

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of)	
Duke Energy Ohio, Inc., for Approval)	Case No. 15-0050-GA-RDR
to Modify Rider FBS, Rider EFBS and)	
Rider FRAS.)	

INITIAL POST HEARING BRIEF OF DUKE ENERGY OHIO, INC.

I. INTRODUCTION

On January 15, 2015, Duke Energy Ohio, Inc., (Duke Energy Ohio or Company) initiated the above-captioned proceeding to modify the rates in Rider FBS (Firm Balancing Service) and Rider EFBS (Enhanced Firm Balancing Service) and to modify the terms under which suppliers may choose either FBS or EFBS. The Company also sought to modify certain of the terms under Rate FRAS (Full Requirements Aggregation Service) and Rate GTS (Gas Trading Service) to coincide with the changes sought in respect of Rider FBS and Rider EFBS. The reasons that necessitate these requested changes were set forth in detail in the Company's Application.

The Office of the Ohio Consumers' Counsel (OCC), the Retail Energy Supply Association (RESA), IGS Energy, Inc. (IGS), Direct Energy Services, LLC, Direct Energy Business Marketing, LLC, and Direct Energy Small Business, LLC (collectively, Direct), moved to intervene. In a Finding and Order, the Public Utilities Commission of Ohio (Commission) granted the parties' intervention and established a procedural schedule that provided for comments to be filed by the parties.¹ All of the intervenors and the Company submitted comments. The Commission subsequently approved the Company's request to adjust rates for

¹ Finding and Order, March 25, 2015.

Rider FBS and Rider EFBS but scheduled a hearing to consider further the matters raised in the parties' comments related to modifying the terms under which gas suppliers and aggregators choose either firm balancing service or enhanced firm balancing service. Thereafter the parties submitted testimony and a hearing was held on August 4, 2015.

II. DISCUSSION

A. The current tariffs for FBS and EFBS are creating inequities between customer classes.

In its application in this proceeding, Duke Energy Ohio provided the reasons necessitating the filing and the problems the Company was experiencing, in managing the daily balancing of its gas portfolio. In support of its application, Duke Energy Ohio further provided the testimony of Jeff L. Kern. Mr. Kern explained the problem in greater detail and provided a reasonable proposed solution. Mr. Kern's experience with managing the Company's daily gas supply is unparalleled. Likewise, his proposal for a solution is the most reasonable option, in that it offers the most equitable sharing of the cost and responsibility for utilizing storage contracts to balance gas deliveries with gas usage between the Company's Gas Cost Recovery (GCR) customers and customers who chose to purchase their gas from third parties through the Customer Choice Program.

As was explained in Mr. Kern's direct testimony, it is necessary to balance the gas supply on a daily basis, because customer usage cannot be predicted with specificity. Thus, the Company manages its daily balancing through contracts with interstate pipelines. These contracts allow for balancing at the end of each day so that the amount of gas delivered to Duke Energy Ohio's city gate exactly matches the amount of gas used by all of its customers.²

Mr. Kern further explained the history of FBS and EFBS since their inceptions in 1997 and 2007, respectively. After providing this history, Mr. Kern then explained his responsibilities

² Duke Energy Ohio Exh.2 at p.2.

in managing gas storage to provide balancing services. As Mr. Kern is integrally involved in these activities on a daily basis, and has been for many years, Mr. Kern's explanations of these activities were not disputed by any party. Thus, it is believed that the parties do not dispute any of the facts presented, but rather differ on the means by which to fix the problem. Mr. Kern's explanation of the problem associated with management of the gas portfolio is concisely laid out in his testimony. However the problem is simply this: fewer suppliers in recent years have elected to choose EFBS, and the result of this is that the capacity portfolio for serving GCR customers contains a disproportionate amount of storage capacity with a corresponding decrease in the amount of firm transportation. When there is insufficient firm transportation available during cold weather, the Company must acquire spot purchases in order to effectively manage storage activity. Since GCR customers are responsible for payment of costs incurred to manage the portfolio, this potentially results in higher risks and potentially higher costs to GCR customers. Likewise, if the weather is warmer than normal, the Company must sell natural gas into the market at a potential loss to GCR customers. Thus, a change is needed to maintain appropriate fairness between Choice and GCR customers.

