

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke)
Energy Ohio, Inc., for Authority to Change) Case No. 17-2118-GA-AAM
Accounting Methods.)

**APPLICATION OF DUKE ENERGY OHIO, INC.,
FOR AUTHORITY TO ESTABLISH A REGULATORY ASSET**

Comes now Duke Energy Ohio, Inc., (Duke Energy Ohio or Company) and states as follows:

1. Duke Energy Ohio is an Ohio corporation engaged in the business of providing natural gas service to approximately 422,000 customers in southwest Ohio and, as such, is a public utility as defined by R.C. 4905.02 and 4905.03 and subject to the jurisdiction of the Public Utilities Commission of Ohio (Commission).

2. Under R.C. 4905.13, the Commission “may establish a system of accounts to be kept by public utilities” and “may prescribe the manner in which such accounts shall be kept.” Under this authority, the Commission has determined, through the promulgation of Ohio Administrative Code (O.A.C.) 4901:1-13-13(A), that natural gas companies “shall keep their books of accounts and records in accordance with the uniform system of accounts from time to time prescribed by the federal energy regulatory commission except to the extent that the provisions of said uniform system of account are inconsistent in any way with any outstanding orders of the public utilities commission of Ohio.” Further, O.A.C. 4901:1-13-13(B) specifically authorizes the Commission to require the creation and maintenance of additional account.

3. Pursuant to R.C. 4905.22, Duke Energy Ohio has an obligation to furnish “necessary and adequate services and facilities” to its natural gas customers in southwest Ohio.

4. A portion of the Company’s service area has recently experienced an active landslide, seriously endangering a 20-inch natural gas pipeline that underlies the moving land. This pipeline is a vital and integral part of the Company’s natural gas distribution system, and will remain so in the foreseeable future, as it provides necessary system flexibility and reliability. Furthermore, approximately fifty gas service lines are connected to the impacted pipeline and continued landslide movement could pose impacts to those service lines.

5. The area at issue borders the Ohio River and has, for more than 15 years, been subject to slow “creep-type” movement, amounting to approximately one-tenth of an inch per year. However, beginning in mid-2016, that movement accelerated, causing substantial heaving and cracking of pavement areas and damage to foundations and other structures. Similarly, a railroad track that goes through the area was shown to have been dragged out of alignment. A study of the situation has also documented movement of underground sewer lines, with as much as four feet of lateral travel recorded. Testing across the area of the landslide shows a variety of current rates of movement, with one test result revealing as much as nine inches of lateral movement in 30 days, during the summer of 2017.

6. The testing results demonstrated an urgent need to slow the current rate of movement. Without addressing that movement, the natural gas line through the area would be at extreme risk, thereby placing in peril the Company’s ability to reliably serve its natural gas customers. Relocation of the line is not an option, as proper engineering, permitting, and construction would take substantial time and could not be accomplished prior to the approaching

winter heating season. Delaying a solution until after the winter heating season would be imprudent in light of the dangerous, active landslide.

7. Duke Energy Ohio is not the only owner of facilities at risk. Water and sewer lines owned by the city of Cincinnati are similarly impacted. In response to this threat, the Cincinnati Department of Transportation and Engineering commissioned a study of possible solutions. The study revealed the urgency of the situation and suggested that a retaining wall be constructed immediately. Pursuant to that study, the city ultimately chose one of the proposed locations, such that a retaining wall would be constructed above the area of the landslide, for protection of buried infrastructure.

8. Duke Energy Ohio is a beneficiary of the retaining wall. Without the retaining wall's stabilization, the Company would likely have been forced to abandon its natural gas pipeline, leaving it difficult or impossible to provide necessary and adequate service to some of its customers. Because the Company and its natural gas customers benefitted from the construction of the retaining wall, it is reasonable and prudent to contribute to its cost. The estimated cost of replacing the natural gas pipeline through the area in question would be approximately \$3 million. Therefore, the Company has agreed to pay \$3 million to the city of Cincinnati, toward the defrayal of the retaining wall's construction costs, which is the Company's estimate of the avoided cost of relocation of the affected pipeline.

9. Accordingly, Duke Energy Ohio requests authority to defer the \$3 million cost of constructing the landslide retaining wall and to make any accounting deferrals necessary to establish the associated regulatory asset. The Company also requests authority to recover carrying costs on the deferred balance, based on the Company's actual cost of long-term debt. Duke Energy Ohio proposes to record this cost as a regulatory asset on its balance sheet in

Account 182.3, Other Regulatory Assets, in accordance with the FERC Unified System of Accounts Prescribed for Natural Gas Companies.¹ Commission approval of the requested accounting treatment is necessary for the Company to assert probability of recovery of such expenditure under generally accepted accounting procedures.

10. This application only requests authority for the accounting treatment described above. Recovery of any costs deferred under this application will be addressed in a separate proceeding.

11. The requested change in accounting procedure will not result in any increase in any rate or charge. The Commission may approve this application without a hearing.

12. In some recent deferral authority proceedings, Staff of the Commission (Staff) has delineated six criteria that it believes the Commission has historically considered in determining whether to grant such authority. Those criteria are described by Staff as:

- Whether the current level of costs included the last rate case is insufficient
- Whether the costs requests to be deferred are material in nature
- Whether the problem was outside of the Company's control
- Whether the expenditures are atypical and infrequent
- Whether the costs would result in financial harm to the Company
- Whether the Commission could encourage the utility to do something it would not otherwise do through the granting of deferral authority.²

It is critical to note, however, that the Commission does not require an applicant to meet each and every one of the factors identified by Staff. For example, in the same case cited above, the Commission granted the deferral request based on its determination that the expenditure being

¹ 18 C.F.R Part 201.

² See, e.g., *In the Matter of the Application of Duke Energy Ohio, Inc. for Approval of a Grid Modernization Opt-Out Tariff and for a Change in Accounting Procedures Including a Cost Recovery Mechanism*, Case No. 14-1160-EL-UNC, *et al.*, Prefiled Testimony of David M Liphtratt, at pp. 5-6 (October 2, 2015).

considered was atypical or infrequent and that the Commission could thereby encourage the applicant to take an action that the Commission deemed desirable.³

13. The need for construction of the retaining wall is an urgent issue that developed quickly. The expenditure for construction of a retaining wall to stabilize the area around an active landslide is a highly irregular and unanticipated expense, not included in base rates, and outside the control of Duke Energy Ohio. The Commission should deem it desirable that the Company should take steps to proactively avoid potential pipeline damage that would result from continued land movement at the rates recently seen in the area. Furthermore, the Company's contribution toward the retaining wall is the most prudent and reasonable means of maintaining a safe and reliable system in the impacted area, particularly as compared with relocating the pipeline in question.

WHEREFORE, Duke Energy Ohio respectfully requests that the Commission approve this application as submitted.

Respectfully submitted,

DUKE ENERGY OHIO, INC.

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³ *Id.*, Opinion and Order, at pg. 7 (April 27, 2016).