BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Review of Duke Energy Ohio, Inc.'s Distribution Capital Investment Rider.	: : :	Case No. 19-1287-EL-RDR

REPLY COMMENTS
SUBMITTED ON BEHALF OF THE STAFF OF THE PUBLIC UTLITIES COMMISSION OF OHIO

I. Introduction

On April 2, 2015, the Public Utilities Commission of Ohio (Commission) modified and approved an application for an Electric Security Plan (ESP) filed by Duke Energy Ohio, Inc. (Duke or the Company) for the period June 1, 2015, through May 31, 2018.[1] In the ESP III Opinion and Order, the Commission established a Distribution Capital Investment (DCI) rider to allow for the recovery of capital costs for distribution infrastructure investments. The DCI rider was to be reviewed by Commission Staff (Staff) or an independent auditor annually for accounting accuracy, prudency, and compliance with the Commission's ESP III Opinion and Order.[2]

By Entry on May 30, 2018, in the ESP III Case, the Commission granted Duke's request to extend the ESP, including Rider DCI, until a new application for an ESP was approved. In doing so, the Commission initially extended the 2018 $35 million revenue

[1] *In the Matter of the Application of Duke Energy Ohio, Inc. for Authority to Establish a Standard Service Offer Pursuant to R.C. 4928.143 in the Form of an Electric Security Plan, Accounting Modifications, and Tariffs for Generation Service*, Case No. 14-841-EL-SSO, *et. al.*, (ESP III) Opinion and Order (April 2, 2015) (ESP III Opinion and Order).

[2] *Id*. at 70-72.

cap collection period for Rider DCI until August 1, 2018. In a Second Entry on Rehearing issued July 25, 2018, the Commission granted Duke's application for rehearing, in part, and set a monthly $5 million cap for Rider DCI until a new ESP was approved. Thereafter, on December 19, 2018, the Commission approved a stipulation that, among other things, established a new ESP, the ESP IV Case, and continued Rider DCI.[3]

In the instant case, on June 19, 2019, the Commission issued an Entry directing Staff to issue a Request for Proposal (RFP) to acquire audit services to assist the Commission with the review of Duke's DCI rider. On July 31, 2019, Rehmann Consulting (the Auditor) was selected as the contractor and was directed to file a final audit report on December 13, 2019. The Auditor filed its report (the Audit Report) on December 13, 2019.

On January 23, 2020, the Attorney Examiner issued an Entry establishing February 28, 2020 as the filing deadline for Comments on the Auditor Report and March 20, 2020 as the deadline for the filing of Reply Comments. On February 28, 2020 Duke, the Office of the Consumers' Counsel (OCC) and Staff filed Comments. These are Staff's Reply Comments. They discuss only the areas where Duke has raised objections or proffered alternatives to the recommendations of the Auditor. If not mentioned here, it is Staff's understanding that Duke has accepted the recommendations of the Auditor.

---

[3] *In the Matter of the Application of Duke Energy Ohio, Inc. for Authority to Establish a Standard Service Offer Pursuant to R.C. 4928.143 in the Form of an Electric Security Plan, Accounting Modifications, and Tariffs for Generation Service*, Case No. 17-1263-EL-SSO, *et. al.*, Opinion and Order (Dec 19, 2019) (ESP IV Opinion and Order).

II. Review and Recommendation

Duke disagrees with the Auditor's recommendation that all distribution plant work orders that have a correlated transmission plant work order and were charged to DCI from July 1, 2018 to June 30, 2019 should be reviewed by Duke staff for appropriate charging between distribution and transmission plant.[4] Duke argues that a separate Auditor Recommendation to have these transactions receive a second review and signature is sufficient. While Staff agrees with Duke that this review will be beneficial in finding incorrectly booked transactions going forward, it will not ensure that plant added during the audit period was booked correctly. Staff notes that this issue occurred in last year's audit, causing a significant impact on the DCI. The Auditor found $20,341,971 booked in distribution plant which should have been booked to transmission plant in their Audit last year in Case No. 18-1036-EL-RDR. Staff recommends that Duke Staff review all distribution plant work orders that have a correlated transmission plant work order and were charged to DCI for the audit period.

Duke accepts the Auditor's recommendation to perform an operational audit of contractor charges, but states that the Auditor's completion date is not feasible. [5] Instead, Duke proposes that by September 30, 2020, they will complete an operational audit of contractor charges for work completed between January 1, 2020 and June 30, 2020. Staff finds Duke's proposal to be reasonable.

Duke comments that timely Automatic Review for Closing (ARC) rules follow-

---

4 Duke Comments at 2-3.
5 Duke Comments at 3-4.

ups should be completed within twelve months, as opposed to Auditor's recommendation of nine months.[6] The Auditor recommended that the ARC rules review timeframe should match the Work Order Estimation Process which Duke created on September 30, 2019. When the Auditor reviewed Duke's Capitalization Policy, twelve months was listed for work order estimating. However, the Work Order Estimation Process stated only nine months. Staff agrees to the twelve-month time frame requested by Duke but recommends that Duke update their Work Order Estimation Process documentation for the twelve-month timeframe as well.

Duke disagrees with the Auditor's recommendations pertaining to documenting and photographing removal of danger trees for several reasons.[7] However, as currently documented, Duke is not able to support the removal and capitalized accounting treatment of the removal of danger trees with any evidence that can be audited after the tree is removed to ensure that it was dead or dying and in danger of falling into the distribution system. By supplying photographic evidence, the Auditor can verify that the tree was dead or dying and can also visually see the location of the tree compared to the distribution assets its removal is protecting. The record of the height of the tree will also allow the auditor to verify if the tree falling could strike distribution assets. Therefore, Staff supports the Auditor's recommendations for documentation of danger trees being removed.

