

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

OPINION AND ORDER

Entered in the Journal on July 2, 2019

I. SUMMARY

{¶ 1} The Commission approves the application of Duke Energy Ohio, Inc. to adjust its advanced utility rider for 2017 grid modernization costs.

II. DISCUSSION

A. *Procedural History*

{¶ 2} Duke Energy Ohio, Inc. (Duke or 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.

{¶ 3} 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 Company's 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).

{¶ 4} On March 28, 2018, the Commission approved Duke's current Rider AU charge of \$0.73 per meter per month, with gas-only customers receiving a \$0.40 credit per meter per month. *In re Duke Energy of Ohio, Inc.*, Case No. 17-690-GA-RDR, Finding and Order (Mar. 28, 2018).

{¶ 5} On June 29, 2018, Duke filed an application, along with the direct testimony of Sarah E. Lawler (Duke Ex. 2), to adjust Rider AU for grid modernization deployment costs incurred in 2017, pursuant to the process approved in the *Gas Distribution Rate Case*.

{¶ 6} By Entry dated July 3, 2018, the attorney examiner established a procedural schedule for this case. The Entry set September 28, 2018, as the deadline for the filing of motions to intervene, and December 6, 2018, as the hearing date, in the event a hearing was deemed necessary.

{¶ 7} 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.

{¶ 8} On October 4, 2018, Staff filed its review and recommendations regarding Duke's application (Staff Ex. 1). OCC filed comments on October 26, 2018, and Duke filed reply comments on November 9, 2018.

{¶ 9} On November 23, 2018, OCC filed the direct testimony of James D. Williams (OCC Ex. 5).

{¶ 10} 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.

{¶ 11} 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.

{¶ 12} By Entry dated March 6, 2019, the attorney examiner denied Duke’s motion to strike OCC’s testimony. The attorney examiner also directed that Duke’s supplemental testimony be filed by March 19, 2019, and that any stipulation among the parties be filed by March 25, 2019. An evidentiary hearing was scheduled to commence on March 26, 2019.

{¶ 13} On March 11, 2019, OCC filed a motion for a continuance of the procedural schedule, which was granted by Entry dated March 12, 2019. The deadline for Duke’s supplemental testimony was extended to April 23, 2019, and the evidentiary hearing was rescheduled to commence on May 2, 2019.

{¶ 14} On April 23, 2019, Duke filed the supplemental testimony of Sarah E. Lawler (Duke Ex. 4).

{¶ 15} An evidentiary hearing was held on May 2, 2019.

{¶ 16} Initial briefs were filed by Duke and OCC on May 30, 2019. OCC filed a reply brief on June 6, 2019.

B. Summary of the Parties’ Positions

{¶ 17} In this proceeding, Duke seeks to adjust Rider AU for grid modernization deployment costs incurred in 2017, as shown below:

Current Charge (All Customer Classes)	Proposed Charge (All Customer Classes)	Change
\$0.73	\$0.60	(\$0.13)
Current Credit (Gas-Only Customers)	Proposed Credit (Gas-Only Customers)	Change
\$0.40	\$0.29	(\$0.11)

According to Duke witness Lawler, the only incremental expenses included in the Rider AU revenue requirement calculations are specifically identifiable costs associated with the implementation of the SmartGrid project for gas. Ms. Lawler testified that such costs include information technology, system support, data transfer fees, and any other costs that can be directly attributed to the SmartGrid program. (Duke Ex. 2 at 4, 10.)

{¶ 18} In its review and recommendations, Staff states that Duke appropriately included in Rider AU only those costs that were incurred as a result of serving its retail customers in Ohio. Staff, therefore, recommends that the application be approved, with the new rate effective on a bills-rendered basis. (Staff Ex. 1 at 1.)

{¶ 19} In its brief, OCC argues that, although it does not dispute Duke's proposed Rider AU charge or the proposed credit for gas-only customers, the Company's customers may be overpaying for natural gas service. OCC notes that it has been at least four years since Duke's natural gas SmartGrid project was fully deployed and six years since the Company's most recent natural gas distribution rate case. OCC asserts that Duke's customers should be receiving actual savings attributable to the Company's natural gas SmartGrid rather than the estimated savings that customers have received since 2012 pursuant to the Commission's Order in Case No. 12-1811-GE-RDR. Noting that Duke plans to replace its automated gas meter reading infrastructure due to obsolete communication systems, OCC maintains that the Company should not be permitted to continue charging customers under Rider AU for infrastructure that is being replaced. For these reasons, OCC contends that the Commission should direct Duke to file a natural gas rate case within the next 12 months, in order to ensure that customers are charged just and reasonable rates and receive the benefits of actual operational savings. OCC further recommends that the Commission conduct a thorough prudence review of Duke's SmartGrid investment. (OCC Br. at 2, 4-5.)

{¶ 20} Duke, in its brief, notes that its application incorporates no new capital investment and merely updates the Rider AU revenue requirement to reflect a decrease

in rate base as assets are depreciating, which will continue to provide a benefit to customers each year. Duke emphasizes that there have been no new investments related to the initial deployment of its natural gas SmartGrid program since 2014 and that Staff has conducted a prudency review of the Company's incremental investment in each annual proceeding to adjust Rider AU. Duke argues that there is no cause to require a rate case and that OCC is afforded the opportunity to make its case by filing a complaint under R.C. 4905.26. Duke adds that it is unlikely that the result of a rate case would be lower overall rates for customers, given that the Company has made significant capital investments in its system and seen increases in operating and maintenance expenses since the last rate case. Finally, Duke asserts that, despite OCC's opposition, single-issue ratemaking is permitted under R.C. Chapter 4929 and there is no requirement that the Company file a base rate case, even with no new investment reflected in Rider AU. (Duke Br. at 1-4.)

