

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF
DUKE ENERGY OHIO, INC. FOR
APPROVAL OF ITS TEMPORARY PLAN
AND WAIVER OF TARIFFS AND RULES
RELATED TO THE COVID-19 STATE OF
EMERGENCY.

CASE No. 20-599-GE-UNC

SUPPLEMENTAL FINDING AND ORDER

Entered in the Journal on July 29, 2020

I. SUMMARY

{¶ 1} The Commission approves the transition plan filed by Duke Energy Ohio, Inc. to terminate the waiver of certain provision of the Ohio Administrative Code and corresponding provisions of its tariff and return to pre-COVID-19 activities and operations.

II. PROCEDURAL HISTORY

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

{¶ 3} R.C. 4909.16 provides, in part, that, in the event of an emergency, when the Commission finds it necessary to prevent injury to the business or interests of the public or of any public utility, it may temporarily alter, amend, or suspend any existing rates or schedules.

{¶ 4} On March 9, 2020, the governor signed Executive Order 2020-01D (Executive Order), declaring a state of emergency in Ohio to protect the well-being of Ohioans from the dangerous effects of COVID-19. As described in the Executive Order, state agencies are required to implement procedures consistent with recommendations from the Department of Health to prevent or alleviate the public health threat associated with COVID-19. Additionally, all citizens are urged to heed the advice of the Department of Health regarding this public health emergency in order to protect their health and safety. The Executive Order was effective immediately and will remain in effect until the COVID-19 emergency no

longer exists. The Department of Health is making COVID-19 information, including information on preventative measures, available via the internet at coronavirus.ohio.gov/.

{¶ 5} Pursuant to R.C. 3701.13, the Ohio Department of Health has supervision of “all matters relating to the preservation of the life and health of the people” and the “ultimate authority in matters of quarantine and isolation.” On March 12, 2020, the Director of the Ohio Department of Health issued an Order indicating that “all persons are urged to maintain social distancing (approximately six feet away from other people) whenever possible.”

{¶ 6} On March 12, 2020, the Commission opened Case No. 20-591-AU-UNC and directed all utility companies in this state to review their disconnection procedures in light of the state of emergency. *In re the Proper Procedures and Process for the Commission's Operations and Proceedings During the Declared State of Emergency and Related Matters*, Case No. 20-591-AU-UNC (*Emergency Case*), Entry (Mar. 12, 2020) at ¶ 7. On March 13, 2020, the Commission extended its winter reconnection order through May 1, 2020, and directed all utility companies in this state to review their reconnection procedures. *Emergency Case*, Entry (Mar. 13, 2020) at ¶ 6. In the March 12, 2020, and March 13, 2020 Entries, the Commission also directed all utility companies to promptly seek any necessary approval, for the duration of the emergency, to suspend otherwise applicable disconnection or reconnection requirements that may impose a service continuity or service restoration hardship on residential and non-residential customers or create unnecessary COVID-19 risks associated with social contact. The Commission determined that such filings shall be deemed approved on an emergency basis for a period of at least 30 days effective as of the filing date or until such date as the Commission may otherwise specify, which shall not be less than 30 days.

{¶ 7} On March 19, 2020, Duke filed an application proposing a temporary plan for addressing the COVID-19 state of emergency, which seeks the Commission's approval of certain policies, practices, and requirements the Company seeks to suspend pursuant to the

Commission's March 12, 2020, and March 13, 2020 Entries and waiver of certain administrative rules. Duke proposed to suspend all disconnections for non-payment, waive all late-payment fees, waive electronic payment fees (credit cards, debit cards, electronic checks) for residential customers, waive credit reviews for reconnection, as well as other actions intended to minimize customer contact. Thereafter, Duke filed a request for additional waivers on May 4, 2020.

{¶ 8} By Entry dated March 20, 2020, the Commission directed all utility companies to suspend in-person, actual meter readings in circumstances where a meter is located inside a customer's home or similar location, as well as all other non-essential functions that may create unnecessary COVID-19 risks associated with social contact. The Commission also clarified that requests for accounting authority or incremental cost recovery related to the emergency will be addressed in each utility's individual case by subsequent entry. *Emergency Case*, Entry (Mar. 20, 2020) at ¶¶ 10-11, 13.

