

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Adoption of Ohio Adm.)	
Code Chapter 4901:1-43 Concerning Rules)	Case No. 15-871-GA-ORD
Involving Natural Gas Company Infrastruc-)	
ture Development to Implement R.C.)	
4929.16 to 4929.167.)	

**REPLY COMMENTS OF
DUKE ENERGY OHIO, INC.,
THE EAST OHIO GAS COMPANY D/B/A
DOMINION EAST OHIO,
VECTREN ENERGY DELIVERY OF OHIO, INC., AND
COLUMBIA GAS OF OHIO, INC.**

I. INTRODUCTION

By Entry dated December 9, 2015, the Public Utilities Commission of Ohio ("Commission") proposed comprehensive rules to implement House Bill 319 ("H.B. 319"). Columbia Gas of Ohio, Inc. ("Columbia") and Duke Energy Ohio, Inc. ("Duke") filed their initial comments on January 19, 2016, offering several proposed clarifications to the new rule language.

On January 19, 2016, The East Ohio Gas Company d/b/a Dominion East Ohio ("DEO") filed comments in the above-captioned matter, and on January 20, 2016, Vectren Energy Delivery of Ohio, Inc. ("Vectren") likewise filed comments. Additionally, on January 25, 2016, the Ohio Propane Gas Association ("OPGA") filed public comments responding to Columbia and Duke's Initial Comments. Columbia, Duke, Vectren, and DEO (together, "Joint Commenters") now file this response to the Initial Comments filed in this proceeding.

II. REPLY COMMENTS

A. Reply to Vectren Energy Delivery of Ohio's Comments

Vectren's initial comments request clarification regarding the recovery and deferral authority of infrastructure development costs. Vectren reads

R.C. § 4929.162 to permit recovery of infrastructure development costs over multiple years and a deferral of prudently-incurred costs that exceed the annual statutory rider recovery caps.

Joint Commenters agree with Vectren's reading of R.C. § 4929.162. Beginning in R.C. § 4929.161, the statute permits natural gas utilities "to *recover* prudently incurred infrastructure costs...." The next statutory sections, R.C. §§ 4929.162(A) and (B), provide that "the natural gas company may not *recover* more than" two dollars for economic development projects and one dollar for certified sites projects on an annual basis. R.C. § 4929.162(C) requires each natural gas company to "*recover* the same amount from each customer" under the statutory caps. Further, R.C. § 4929.165 permits the utility to recover the rider rate for twelve months, and R.C. § 4929.167 permits the Commission to conduct a financial audit of the costs incurred "and *collected* pursuant to the rider...." Reading Chapter 4929 in total, the statutory \$2 and \$1 caps set the *maximum* infrastructure development rider *rate* to \$3 annually. Said differently, the statutory caps limit the pace of recovery of dollars from customers, not the total dollars associated with a company's approved projects.

From a practical standpoint, if the Commission imposes the \$1 and \$2 rider recovery cap on projects approved during a calendar year, then H.B. 319 funding will be significantly limited. For example, Columbia has approximately 1.4 million customers in Ohio, which means Columbia is limited to recovering \$2.8 million annually for economic development projects under the rider, pursuant to R.C. § 4929.162(A). If Columbia has a \$5 million economic development project and the Commission chooses to impose rider recovery caps to limit project approvals, then Columbia would be limited to use \$2.8 million of H.B. 319 funding for the project. Columbia would then charge the customer associated with the economic development project the remaining \$2.2 million difference. Such an additional contribution in aid of construction request could be the tipping point for the customer to reject the project outright, resulting in lost economic development for Ohio, the sole purpose behind HB 319. Columbia suggests, consistent with the statute, that the Commission limit recovery commensurate with the established recovery caps, but provide for accounting treatment in the form of a deferral of any costs in excess of the available recovery caps, in the event the project is deemed valuable to utility customers and to Ohio citizens. With approval required by the Commission for each project, the Commission will always retain the ability to deny any project that it deems not beneficial to the community, Columbia Gas customers, and Ohioans at large.

Finally, from a ratepayer standpoint, with a deferral in place, the customer is not harmed. A ratepayer's billed infrastructure development rider rate is limited to the approximate \$3.00 annual recovery cap, or \$0.25 per month. The customer will *never* pay more than a quarter per month under current statute, notwithstanding the dollars approved by the Commission to be deferred. And, to the extent the Commission is concerned about the size of a deferral, it has the right to review and approve the projects brought by a utility, pursuant to R.C. § 4929.163 and § 4929.164, and to conduct a financial audit, pursuant to R.C. § 4929.167.

For these reasons, Joint Commenters support Vectren's comments and urge the Commission to approve utilities' ability to defer project costs that may exceed the annual rider recovery caps imposed by R.C. § 4929.162.

