

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke)
Energy Ohio, Inc., for Authority to Establish)
a Standard Service Offer Pursuant to R.C.) Case No. 14-841-EL-SSO
4928.143 in the Form of an Electric Security)
Plan, Accounting Modifications, and Tariffs)
for Generation Service.)

In the Matter of the Application of Duke)
Energy Ohio, Inc., for Authority to Amend)
its Certified Supplier Tariff, P.U.C.O. No.) Case No. 14-842-EL-ATA
20.)

**MOTION OF DUKE ENERGY OHIO, INC., TO CONTINUE
THE RIDERS INCLUDED IN THE ELECTRIC
SECURITY PLAN APPROVED HEREIN
AND
MEMORANDUM IN SUPPORT**

I. Introduction

On April 2, 2015, the Public Utilities Commission of Ohio (Commission) issued an Opinion and Order establishing Duke Energy Ohio, Inc.’s (Duke Energy Ohio or Company) third standard service offer (SSO) in the form of an electric security plan (ESP) for the period commencing June 1, 2015, and ending June 1, 2018. In doing so, the Commission, *inter alia*, approved a competitive procurement process for SSO supply and a series of riders as provided for under R.C. 4928.143. Among such riders is Duke Energy Ohio’s Distribution Capital Investment Rider (Rider DCI) that enables “a more proactive maintenance program,” thereby avoiding outcomes that are detrimental to the state’s economy.¹ In approving Rider DCI, the Commission adopted the recommendations of its Staff concerning rider caps and filing

¹ Opinion and Order, at pg. 71.

requirements applicable to the anticipated quarterly rider submissions.² As to the former recommendation and as approved by the Commission, Rider DCI has a cap of \$35 million for 2018.³ The Opinion and Order, however, did not expressly establish a definite termination date for Rider DCI, as had been recommended by Staff and challenged by the Company.

In its Opinion and Order, the Commission also directed Duke Energy Ohio to file its next application for an SSO no later than June 1, 2017, precisely one year prior to the expiration of the Company's third SSO.⁴ The Company adhered to this requirement, initiating its fourth SSO application under Case No. 17-1263-EL-SSO, *et al.* Therein, Duke Energy Ohio proposed a continuation of certain riders approved in the third SSO, including Rider DCI, albeit in a modified form.⁵ Although continued settlement discussions are occurring in respect of this fourth SSO application, it is uncertain whether an order establishing this next SSO will be issued in advance of the termination date of the third SSO, June 1, 2018.

Previously recognizing the potential for such an occurrence and the lead time needed to conduct effective competitive procurement processes, the Commission has already authorized Duke Energy Ohio to conduct auctions for the competitive procurement of supply for the term beginning June 1, 2018.⁶ But the Company also needs to maintain other aspects of its existing, statutorily mandated SSO. Therefore, it now requests a Commission order, pursuant to R.C. 4928.141, to continue the current riders of its ESP, including Rider DCI, until such time as a new SSO can be implemented. Significantly, Duke Energy Ohio is not, at this time, requesting an

² *Id.*, at pg. 72.

³ *Id.*

⁴ *Id.*, at pg. 51.

⁵ *In the Matter of the Application of Duke Energy Ohio, Inc., for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan, Accounting Modifications and Tariffs for Generation Service*, Case No. 17-1263-EL-SSO, *et al.*, Application, at pp. 12-13 (June 1, 2017).

⁶ *In the Matter of the Application of Duke Energy Ohio, Inc., for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan, Accounting Modifications, and Tariffs for Generation Service*, Case No. 17-1263-EL-SSO, Entry (December 6, 2017).

alteration of the current 2018 cap applicable to Rider DCI and instead submits that it is capable of continuing proactive investments under the rider's 2018 cap of \$35 million through at least July 2018.⁷

II. Argument

R.C. 4928.141 requires Duke Energy Ohio to provide a SSO and further directs the Company to establish an SSO under either R.C. 4928.142 or R.C. 4928.143. R.C. 4928.141 further provides that “[o]nly a standard service offer authorized in accordance with section 4928.142 or 4928.143 of the Revised Code shall serve as the utility’s standard service offer for the purposes of compliance with this section; and that standard service offer shall serve as the utility’s default standard service offer for the purpose of R.C. 4928.14 of the Revised Code.”⁸ Consistent therewith, R.C. 4928.143 makes provision for continuing an existing SSO where the utility either withdraws a pending ESP application or the Commission disapproves of such application. R.C. 4928.143 does not, however, address the possibility that a filed application for a subsequent ESP has not been ruled upon by the Commission within the 275-day period established in R.C. 4928.143(C)(1). Consequently, and to avoid a situation in which it is unable to fulfill its statutory obligation to provide an SSO, Duke Energy Ohio respectfully requests a Commission order continuing all riders currently in effect and approved through its existing ESP until such time as the effective date of its next SSO.⁹ Several riders were found by the

⁷ In the absence of an order approving Duke Energy Ohio’s next SSO effective no later than August 1, 2018, Duke Energy Ohio expressly reserves the right to seek an adjustment to the Rider DCI cap for periods commencing August 1.

⁸ R.C. 4928.141.

⁹ These riders are: Rider RC, Rider RE, Rider UE-GEN, Rider NM, Rider DDR, Rider DSR, Rider DCI, Rider DR-ECF, Rider PSR, Rider LFA, Rider BDP, and Rider SCR.