{¶ 9} On April 8, 2020, in the *Emergency Case*, the Commission, among other things, extended the 30-day automatic approval period for filings to suspend otherwise applicable disconnection requirements for an additional 30 days, unless otherwise ordered by the Commission. *Emergency Case*, Finding and Order (Apr. 8, 2020) at ¶ 9.

{¶ 10} On June 17, 2020, the Commission granted, in part, the request of Duke for waiver of certain rules, consistent with Staff's recommendations. Additionally, the Commission acknowledged the state's relaxation of certain social distancing restrictions and directed Duke to work with Staff to develop a single, comprehensive plan to resume activities and operations, including timelines, and file the plan at least 45 days prior to resuming such activities and operations. Interested parties were directed to file comments within ten days of the filing of the plan.

{¶ 11} On June 26, 2020, Duke filed its plan to resume pre-emergency operations and activities in compliance with the Commission's rules. Responsive comments were filed

jointly by the Legal Aid Society of Greater Cincinnati, Ohio Consumers' Counsel, and Pro Seniors, Inc. (collectively, the Consumer Groups).

III. DISCUSSION

{¶ 12} In its transition plan, Duke acknowledges that the Company adjusted services to incorporate necessary health guidance and state-issued protocols. Duke states it has continued to perform all safety-related service work as well as other essential services. Although beyond the scope of this proceeding, Duke states that certain safety-related services were resumed on June 26, 2020, including necessary equipment upgrades, leak repairs, non-routine inspections, customer-requested investigations, and service line work. Duke explains that all Company employees and contractors who may interact with customers or engage in field work have access to necessary personal protective equipment (PPE) and maintain social distancing as much as possible. Further, Duke states the Company contacts all customers in advance of any scheduled work, explains all safety protocols, and informs customers that they may refuse service and reschedule. As required, Duke additionally provided a plan to resume certain activities that were suspended in response to COVID-19. Additionally, the Company provided a communication plan to inform customers about the transition plan, including through written communication, updates to the website, and an outbound call campaign for some non-residential customers.

A. *Resumption of Field Activities Suspended Due to Social Contact*

{¶ 13} As described in its transition plan, Duke will gradually resume activities for all suspended, delayed, and deferred non-essential service related activities. Specifically, services for interior meters, including routine inspections, meter reading, and non-essential meter replacement will resume on August 10, 2020. Duke asserts this does not apply to disconnections for non-payment. Also by August 10, 2020, Duke plans to resume: customer-requested disconnections of internal natural gas services, compliance repairs of temporarily-remedied service lines, and investigations required under Ohio Adm.Code 4901:1-10-04. By August 17, 2020, Duke proposes to resume compliance with service renewals for low

cathodic protection reads. By August 21, 2020, Duke proposes to resume compliance with remediating grade two leaks. And, finally, by August 24, 2020, Duke seeks to resume designated build leak surveys. The Company additionally requests until May 31, 2021, to come into compliance with requirements related to certain in-premises inspections that were delayed, suspended, or rescheduled due to COVID-19 concerns. No comments were submitted in opposition to Duke's plan for a resumption of field activities.

{¶ 14} The Commission finds that Duke's plan to resume field activities should be approved. In doing so, we recognize the Company's commitment to provide employees and contractors with necessary PPE and to observe social distancing guidelines, as well as other precautionary measures. We additionally grant Duke's request to extend the deadline until May 31, 2021, to meet requirements related to in-premises inspection affected by the response to COVID-19.

B. Disconnection and Reconnection Activities

{¶ 15} Regarding its billing practices, Duke asserts the Company will continue to proactively inform customers through text messages, e-mails, and the Company's website of the resumption of disconnections for non-payment, as well as the resumption of previously suspended fees and disconnection notices. According to the Company, Duke has been proactively engaging with customers accumulating arrearages to offer payment plans. Duke explains that customers can now self-enroll in three- or six-month payment plans via the Company's website without contacting the call center. Additionally, Duke avers it will continue to offer flexible extended payment plans to customers on a case-by-case basis. By August 10, 2020, Duke proposes to resume normal billing practices, including late payment fees and disconnection notices. As estimated by Duke, disconnections for non-payment would begin in September 2020. Additionally, by September 1, 2020, the Company would also resume assessing reconnection fees. Finally, Duke avers it will coordinate with Ohio Development Services Agency (ODSA) to resume the Percentage of Income Payment Plan (PIPP) program and Graduate PIPP program as they were prior to the declared state

of emergency. Duke states it will also resume third-party payment processing fees on October 1, 2020.

