures budget and the stages in which the information system will be redesigned and upgraded.”<sup>16</sup> The Staff agrees that Duke’s actual IT-CEP costs could vary from the estimates provided and that the Company should have the flexibility to balance implementation of the Program with its capital budgeting requirements. However, in order to properly monitor the IT-CEP, the Staff must be able to reasonably rely on the cost estimates and other data that Duke provided in the Application and will continue to provide in the proposed annual information filings. Therefore, the Staff recommends that the Commission acknowledge that the Company’s actual IT-CEP costs can vary from the estimates provided and that it has the flexibility to manage its capital budgets and Program implementation as it deems necessary. The Commission should also, however, require that if Duke’s actual IT-CEP costs do vary significantly from the provided estimates or if any of the information provided in the annual information filings changes substantially, then the Company should explain the variance or changes in the subsequent information filing. Additionally, the Commission should place Duke on notice that frequent substantial deviations from estimates and information provided in the

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<sup>16</sup>

*Duke Application* at 3.

Application or annual information filings that impede the Staff's ability to monitor the Program may cause the Commission to revisit this topic in the future. The Commission issued similar cautionary notices in its orders approving other companies' capital expenditure programs.<sup>17</sup>

**G. Duke's annual information filings should contain the same information that the other gas companies are required to provide.**

Duke proposes that it provide annual information filings instead of annual applications for ongoing authority to continue the IT-CEP. The Company states that such filings "will detail the amount of capital expenditures for the prior year."<sup>18</sup> The Staff supports the idea of annual information filings as it did in other gas companies' cases to authorize capital expenditure programs. However, Duke's annual information filings should contain the same information that other gas companies are required to provide. For example, in its December 12, 2014 Finding and Order in Case No. 12-530-GA-UNC, the Commission directed that Vectren's annual information filing should include the following:<sup>19</sup>

- the capital expenditure program regulatory asset balance at December 31 of each year;

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<sup>17</sup> *Vectren Case No. 12-530-GA-UNC*, (Finding and Order at 20-21).

<sup>18</sup> *Duke Application* at 3.

<sup>19</sup> *Vectren Case No. 12-530-GA-UNC*, (Finding and Order, at 11-12, 20).



- monthly deferrals for to the capital expenditure program regulatory asset for PISCC, depreciation expense, property tax expense, and incremental revenue (not applicable in this case);
- a breakdown of capital expenditure program investments by rate class;
- a capital budget for the succeeding year;
- a schedule showing the potential rate impact on customers if the deferrals were included in residential rates; and
- schedules showing calculations and inputs for the deferrals.

Duke should be required to file the same information in its annual information filings.

**H. Duke's proposed process for review and ongoing authority to continue its IT-CEP should be the same process that the approved for other gas companies.**

In its Findings and Orders authorizing Columbia and Vectren to continue their capital expenditure programs, the Commission granted the companies the authority to continue their programs until the \$1.50 per month cap is reached and instituted a process for review of the companies' annual information filings. The Commission's process provides that comments and reply comments on the companies' information filings are due within 30 and 40 days, respectively, of the date on which the information filing is filed. If there are no comments filed within 30 days, then authority to continue the capital expenditure programs is deemed granted. If comments are filed, the Commission will determine whether additional review is necessary and decide within 60 days what form

such review should take.<sup>20</sup> Duke proposes a very similar process in its Application, except that it suggests that it have fifteen days for reply comments if comments are filed. The Staff recommends that the Commission should establish for Duke the same process that it approved for Columbia and Vectren. The Staff does not necessarily oppose giving Duke fifteen rather than ten days to respond to comments filed in response to an annual information filing, but Staff believes that the capital expenditure program cases should be made as consistent as possible. On a case by case basis, should Duke need more time to respond to comments, it could file a motion asking the Commission to grant it additional time.

**I. The Commission should clearly state that only authority to establish the IT-CEP and accounting authority for related deferrals are being considered and that recovery of any deferred amounts will be determined in a separate proceeding.**

In its orders approving the other gas companies' capital expenditure programs, the Commission clearly stated that only authority to establish the IT-CEP and accounting authority for related deferrals was being granted and that recovery of any deferred amounts would be determined in a separate proceeding.<sup>21</sup> Duke acknowledges as much in its Application, but the Staff believes that a Commission statement similar to those

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<sup>20</sup> *In the Matter of the Application of Columbia Gas of Ohio, Inc. for Approval of a Capital Expenditure Program and for Approval to Change Accounting Methods*, Case No. 12-3221-GA-UNC, *et al.* (Finding and Order at 5-6) (October 9, 2013); and *In the Matter of the Application of Vectren Energy Delivery of Ohio, Inc. to Implement a Capital Expenditure Program and for Authority to Change Accounting Methods*, Case No. 13-1890-GA-UNC, *et al.* (Finding and Order at 6) (December 4, 2013).

<sup>21</sup> *Duke Application* at 4.

made in the other capital expenditure program cases will forestall potential future disagreements.

## **V. CONCLUSION**

The Staff has reviewed Duke's Application for authority to create the IT-CEP and related accounting authority to defer PISCC, depreciation expenses, and property tax expenses for future recovery. Staff respectfully recommends that the Commission approve Duke's Application with the incorporation of the Staff's recommendations.

Respectfully Submitted,

**Michael DeWine**  
Ohio Attorney General

**William L. Wright**  
Section Chief

*/s/ Katie L. Johnson*

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**Katie L. Johnson**  
Assistant Attorney General  
Public Utilities Section  
180 East Broad Street, 6<sup>th</sup> Fl.  
Columbus, OH 43215  
614-644-8588 (telephone)  
614-644-8764 (fax)  
[william.wright@puc.state.oh.us](mailto:william.wright@puc.state.oh.us)  
[katie.johnson@puc.state.oh.us](mailto:katie.johnson@puc.state.oh.us)

## **VI. CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing **Comments** submitted on behalf of the Staff of the Public Utilities Commission of Ohio was served by electronic mail upon the following parties of record, this 2nd day of May, 2014.

/s/ Katie L. Johnson

**Katie L. Johnson**  
Assistant Attorney General

### **PARTIES OF RECORD:**

Dianne Kuhnell  
Duke Energy Business Services  
139 E. Fourth Street EA025 P.O. Box 960  
Cincinnati, OH 45201  
Phone: (513) 287-4337  
Fax: (513) 287-4386

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Summary: Comments electronically filed by Mrs. Tonnetta Y Scott on behalf of PUCO