Commission to have no changes since initially approved and should reasonably continue.¹⁰ Rider DR-IM was initially approved in Case No. 08-920-EL-SSO, *et al.*, (ESP I) and continued throughout subsequent ESP cases but was not referenced in those subsequent orders.¹¹

As mentioned above, the Company complied with the Commission's order in Case No. 14-841-EL-SSO, filing its Application in Case No. 17-1263-EL-SSO, on June 1, 2017. On July 21, 2017, the Attorney Examiner established a procedural schedule leading up to a hearing date of November 13, 2017. The Company has been engaged in settlement discussions with Staff and the Intervenors over several months, as evidenced by six unopposed motions, filed by Staff, to extend the procedural schedule.¹² In each of its motions, Staff noted that the parties were continuing settlement discussions and were exploring "whether partial or complete settlement may be reached." The Company, Staff, and Intervenors, are acting in good faith to achieve this outcome and desire to continue pursuing a settlement. However, as evidenced by the numerous extensions of the procedural schedule, the process requires additional time to ensure a fair and reasonable outcome for all stakeholders.

Given the delays in the procedural schedule, it is unlikely that the Company will have an approved fourth SSO by June 1, 2018; therefore, Duke Energy Ohio requests that the

¹⁰ *In the Matter of the Application of Duke Energy Ohio, Inc., for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan, Accounting Modifications and Tariffs for Generation Service*, Case No. 11-3549-EL-SSO, *et al.*, (ESP II) Opinion and Order, at pp. 12-13, pp. 18-20 (November 22, 2011). (Rider UE-GEN, Rider AER-R and Rider BTR were approved in ESP II and found reasonable to be continued in ESP III.)

¹¹ *In the Matter of the Application of Duke Energy Ohio, Inc., for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan, Accounting Modifications and Tariffs for Generation Service*, Case No. 08-920-EL-SSO, *et al.*, Opinion and Order, at pp. 42 (December 17, 2008).

¹² See Entries Granting Staff's Motions for Extensions on November 14, 2017; November 27, 2017; December 18, 2017; January 4, 2018; January 31, 2018; and February 15, 2018.

Commission find that the provisions, terms, and conditions of the current ESP, continue until a subsequent SSO is approved and implemented.¹³

As it relates to the “provisions, terms, and conditions of the current ESP,” the Company is seeking explicit approval to extend Rider DCI, as well. It is undeniable that the Company’s proactive investment in its distribution system advances the state’s economy, facilitates improved service reliability, and further aligns the expectations of Duke Energy Ohio and its customers. Indeed, the Commission has approved, and for many EDUs has reapproved, such rider mechanisms for all of the state’s electric distribution utilities.¹⁴ A temporary suspension of the rider would delay these important objectives and unnecessarily complicate the completion of projects that involve substantial resource coordination. Temporary suspension of Rider DCI also has the potential to undermine the Commission’s worthy goal of promoting “proactive” rather than “reactive” investment in modernization of Duke Energy Ohio’s distribution grid. Such detrimental impacts can be readily avoided by confirmation that Rider DCI shall continue, in its current form and subject to the existing \$35 million cap, until the earlier of August 1, 2018, or the effective date of the Company’s fourth SSO. Notably, no party would be prejudiced by the sought-after confirmation, given that Duke Energy Ohio is not currently seeking relief from the existing cap. And, on the contrary, prejudicial impacts are avoided by allowing the Company to advance the rider’s beneficial outcomes as observed by the Commission.

¹³ See R.C. 4928.143(C)(2)(b).

¹⁴ *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan*, Case No. 10-388-EL-SSO, Opinion and Order, at pp. 11-12, 46(August 25, 2010); *see also In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan*, Case No. 12-1230-EL-SSO, Opinion and Order, at pp. 10-11, 57 (July 18, 2012); *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan*, Case No. 11-346-EL-SSO, *et al.*, Opinion and Order, at pp. 46-47 (August 8, 2012); *In the Matter of the Application of The Dayton Power and Light Company to Establish a Standard Service Offer in the Form of an Electric Security Plan*, Case No. 16-395-EL-SSO, *et al.*, Opinion and Order, at pg. 54 (Oct. 20, 2017).

The Commission has, in at least one prior SSO proceeding, approved an extension of a rider that was to expire. In its December 19, 2012, entry , the Commission granted a request by The Dayton Power & Light Company (DP&L) to extend its SSO, including a rate stabilization charge, beyond its scheduled expiration date.¹⁵ Although the cause for delayed approval of DP&L’s SSO was different than the cause for the delay in Duke Energy Ohio’s pending SSO proceeding, the rationale and legal basis for granting the extension of the “provisions, terms, and conditions” of the current ESP are no different.

III. Conclusion

For the reasons stated herein, Duke Energy Ohio respectfully requests that the Commission issue an order confirming that riders currently in effect under its existing ESP, including Rider DCI, shall continue during the pendency of the Company’s pending SSO application and until the earlier of August 1, 2018, or the effective date of its fourth SSO.

Respectfully submitted,

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¹⁵ *In the Matter of the Application of The Dayton Power and Light Company for Approval of its Market Rate Offer*, Case No. 12-426-EL-SSO, *et al.*, Entry, at pp. 3-4 (Dec. 19, 2012).

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served on the following parties via ordinary mail delivery, postage prepaid, and/or electronic mail delivery on this 9th day of March, 2018.

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