{¶ 21} OCC responds that, contrary to Duke's characterization of OCC's position, OCC does not oppose the proposed Rider AU charge or the calculations in the Company's application. OCC states that the Commission should approve the proposed charge, while also directing Duke to file a natural gas distribution rate case. Further, claiming that single-issue ratemaking harms consumers, OCC argues that Duke takes a narrow view of ratemaking that does not consider other factors, such as the actual savings realized from the SmartGrid program and the Company's overall revenues. OCC asserts that Duke's charges must be just and reasonable under Ohio law, which means that the Commission should adopt a holistic approach to ratemaking and examine all of the factors that influence the Company's distribution rates. (OCC Reply Br. at 2-4.)

C. Commission Conclusion

{¶ 22} Upon review of Duke's application and the parties' positions in this matter, the Commission finds that the Company's unopposed request to adjust its charge for Rider AU to \$0.60 per meter per month, with gas-only customers receiving a \$0.29 credit

per meter per month, is reasonable and should be approved. The Commission, therefore, finds that Duke should be authorized to include the revised charge and credit for Rider AU in its tariff, effective on a bills-rendered basis.

{¶ 23} With respect to OCC's recommendations in this proceeding, the Commission does not agree that it is necessary at this time to require Duke to file a natural gas distribution rate case or to order an independent review of the Company's natural gas grid modernization program and proposals for replacement of the program, as recommended by OCC witness Williams (OCC Ex. 5 at 3-4). However, as to the latter recommendation, we agree with Mr. Williams that a review should be conducted to examine whether the SmartGrid assets that Duke has deployed for its gas operations continue to be used and useful on a going-forward basis. In Duke's recent electric rate proceedings, the Commission approved a stipulation and recommendation between Duke and a number of other parties that provides for an advanced metering infrastructure (AMI) transition to facilitate the replacement of meters and communications infrastructure for residential customers, including a plan for the recovery of the associated costs. *In re Duke Energy Ohio, Inc.*, Case No. 17-32-EL-AIR, et al., Opinion and Order (Dec. 19, 2018) at ¶¶ 209-220.

{¶ 24} As Duke witness Lawler acknowledged, the Commission-approved stipulation does not resolve or address issues related to the AMI transition's effect on the Company's gas distribution business, although the Company plans to replace 48,800 Badger gas communication modules during 2017-2018 (Tr. at 25-26). Ms. Lawler emphasized that Duke does not seek to recover any costs related to the gas meter technology replacement or any additional capital expenditures in this proceeding (Duke Ex. 4 at 5). Ms. Lawler, however, also explained that Duke continues to collect, through Rider AU, a return on the rate base, depreciation, property taxes, and incremental expenses related to information technology, system support, data transfer fees, and any other costs that can be directly attributed to the SmartGrid program (Duke Ex. 2 at 2-4).

As Mr. Williams testified, Duke's customers may unreasonably continue to pay charges through Rider AU for costs associated with equipment that is no longer used and useful, given the Company's plans to replace certain AMI components for the gas distribution system (OCC Ex. 5 at 3-5; Tr. at 49-50). Accordingly, the Commission directs Staff, in Duke's next annual proceeding to adjust Rider AU, to thoroughly evaluate this issue in the course of its review, including, as necessary, a field audit or other physical verification of the Company's AMI components for its gas operations.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

{¶ 25} Duke is a natural gas company and a public utility as defined in R.C. 4905.03 and R.C. 4905.02, respectively. As such, Duke is subject to the jurisdiction of this Commission.

{¶ 26} On June 29, 2018, Duke filed an application to adjust Rider AU for grid modernization deployment costs incurred in 2017.

{¶ 27} 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.

{¶ 28} An evidentiary hearing was held on May 2, 2019.

{¶ 29} Initial briefs were filed by Duke and OCC on May 30, 2019. OCC filed a reply brief on June 6, 2019.

{¶ 30} Duke's proposed adjustment to Rider AU is reasonable, supported by the evidence of record, and should be approved.

{¶ 31} Duke should be authorized to file revised tariffs, consistent with this Opinion and Order.

IV. ORDER

{¶ 32} It is, therefore,

{¶ 33} ORDERED, That Duke's proposed adjustment to Rider AU be approved. It is, further,

{¶ 34} ORDERED, That Staff comply with the directive set forth in Paragraph 24. It is, further,

{¶ 35} ORDERED, That Duke be authorized to file tariffs, in final form, consistent with this Opinion and Order. Duke shall file one copy in this case docket and one copy in its TRF docket. It is, further,

{¶ 36} ORDERED, That the effective date of the new tariffs shall be a date not earlier than the date upon which the final tariff pages are filed with the Commission. It is, further,

{¶ 37} ORDERED, That nothing in this Opinion and Order shall be binding upon the Commission in any future proceeding or investigation involving the justness or reasonableness of any rate, charge, rule, or regulation. It is, further,

{¶ 38} ORDERED, That a copy of this Opinion and Order be served upon each party of record.

COMMISSIONERS:

Approving:

Sam Randazzo, Chairman

M. Beth Trombold

Lawrence K. Friedeman

Daniel R. Conway

Dennis P. Deters

SJP/sc

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Summary: Opinion & Order The Commission approves the application of Duke Energy Ohio, Inc. to adjust its advanced utility rider for 2017 grid modernization costs. electronically filed by Docketing Staff on behalf of Docketing.