

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 September 16, 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.

{¶ 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} By Entry dated May 27, 2020, the attorney examiner established a procedural schedule for this matter, including a deadline of August 25, 2020, for expert testimony and a hearing date of September 1, 2020.

{¶ 13} On August 14, 2020, Duke filed a motion to continue the procedural schedule and a request for expedited treatment. Duke stated that the parties have been working toward resolution of the issues. In order to permit additional discussion between the parties

regarding settlement terms, Duke requested that the hearing date be postponed until September 29, 2020, with expert testimony to be filed seven days prior to the hearing. Duke also represented that no party objected to the requested continuance or to an expedited ruling on the motion.

{¶ 14} By Entry dated August 21, 2020, the attorney examiner granted Duke's unopposed motion for continuance. The attorney examiner rescheduled the hearing to commence on September 29, 2020, and required expert testimony to be filed no later than September 22, 2020. The attorney examiner also granted Ohio Consumers' Counsel's June 7, 2019 motion to intervene in the case.

{¶ 15} On September 15, 2020, Duke filed a motion to continue the procedural schedule and a request for expedited treatment. Duke states that the parties continue to work toward resolution of the issues. In order to permit additional discussion between the parties regarding settlement terms, Duke requests that the hearing date be postponed until October 27, 2020, or later, with expert testimony to be filed seven days prior to the hearing. Duke also represents that no party objects to the requested continuance or to an expedited ruling on the motion.

{¶ 16} Upon review, the attorney examiner finds that Duke's unopposed motion is reasonable and that it should be granted. Although Duke requests the hearing be rescheduled for October 27, 2020, or later, the attorney examiner finds it appropriate not to determine a specific hearing date at this time. The evidentiary hearing date will be determined by a future entry. Due to the continued COVID-19 state of emergency declared by the governor in Executive Order 2020-01D, and given the passage of Am. Sub. H.B. 197, the hearing will be held using remote access technology that facilitates participation by telephone and/or live video on the internet. Additional details and instructions regarding remote access to the hearing will also be provided by future entry.

{¶ 17} It is, therefore,

{¶ 18} ORDERED, That Duke's motion for a continuance of the procedural schedule be granted. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/Matthew J. Sandor

By: Matthew J. Sandor
Attorney Examiner

NJW/kck

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

Summary: Attorney Examiner Entry ordering that Duke's motion for a continuance of the procedural schedule be granted. electronically filed by Kelli C. King on behalf of Matthew Sandor, Attorney Examiner, Public Utilities Commission of Ohio