Duke also disagrees with the recommendation to review 10% of danger trees

---

6 Duke Comments at 4-5.
7 Duke Comments at 5-6.

before they are removed and a different 10% after they are removed.[8] Duke proposes to review danger tree removal on a sliding scale. Staff cannot support Duke's recommendation at this time. Duke's proposal lacks specificity as to the universe of trees to be audited, the kinds of deficiencies that would trigger an increased audit review, and what constitutes a "sliding scale audit procedure." In order to properly analyze or vet Duke's proposal, Staff requires more details concerning the initial amount of danger trees to be reviewed, the amount or percent and type of deficiencies found that would trigger a larger audit, as well the increased amount of danger trees to be reviewed should the amount of deficient danger trees trigger a larger scope to be reviewed.

Duke disagrees with the Auditor's recommendation that a separate detailed audit of all tree trimming invoices which were charged to DCI between July 1, 2018 and June 30, 2019 be performed.[9] Duke argues that their total findings of $11,538 are negligible. Staff disagrees with this assessment. The Auditor reviewed a total of 15 work orders as part of their review. Of these 15 work orders, five of them had tree trimming charges on them, totaling $21,725. Of the five work orders with tree trimming on them, two contained overcharges, totaling $5,529, or 25.45% of the total tree trimming dollars in the review sample. Based on this high percentage of costs that were capitalized improperly, Staff believes further analysis into tree trimming costs during the audit period is warranted. If this overcharge was extrapolated to the total amount of tree trimming invoices from the audit period, totaling $10,127,796, an estimated $2,577,524 could

[8] Duke Comments at 6-7.
[9] Duke Comments at 7-8.

have been overcharged. Also, as part of an additional review, a duplicate invoice of $6,009 was found in a sample of 25 invoices. If extrapolated over the total 1,452 tree trimming invoices over the audit period, an estimated $349,002 could have been charged to customers due to duplicate invoicing. Staff believes that all tree trimming invoices should be audited so that any overcharges can be quantified and removed from the DCI.

Duke disagrees that a Tree Trimming Supervisor should be required to sign, date, and list on the invoice the amount of any Operations and Maintenance (O&M) to capital overrides.[10] Instead, Duke proposes to no longer update accounting after an invoice is submitted, and instead request a corrected copy of an incorrect invoice from the vendor. Staff accepts Duke's proposal.

Duke disagrees that a separate audit be performed to review any other contribution in aid of construction (CIAC) postings unrecorded in work orders and therefore would be in the DCI from July 1, 2018 to June 30, 2019.[11] Duke states that they do not believe this to be a systematic issue, and that the recently implemented improvements should be allowed to continue for some time before considering if an audit is needed. However, the Auditor found in a sample of 13 work orders that $1,815,208 out of $2,909,945 billable to customers was either not recorded timely or at all, or 63% of the sampled dollar amount. The Auditor also found that after the audit period, in September 2019, there was still $296,024 unposted to work orders. Staff disagrees with Duke that this is not a significant, systemic issue. This argument also ignores the fact that the time frame the

---

10 Duke Comments at 8.

11 Duke Comments at 9.

audit would be completed would be prior to the time the improvements went into effect. Staff urges the Commission to require that Duke audit to review any other CIAC postings unrecorded in work orders and require Duke to credit customers for any errors found.

Duke disagrees with the recommendation that cost or removal in Retirement Work in Progress (RWIP) be captured for the incentive pay offset as well as in each future quarterly DCI filing.[12] Duke argues that the removal costs for the assets that are being replaced have already been accrued through ongoing Commission approved depreciation rates and related to assets that were placed in service before the date certain of Duke's last rate case (Case No. 17-0032-EL-AIR). Further, Duke argues, the language of the Opinion and Order of that case allows the Company to recover earnings-based incentives on assets placed in service prior to the date certain of June 30,2016. Staff disagrees with Duke's interpretation of the Opinion and Order in Case No. 17-0032-EL-AIR. The costs related to RWIP are new costs, not costs that were included as part of the plant in service amounts in the rate case. Therefore, as these are new costs, the financial based incentive compensation should be removed.

[12] Duke Comments at 9-10.

Respectfully submitted,

Dave Yost
Ohio Attorney General

John Jones
Section Chief

/s/ Steven L. Beeler

Steven L. Beeler
Steven T. Darnell
Assistant Attorneys General
Public Utilities Section
30 East Broad Street, Floor 16
Columbus, OH 43215-3793
614.466.4395 (telephone)
614.644.8764 (fax)
steven.beeler@ohioattorneygeneral.gov
steven.darnell@ohioattorneygeneral.gov

PROOF OF SERVICE

I hereby certify that a true copy of the foregoing **Reply Comments** submitted on behalf of the Staff of the Public Utilities Commission of Ohio, was served via electronic mail upon the following Parties of Record, this 20th day of March, 2020.

/s/ Steven L. Beeler
Steven L. Beeler
Assistant Attorney General

Parties of Record:

Ambrosia Logsdon
Assistant Consumers' Counsel
Office of the Ohio Consumers' Counsel
65 East State Street, 7th Floor
Columbus, Ohio 43215
ambrosia.logsdon@occ.ohio.gov

Larisa M. Vaysman
Rocco D'Ascenzo
Duke Energy Business Services LLC
155 East Broad St., 20th Floor
Columbus, OH 43215
larisa.vaysman@duke-energy.com
rocco.dascenzo@duke-energy.com

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

3/20/2020 3:30:07 PM

in

Case No(s). 19-1287-EL-RDR

Summary: Reply Comments submitted on behalf of the staff of the Public Utilities Commission of Ohio electronically filed by Mrs. Kimberly M Naeder on behalf of PUCO