B. The Company has proposed the optimal solution.

Mr. Kern explained that the Company considered several different solutions, all of which fell short. For example, purchasing additional capacity results in additional cost to GCR customers. De-contracting storage with interstate pipelines could result in large over withdrawal penalties from the pipeline companies.³

³ Id. at p.9.

Artificially increasing or decreasing the Target Supply Quantity (TSQ) would provide a windfall to suppliers and create a subsidy between choice customers and GCR customers. In addition, increasing the rate for FBS so that it is closer to the rate for EFBS would not guarantee that enough suppliers/aggregators would choose EFBS to alleviate the problem. Thus, after considering all the elements and possibilities, none of the above potential solutions was satisfactory.

However, the Company did make a proposal that allows for efficient management of gas storage and ensures that customers are not paying more than is necessary and suppliers are treated fairly. The Company proposed that the Commission approve a change to the tariff such that suppliers/aggregators with a Maximum Daily Quantity (MDQ) above 20,000 decatherms per day (dth/day) be required to take service under the EFBS tariff. Pursuant to Mr. Kern's data analysis provided along with his testimony, this would return the allocation of capacity to pre-2007 levels.⁴ Mr. Kern testified that this is the only result that provides an equitable solution and distributes costs evenly between choice and GCR customers.

In spite of the obvious benefits with Mr. Kern's proposed solution, some of the parties differ with the proposal and offered solutions of their own. However, the alternative solution put forth by RESA is devised to serve its own interests and not to create fairness between customer classes. Moreover, the proposal is unworkable for Duke Energy Ohio, without causing significant administrative burden and additional costs for GCR customers, and it is only a temporary solution.

⁴ Id. at p.10.

C. RESA's proposed solution has too many problems.

RESA witness Thomas Scarpitti recommended that the Commission reject the proposed solution offered by Duke Energy Ohio, and instead adopt one offered by RESA. Mr. Scarpitti's proposal is not based upon sufficient information. However, the RESA proposal as set forth in Mr. Scarpitti's testimony is that if suppliers do not elect EFBS in sufficient quantity, then the suppliers on FBS will be notified and will be responsible for a pro rata allocation of storage. Mr. Scarpitti recommends that the Commission set a baseline amount of storage that is to be assigned to suppliers and if that baseline is not met, the Company will then proceed with the allocation. Mr. Scarpitti believes that for the winters of 2013/14 and 2014/15, the suppliers electing EFBS resulted in Maximum Daily Delivery Quantities (MDDQ) of 41,000 dth and 32,400 dth, respectively and that at these levels the Company was able to adequately manage storage.⁵

While Mr. Scarpitti undoubtedly finds this proposed solution to his liking, the Company did not. Mr. Kern explained the reasons why RESA's proposal is unworkable. At hearing, Mr. Kern explained first, that the threshold that Mr. Scarpitti recommends is inadequate. Mr. Kern noted that Mr. Scarpitti did not consider that the Company possessed extra capacity during the 2013/14 winter due to the timing of contract expirations and a large number of governmental aggregation customers leaving GCR service in 2012. Indeed, the Company possessed 33,000 dkt of excess capacity in 2013/14 and still needed to also acquire spot swing supply. Mr. Kern testified that even if the proposal were acceptable otherwise, the target number would need to be approximately 100,000 dkt.⁶ Relying on the balance that was used during winters when the capacity portfolio was insufficient is illogical and ill advised.

⁵ RESA Exh. 1 at p.6.

⁶ Trans. at p.94.

Mr. Kern also noted that the RESA proposal sets up an unfair distribution of costs such that the GCR customers would still be paying the bulk of the demand charges for storage that is only partially alleviated by having suppliers pay a credit to all customers. Mr. Kern points out that any credit that would be devised under these circumstances should only be paid to GCR customers.⁷ It is understandable, but illogical that Mr. Scarpitti would recommend otherwise.