B. Reply to Ohio Propane Gas Association's Comments

OPGA asserts that establishing an annual rider rate, as opposed to a rate set for each economic development and certified sites project, would somehow create less transparency. This assertion lacks merit and ignores the plain language of Chapter 4929.

R.C. § 4929.165 states that the natural gas company "shall file an annual report" which both details the costs related to approved projects and "sets forth the rider rate for the twelve months following the annual report." Setting the rider rate once annually, as opposed to adjusting the rider rate with each approved project, does not hamper this process or the transparency created by it. Rather, setting the rider rate once a year promotes efficiency and is consistent with the language and intent of the statute.

Further, OPGA misunderstands Columbia and Duke's proposed revisions to Ohio Admin. Code 4901:1-43-04(C). OPGA asserts that the proposed changes would strip the Commission of the ability to review expenditures for prudence. Such an assertion misunderstands the edit to the proposed rule. R.C. § 4929.167 authorizes the Commission to conduct a financial audit to determine if costs "collected pursuant to the rider are in conformance with the commission's orders." The proposed rule authorizes the Commission to hire "consultants" to conduct these financial audits, and permits hired consultants to conduct prudence reviews. It is the latter authorization that the Joint Commenters oppose. Each individual project undergoes a prudence review prior to approval and once again on an annual basis when the company files the annual report setting forth the twelve-month rider rate. The statute only provides for a financial audit to ensure that costs

recovered under the rider are consistent with Commission orders. An additional prudency review by a hired consultant would be duplicative and unnecessary and only would increase costs to customers included within the infrastructure development rider. Therefore, any prudency review required is best left to the discretion of the Commission.

For these reasons, the Commission should disregard the comments filed by the OPGA, and adopt the changes to Ohio Admin. Code 4901:1-43-04(C) proposed by the Joint Commenters.

C. Reply to Dominion East Ohio's Comments

DEO proposes several suggested clarifications to the rules consistent with the language of H.B. 319. Columbia and Duke generally support the comments filed by DEO.

III. CONCLUSION

For the reasons stated above, the Joint Commenters respectfully request that the Commission adopt rules consistent with the Initial Comments of Joint Commenters filed on January 19, 2016, and the instant Reply Comments.

Respectfully submitted by,

COLUMBIA GAS OF OHIO, INC.

/s/ Brooke E. Leslie

Brooke E. Leslie, Counsel of Record

Stephen B. Seiple, Asst. General Counsel
(0003809)

Brooke E. Leslie, Asst. General Counsel
(0081179)

P.O. Box 117

290 W. Nationwide Blvd.

Columbus, Ohio 43216-0117

Telephone: (614) 460-5558

E-mail: sseiple@nisource.com

bleslie@nisource.com

(Willing to accept service by e-mail)

Attorneys for

COLUMBIA GAS OF OHIO, INC.

DUKE ENERGY OHIO, INC.

/s/ Elizabeth H. Watts

Elizabeth H. Watts, Counsel of Record

Amy B. Spiller, Deputy General Counsel
(0047277)

Elizabeth H. Watts, Associate General
Counsel (0031092)

Duke Energy Business Services LLC

139 East Fourth Street

1303-Main

Cincinnati, Ohio 45202

Telephone: (513) 287-4359

E-mail: amy.spiller@duke-energy.com

elizabeth.watts@duke-energy.com

(Willing to accept service by e-mail)

Attorneys for
DUKE ENERGY OHIO, INC.

**THE EAST OHIO GAS COMPANY
D/B/A DOMINION EAST OHIO**

**VECTREN ENERGY DELIVERY OF
OHIO, INC.**

/s/ Andrew J. Campbell

Andrew J. Campbell, Counsel of Record

Mark A. Whitt (0067996)
Andrew J. Campbell (0081485)
Rebekah J. Glover (0088798)
WHITT STURTEVANT LLP
The KeyBank Building, Suite 1590
88 East Broad Street
Columbus, Ohio 43215
Telephone: (614) 224-3946
E-mail: whitt@whitt-sturtevant.com
campbell@whitt-sturtevant.com
glover@whitt-sturtevant.com

(Willing to accept service by e-mail)

Attorneys for
**THE EAST OHIO GAS COMPANY
D/B/A DOMINION EAST OHIO**

**VECTREN ENERGY DELIVERY OF
OHIO, INC.**

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

2/2/2016 2:58:36 PM

in

Case No(s). 15-0871-GA-ORD

Summary: Reply Comments electronically filed by Cheryl A MacDonald on behalf of Columbia Gas of Ohio, Inc. and Duke Energy Ohio, Inc. and Dominion East Ohio and Vectren Energy Delivery of Ohio, Inc.