{¶ 16} In response, the Consumer Groups submit that Duke's plan should be rejected. The groups first argue that the Commission should have a uniform approach for all utilities to transition back to normal operations. The Consumer Groups submit that there is no imminent conclusion to the state of emergency and each utility appears to have different deadlines. The Consumer Groups additionally maintain that disconnections for non-payment should not resume until the state of emergency has ended. According to the Consumer Groups, nothing has changed to warrant lifting the suspension of disconnections. The Consumer Groups assert that consumers deserve to have peace of mind that an essential utility service will not shut off during this crisis. The Consumer Groups further argue that Duke should be more flexible with its payment plans. First, the groups aver that Duke should offer the additional nine-month payment plan as a self-enroll option on the Company's website. Also, the Consumer Groups ask that Duke offer 12-month and 24-month plans for exceptional circumstances. According to the Consumer Groups, such options were included in the transition plans of other utilities. The Consumer Groups additionally submit that Duke should disclose how PIPP customers will be treated in the transition plan. Finally, the Consumer Groups maintain that late payment fees, reconnection fees, and third-party payment processing fees should continue to be suspended. As explained by the Consumer Groups, the state of emergency is ongoing and the accumulation of fees only makes things more difficult for consumers.

{¶ 17} The Commission recognizes that many customers may continue to experience financial stress as a result of COVID-19, despite the gradual reopening of businesses throughout Ohio. We recognize, however, that the Commission previously extended the winter reconnect order until May 1, 2020, which provided customers with additional options to reconnect service or avoid the disconnection of service. *Emergency Case*, Entry (Mar. 13, 2020) at ¶ 8, citing Case No. 19-1472-GE-UNC. Further, we previously acknowledged in the June 17, 2020 Finding and Order that service disconnections for non-

payment cannot be extended indefinitely. Thus, we decline to adopt the Consumer Groups' recommendation to indefinitely suspend disconnections for non-payment. The Commission notes that Duke's proposed transition plan attempts to make payment plans easier and more flexible for customers. We observe that Duke now allows customers to set up three- and six-month payment plans through the Company's website. The Commission encourages Duke to additionally offer the nine-month payment option through the website. Duke additionally avows to offer other, additional flexible payment plans on a case-by-case basis. The Commission strongly encourages Duke's customer service representatives to continue to provide residential customers with delinquent accounts or who wish to avoid delinquent accounts with the extended payment plan options, including PIPP, as set forth in Ohio Adm.Code 4901:1-18-05, as well as additional information regarding payment assistance. As to the resumption of late payment fees, reconnection fees, and third-party processing fees, we determine that Duke's plan is reasonable. However, as we expressed in the June 17, 2020 Finding and Order, we encourage Duke to be flexible with the deferment of charges and fees during the course of this emergency. Finally, regarding PIPP customers, the Commission affirms that Duke should work with ODSA to resume the PIPP program and the Graduate PIPP program as they were prior to the state of emergency. By August 7, 2020, Duke shall file a notice in the docket confirming how the PIPP and Graduate PIPP programs will resume to normal operations.

IV. ORDER

{¶ 18} It is, therefore,

{¶ 19} ORDERED, That Duke's plan to resume activities and operations pursuant to certain provisions of the Ohio Administrative Code and related tariff requirements be approved, consistent with this Supplemental Finding and Order. It is, further,

{¶ 20} ORDERED, That Duke take all necessary steps to carry out the terms of this Supplemental Finding and Order. It is, further,

{¶ 21} ORDERED, That a copy of this Supplemental Finding and Order be served upon all interested persons and parties of record.

COMMISSIONERS:

Approving:

Sam Randazzo, Chairman

M. Beth Trombold

Lawrence K. Friedeman

Daniel R. Conway

Dennis P. Deters

NJW/hac

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Case No(s). 20-0599-GE-UNC

Summary: Finding & Order approving the transition plan filed by Duke Energy Ohio, Inc. to terminate the waiver of certain provision of the Ohio Administrative Code and corresponding provisions of its tariff and return to pre-COVID-19 activities and operations electronically filed by Heather A Chilcote on behalf of Public Utilities Commission of Ohio