

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF
DUKE ENERGY OHIO, INC. FOR
APPROVAL OF AN ALTERNATIVE FORM OF
REGULATION TO ESTABLISH A CAPITAL
EXPENDITURE PROGRAM RIDER
MECHANISM.

CASE NO. 19-791-GA-ALT

ENTRY

Entered in the Journal on May 27, 2020

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

{¶ 2} Under R.C. 4929.05, a natural gas company may seek approval of an alternative rate plan by filing an application under R.C. 4909.18, regardless of whether the application is for an increase in rates. After an investigation, the Commission shall approve the plan if the natural gas company demonstrates, and the Commission finds, that the company is in compliance with R.C. 4905.35, is in substantial compliance with the policy of the state as set forth in R.C. 4929.02, and is expected to continue to be in substantial compliance with that state policy after implementation of the alternative rate plan. The Commission must also find that the alternative rate plan is just and reasonable.

{¶ 3} Pursuant to R.C. 4929.111, a natural gas company may file an application under R.C. 4909.18, 4929.05, or 4929.11 to implement a capital expenditure program (CEP) for any of the following: any infrastructure expansion, infrastructure improvement, or infrastructure replacement program; any program to install, upgrade, or replace information technology systems; or any program reasonably necessary to comply with any rules, regulations, or orders of the Commission or other governmental entity having jurisdiction. In approving the application, the Commission shall authorize the natural gas company to defer or recover both of the following: a regulatory asset for the post-in-service carrying costs (PISCC) on the portion of the assets of the CEP that are placed in service but

not reflected in rates as plant in service; and a regulatory asset for the incremental depreciation directly attributable to the CEP and the property tax expense directly attributable to the CEP. A natural gas company shall not request recovery of the PISCC, depreciation, or property tax expense under R.C. 4929.05 or R.C. 4929.11 more than once each calendar year.

{¶ 4} In Case No. 13-2417-GA-UNC, et al., the Commission modified and approved Duke's application to implement a CEP in 2013 and succeeding years, pursuant to R.C. 4909.18 and 4929.111. The Commission also approved Duke's request for accounting authority to capitalize PISCC on program investments for assets placed in service but not yet reflected in rates; defer depreciation expense and property tax expense directly attributable to the CEP; and establish a regulatory asset to which PISCC, depreciation expense, and property tax expense are deferred for future recovery in a subsequent proceeding. Duke was authorized to accrue deferrals under the CEP until the accrued deferrals, if included in the Company's residential service rates, would cause the rates charged to residential customers to increase by more than \$1.50 per month. Additionally, the Commission noted that the prudence and reasonableness of Duke's CEP-related regulatory assets and associated capital spending would be considered in any future proceedings seeking cost recovery, at which time the Company would be expected to provide detailed information regarding the expenditures for the Commission's review. *In re Duke Energy Ohio, Inc.*, Case No. 13-2417-GA-UNC, et al., Finding and Order (Oct. 1, 2014).

{¶ 5} On April 1, 2019, in the above-captioned case, Duke filed a notice of intent to file an application for approval of an alternative rate plan under R.C. 4929.05. Duke noted that the application would request approval to establish a CEP rider mechanism.

{¶ 6} On May 3, 2019, and May 9, 2019, Duke filed an alternative rate plan application, along with supporting exhibits and testimony, pursuant to R.C. 4909.18, 4929.05, 4929.11, and 4929.111. The application seeks to establish a new rider mechanism to recover CEP costs (Rider CEP). Specifically, Duke states that the purpose of the proposed Rider CEP is to recover the PISCC, incremental depreciation expense, and property tax

expense deferred under the CEP, as well as a return of and return on the underlying assets. Duke also proposes to make annual Rider CEP filings by April 30, starting in 2020, and seeks to continue deferring expenses associated with new CEP investments until recovery begins on the underlying assets.

{¶ 7} On May 3, 2019, Duke also filed a motion for waiver of certain standard filing requirements. By Entry dated June 19, 2019, the Commission granted, in part, and denied, in part, Duke's motion for waiver. On October 10, 2019, Staff filed correspondence indicating that, on September 9, 2019, Duke had filed the additional information required by the June 19, 2019 Entry and that the Company's application is now in compliance with Ohio Adm.Code 4901:1-19-06(C).

{¶ 8} On September 26, 2019, the Commission directed Staff to issue a request for proposal (RFP) for audit services to assist the Commission with an audit of Duke's CEP and associated CEP costs and deferrals.

{¶ 9} By Entry dated October 23, 2019, the Commission selected Larkin & Associates PLLC (Larkin) to conduct the audit of Duke's CEP and associated CEP costs and deferrals. Additionally, the Commission determined that Duke's application shall be deemed to have been filed as of September 9, 2019.

{¶ 10} On February 13, 2020, the attorney examiner granted Duke's request for a 60-day extension of the RFP's audit timeline, with the final audit report to be filed by May 11, 2020.

{¶ 11} On May 11, 2020, Larkin filed its audit report. Further, on May 22, 2020, Staff filed its report of investigation pursuant to Ohio Adm.Code 4901:1-19-07(C).

{¶ 12} To assist the Commission with its review of Duke's CEP application, the attorney examiner finds that the following procedural schedule should be established:

- (a) Consistent with Ohio Adm.Code 4901:1-19-07(F), the deadline for the filing of objections shall be June 22, 2020.

- (b) All motions to intervene shall be filed by June 22, 2020.
- (c) The deadline for the filing of expert testimony shall be August 25, 2020.
- (d) A hearing shall commence on September 1, 2020, at 10:00 a.m. Unless otherwise ordered by the Commission, the hearing will be held in Hearing Room 11-C, at the offices of the Commission, 180 East Broad Street, 11th Floor, Columbus, Ohio 43215.

{¶ 13} The attorney examiner requires that, in the event that any motion is made in this proceeding prior to the issuance of the Commission's order, any memorandum contra shall be filed within five business days after the service of such motion, and a reply memorandum to any memorandum contra shall be filed within three business days. Parties shall provide service of pleadings via hand delivery, facsimile, or e-mail.

{¶ 14} In addition, the attorney examiner finds that the response time for discovery shall be shortened to seven calendar days. Unless otherwise agreed to by the parties, discovery requests and replies shall be served by hand delivery, facsimile, or e-mail. An attorney serving a discovery request shall attempt to contact, in advance, the attorney upon whom the discovery request will be served to advise him/her that a request will be forthcoming.

{¶ 15} It is, therefore,

{¶ 16} ORDERED, That the procedural schedule set forth in Paragraph 12 be adopted. It is, further,

{¶ 17} ORDERED, That the parties adhere to the processes established in Paragraphs 13 and 14. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/ Sarah J. Parrot

By: Sarah J. Parrot
Attorney Examiner

NW/kck

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Case No(s). 19-0791-GA-ALT

Summary: Attorney Examiner Entry ordering the deadline for the filing of objections by 6.22.20; all motions to intervene shall be filed by 6.22.20; the deadline for the filing of expert testimony shall be 8.25.20 and scheduling a hearing for 9.1.20 at 10:00 a.m. Any memorandum contra shall be filed within five business days after the service of such motion, and a reply memorandum to any memorandum contra shall be filed within three business days. In addition, the response time for discovery shall be shortened to seven calendar days. electronically filed by Kelli C King on behalf of Sarah J. Parrot, Attorney Examiner, Public Utilities Commission of Ohio