Mr. Kern also disagrees with the RESA proposal to credit customers with 21 cents since it is incorrectly based on historical averages. Mr. Kern explained that in order to devise a credit that would apply for future years, it is necessary to use future numbers such as the NYMEX price. In doing so, it is Mr. Kern's estimation that the difference between winter and summer prices is likely to be closer to 31 cents.⁸

Mr. Kern further explained the reasons why the RESA-proposed plan does not permit sufficient flexibility to allow the Company to act during volatile weather. The Company must make adjustments to its storage activity on a daily and monthly basis and must have some flexibility to do so. If the schedule that is set in advance is too limited, the Company's ability to react is likewise limited.⁹

Finally, the proposal offered by RESA would only constitute a temporary solution. This proposal would require significant administrative resources. Opting for a temporary solution that requires some significant investment is simply not in the best interest of customers who will bear the costs of implementing the necessary changes.¹⁰ There would then potentially be additional costs incurred with a different solution in the future. Thus, the Commission should instead implement the changes recommended by Duke Energy Ohio.

⁷ Id.

⁸ Trans. p.100.

⁹ Trans. p.95.

¹⁰ Trans.p.96.

D. RESA's additional recommendations do not contribute to a solution.

In addition to the RESA proposal discussed above, RESA witness Matthew White advocated additional changes. Mr. White has advocated these recommendations in other dockets to no avail. This time should be no different.

Mr. White argues, without foundation, that there is an anticompetitive subsidy flowing to GCR customers from gas shopping customers.¹¹ In order to remedy this alleged subsidy, Mr. White proposes a credit to customers "to avoid inequity" and to remove a barrier to effective competition.¹² However, although Mr. White is apparently quite unaware, there is robust competition for gas commodity supply in the Duke Energy Ohio service territory.¹³ In response to questions related to competition at hearing, Mr. White admitted that he had not done any data analysis and had no idea what the magnitude of any subsidy might be.¹⁴ He further admitted that the Company incurs costs in administering the Choice program, and that he had no idea how much revenue the Company receives from any supplier charges.¹⁵ Mr. White was unable to say how many suppliers were currently active in the Duke Energy Ohio territory, nor what percentage of customers were served by suppliers.¹⁶ In so far as Mr. White has no relevant data upon which to base an opinion with respect to competition in the Duke Energy Ohio territory, his scant testimony should be totally disregarded.

¹¹ RESA Exhibit 2, Testimony of Matthew White at p.8.

¹² Id. at p.9.

¹³ <http://energychoice.ohio.gov/ApplesToApplesComparision.aspx?Category=Electric&TerritoryId=4&RateCode=1>

¹⁴ Trans. p. 148.

¹⁵ Trans. p.149.

¹⁶ Trans. p.150.

RESA did no discovery in this proceeding, and has done no relevant market research in the Duke Energy Ohio service territory in order to support its spurious claims of anticompetitive behavior. Further, to the extent RESA believes anticompetitive behavior is occurring, it would have an opportunity to file a complaint wherein it could bear the burden of proof to demonstrate said conduct. Absent supporting these unfounded allegations with some facts, Mr. White's testimony is of no value.

III. CONCLUSION

For the reasons set forth above, Duke Energy Ohio respectfully submits that the proposed changes to its tariffs for FBS and EFBS that were submitted with the application in this case represent the best possible resolution of the issues explained by Mr. Kern in his testimony and at hearing. The gas portfolio must be maintained as economically and efficiently as possible, and Mr. Kern has been managing this portfolio for many years. Accordingly, Duke Energy Ohio respectfully requests that the Commission adopt and approve the application as filed.

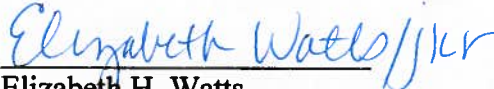
Respectfully submitted,
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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was delivered by U.S. mail (postage prepaid), personal delivery, or electronic mail, on this 4th day of September 2015, to the following parties.


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Summary: Brief Duke Energy Ohio, Inc.'s Initial Post Hearing Brief electronically filed by Mrs. Kristen Ryan on behalf of Duke Energy Ohio and Watts, Elizabeth Mrs.