

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF
DUKE ENERGY OHIO, INC. TO ADJUST
RIDER AU FOR 2017 GRID
MODERNIZATION COSTS.

CASE NO. 18-837-GA-RDR

ENTRY

Entered in the Journal on March 6, 2019

{¶ 1} Duke Energy Ohio, Inc. (Duke or the Company) is a natural gas company as defined in R.C. 4905.03 and a public utility as defined in R.C. 4905.02, and, as such, is subject to the jurisdiction of this Commission.

{¶ 2} In Case No. 07-589-GA-AIR, et al., the Commission approved a stipulation and recommendation that, among other things, provided a process for the filing of Duke's deployment plans for the installation of an automated gas meter reading system, which would share the SmartGrid communications technology for the electric system, and a method for recovering costs associated with the plans, which was designated Rider Advanced Utility (Rider AU). *In re Duke Energy Ohio, Inc.*, Case No. 07-589-GA-AIR, et al. (*Gas Distribution Rate Case*), Opinion and Order (May 28, 2008).

{¶ 3} On June 29, 2018, Duke filed an application, along with supporting testimony, to adjust Rider AU for grid modernization deployment costs incurred in 2017, pursuant to the process approved in the *Gas Distribution Rate Case*.

{¶ 4} By Entry dated July 3, 2018, the attorney examiner established the following procedural schedule:

- (a) September 28, 2018 – Deadline for the filing of motions to intervene.
- (b) October 26, 2018 – Deadline for the filing of comments on the application by Staff and intervenors.

- (c) November 9, 2018 – Deadline for all parties to file reply comments.
- (d) November 23, 2018 – In the event all of the issues raised in the comments are not resolved, or if the Commission deems the application may be unjust or unreasonable, a hearing would be held, and Staff and intervenor testimony would be due on this date.
- (e) November 30, 2018 – Deadline for Duke to file supplemental testimony.
- (f) December 6, 2018 – In the event a hearing is deemed necessary, the hearing would commence at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, 11th Floor, Hearing Room 11-C, Columbus, Ohio 43215.

{¶ 5} On July 16, 2018, the Ohio Consumers' Counsel (OCC) filed a motion to intervene in this proceeding, which was granted by Entry issued on October 11, 2018.

{¶ 6} On October 4, 2018, Staff filed its review and recommendations regarding Duke's application. OCC filed comments on October 26, 2018, and Duke filed reply comments on November 9, 2018.

{¶ 7} On November 23, 2018, OCC filed the direct testimony of James D. Williams. In his direct testimony, Mr. Williams recommends that the Commission initiate an independent review of Duke's natural gas grid modernization program and proposals for replacement of the program. Mr. Williams states that the purpose of the independent review should be to examine the technology that Duke deployed for gas meter reading and to determine whether the technology can continue to be used to serve customers in the future. Mr. Williams also states that the independent review should include an audit that

assesses whether the gas meter reading technology is used and useful, before customers are charged more for this program.

{¶ 8} Additionally, Mr. Williams recommends that the Commission require Duke to file a natural gas distribution rate case. Mr. Williams asserts that the distribution rate case should bring an end to the collection of charges through Rider AU, while reductions in operations and maintenance costs can be incorporated as reductions in base rates. Mr. Williams adds that a distribution rate case will help to ensure that Duke's customers are being billed just and reasonable charges for their natural gas service.

{¶ 9} On November 28, 2018, Duke filed a motion to strike OCC's testimony and to extend the dates for the filing of the Company's supplemental testimony and for the hearing, along with a request for an expedited ruling. On December 5, 2018, OCC filed a memorandum contra Duke's motion to strike.

{¶ 10} By Entry dated December 11, 2018, the attorney examiner granted Duke's request for a continuance. Specifically, the attorney examiner noted that the hearing in this matter would, if necessary, be rescheduled by subsequent entry. The attorney examiner further noted that a ruling on Duke's motion to strike OCC's testimony would also be issued by subsequent entry.

{¶ 11} In its motion to strike, Duke contends that OCC's testimony, in its entirety, is irrelevant and factually incorrect with respect to the matters under consideration. Duke notes that this case pertains to the recovery of costs incurred in the deployment of grid modernization in its service territory. Duke further notes that Staff reviewed the Company's application and recommends that it be approved. According to Duke, OCC's testimony raises unrelated issues that OCC has already briefed in the Company's consolidated electric rate proceedings, Case No. 17-32-EL-AIR, et al. (*Electric Rate Case*) and that should not be repeated in this proceeding. Asserting that OCC has conducted little discovery on the costs

at issue, Duke argues that OCC's testimony relates solely to the potential for future charges rather than to the costs incurred in 2017.

{¶ 12} Regarding OCC's recommendation that the Commission should order an independent review of proposals for the replacement of Duke's natural gas grid modernization program, Duke responds that there is no proposal for replacement of this program, as the Company is merely proposing to replace grid technology to update the equipment that has been in place since 2009. Duke adds that OCC ignores the fact that the Company's application proposes to reduce rates for customers.

{¶ 13} In its memorandum contra, OCC initially states that the replacement of grid technology has not occurred, while residential customers continue to pay the costs for undepreciated and allegedly obsolete equipment without an investigation by the Commission of the prudence of the costs. OCC argues that Duke's motion lacks merit and raises factual disputes that should not form the basis for striking OCC's testimony. In response to Duke's contention that OCC's position has been briefed in the *Electric Rate Case*, OCC asserts that, although there are similarities to the issues in the *Electric Rate Case*, the issues under consideration in the present case are distinct. OCC maintains that the very reason for the *Electric Rate Case* – the full deployment of Duke's smart grid – has not been broached by the Commission on the gas side of the Company's operations. OCC notes that the *Electric Rate Case* was triggered by Staff's determination in October 2015 that Duke's smart grid deployment was complete; however, according to OCC, there is no such triggering event for a gas base rate case. OCC contends that, as with the electric side of Duke's business, a gas rate case is necessary to ensure that consumers receive the full operational benefits to which they are entitled, in return for their investment in the Company's gas smart grid technology.

{¶ 14} In response to Duke's emphasis on the fact that its application proposes a rate decrease for Rider AU, OCC states that the issue in this case is whether Duke's charges reflect costs that were prudently incurred and that are just and reasonable under the law.

OCC argues that customers could in fact be due a larger rate decrease than what Duke has proposed. Further, OCC states that, considering that the smart grid deployment was completed over three years ago, delaying a rate case would harm consumers by withholding from them any gas smart grid savings that they should be receiving. Finally, OCC asserts that Duke will have the opportunity to file supplemental testimony addressing its own interpretation of the facts and that the Commission will then determine the weight to be given to OCC's and the Company's testimony. According to OCC, its testimony should not be stricken merely because Duke disagrees with it.

{¶ 15} The attorney examiner finds that Duke's motion to strike OCC's testimony should be denied. In Case No. 17-690-GA-RDR, which pertained to Duke's recovery of its grid modernization deployment costs incurred in 2016, OCC's comments were stricken and OCC was instead instructed to raise its concerns for the Commission's review in the *Electric Rate Case*. In *re Duke Energy Ohio, Inc.*, Case No. 17-690-GA-RDR, Entry (Sept. 14, 2017) at ¶¶ 17-18; Finding and Order (Oct. 11, 2017) at ¶ 14. Although Duke argues in the present case that OCC's position was briefed in detail in the *Electric Rate Case*, the stipulation and recommendation recently approved by the Commission in the *Electric Rate Case*, which provides for an advanced metering infrastructure transition for residential customers, did not resolve metering issues related to the Company's gas distribution business. *Electric Rate Case*, Opinion and Order (Dec. 19, 2018). Further, to the extent that OCC's testimony in this matter is intended to contest the prudence of the costs sought to be recovered from customers through Rider AU, the testimony is relevant and properly within the scope of this case.

{¶ 16} The attorney examiner finds that a hearing should be held in this matter. Accordingly, Duke's supplemental testimony should be filed by March 19, 2019. The hearing will commence on March 26, 2019, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, 11th Floor, Hearing Room 11-A, Columbus, Ohio 43215. In the event that Duke comes to an agreement with some or all of the parties on the facts or issues in this case, the stipulation should be filed by 9:00 a.m., on March 25, 2019.

{¶ 17} It is, therefore,

{¶ 18} ORDERED, That Duke's motion to strike OCC's testimony be denied. It is, further,

{¶ 19} ORDERED, That the procedural schedule set forth in Paragraph 16 be adopted. It is, further,

{¶ 20} ORDERED, That a copy of this Entry be served upon all parties and interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

s/Sarah Parrot

By: Sarah J. Parrot
Attorney Examiner

JRJ/sc

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Summary: Attorney Examiner Entry denying Duke's motion to strike OCC's testimony and setting a procedural schedule in accordance with Paragraph 16 - electronically filed by Sandra Coffey on behalf of Sarah Parrot, Attorney Examiner, Public Utilities Commission of Ohio