BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke Energy Ohio, Inc., to Adjust Rider AU for 2018 Gas Grid Modernization Costs.	)))	Case No. 19-664-GA-RDR

REPLY COMMENTS
OF
DUKE ENERGY OHIO, INC.

In 2008, Duke Energy Ohio, Inc., (Duke Energy Ohio or Company) received approval from the Public Utilities Commission of Ohio (Commission) to deploy an automated gas meter reading system and to recover associated costs through Rider Advanced Utility (Rider AU).[1] Since that time, the Company has filed annual applications for approval of deployment costs incurred during the preceding year and the Commission has, each year, approved those applications after completing its review.

In 2010, approximately midway through deployment of the Company's natural gas and electric SmartGrid program, the Commission opened a docket, Case No. 10-2326-GE-UNC, "to conduct an operational audit and an operational benefits assessment of [Duke Energy Ohio's] overall SmartGrid implementation to date."[2] Responding to the audit report filed in that case, Staff recommended that the "Commission should approve moving forward beyond December 2011 with a complete deployment of SmartGrid conditioned on" additional recommendations. At no point during the deployment of natural gas or electric SmartGrid has Staff ever suggested that the

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[1] *In the Matter of the Application of Duke Energy Ohio, Inc. for an Increase in Rates*, Case No. 07-589-GA-AIR, *et al.*, Opinion and Order (May 28, 2008). Rider AU allows the Company to collect a return on rate base, depreciation, property taxes, and incremental expenses directly attributable to the SmartGrid program.
[2] *In the Matter of the Application of Duke Energy Ohio, Inc., to Adjust Rider DR-IM and Rider AU for 2010 SmartGrid Costs and Mid-Deployment Review*, Case No. 10-2326-GE-RDR, Entry, Request for Proposals No. EE10-OA01, pg. 4 (Oct. 27, 2010).

Company's investment was imprudent. Following Staff's recommendation and the Commission's order in that proceeding, the Company did complete its deployment by 2014.

As part of its 2012 Natural Gas Base Rate Case,[3] the Commission approved Duke Energy Ohio's proposal to begin recovering the costs associated with its investment in natural gas SmartGrid infrastructure that was used and useful as of March 31, 2012, the date certain in that case. In that case, based on Staff's recommendation, the Commission approved of the Company's proposal to continue Rider AU to recover incremental investment in natural gas SmartGrid infrastructure made after March 31, 2012.

In Case No. 18-837-GA-RDR (2018 Rider AU proceeding), considering recovery of 2017 expenditures, the Commission noted that Duke Energy Ohio must transition to a different type of AMI infrastructure, due to several unforeseeable issues. The Company fully supported the rationale for the transition in Case No. 17-32-EL-SSO, *et al.*, explaining that the technological support for the communication system supporting the advanced metering provided by a third-party vendor would soon be discontinued. Recognizing that the need to transition to a new smart metering system was beyond the control of the Company, the Commission provided a mechanism to recover the unamortized balance of the meters associated with electric operations that would be retired before the end of their useful life. That mechanism was the creation of a dying asset account to address the recovery of Duke Energy Ohio's investment in meters that would be retired before the end of their useful lives.

In the instant proceeding, Duke Energy Ohio is confronted with the same situation. The natural gas metering technology must be replaced, so natural gas meters must be retired before the end of their useful lives. If the Commission orders the Company to discontinue Rider AU it should

[3] *In the Matter of the Application of Duke Energy Ohio, Inc. for an Increase in Rates*, Case No. 12-1685-GA-AIR, *et al.*

still ensure that the Company can fully recover its investment. As stated earlier, the Commission encouraged the Company to complete its initial SmartGrid deployment and there has been no finding that any of the Company's investment was imprudent.

In 1993, the Ohio Supreme Court defined a prudent decision as "one which reflects what a reasonable person would have done in light of conditions and circumstances which were known or reasonably should have been known at the time the decision was made." The Court explained that "the standard contemplates a retrospective, factual inquiry without the use of hindsight judgment, into the decision making process of the utility's management."[4] At the time the decision was made to complete the initial deployment, the Company only knew that the Commission approved of such completion. It would be improper for the Commission to deny the Company full recovery of costs for an investment that was prudently incurred, based on all of the information available at the time.

The early retirement of natural gas meters installed since March 31, 2012, should not truncate recovery of that investment. Staff's recommendation to discontinue Rider AU, without offering any alternative for fully recovering the Company's prudently incurred investment, would violate the Court's standard for prudence review by invoking improper hindsight judgment. Put another way, whether the investment being recovered in the current Rider AU remains used and useful is not relevant to whether those costs can be recovered. The Ohio Supreme Court has clearly opined on whether prudently incurred costs are recoverable and it is not relevant whether the underlying asset is currently used and useful in providing utility service.

The AMI infrastructure transition affects both electric and natural gas infrastructure. There is absolutely no reason why the same events should result in one accounting treatment for electric

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[4] *Cincinnati v. Pub. Util. Comm.*, 67 Ohio St.3d 523, 5528, 620 N.E. 2d 826 (1993).

operations and a different accounting treatment for natural gas operations. Under R.C. 4905.13, the Commission could approve the creation of a dying asset account to address the recovery of Duke Energy Ohio's natural gas operations investment in meters that would be retired before the end of their useful lives. This would be consistent with how these costs are being treated for the Company's electric business. The Company would discontinue Rider AU once the dying asset accounting for the natural gas investments was approved by the Commission. The recovery of dying asset costs would then be addressed in the Company's next natural gas base rate case. In the next base rate case, the Company expects that the "dying account" concept would be applied to those meters currently being recovered in base rates that will also be retired early due to the transition. At some point, then the dying account will capture all of the meters (those being recovered in the current Rider AU and those recovered in existing base rates).

The costs recovered through Rider AU have been reviewed by Commission Staff in each annual rider filing. And, in each annual rider filing, these costs were deemed reasonable and prudent by the Commission. Each year Commission Staff recommended and the Commission ordered that the applications be approved and rates put into effect. No further audit should be needed.

It is also unreasonable for the Commission to order the Company to cease collections under Rider AU while it completes an audit that is not necessary. Nothing has changed to make the incurred costs uncollectible or unreasonable. If the Commission determines that an audit should be undertaken, it should allow the rider to continue to function pending the outcome of that audit process.

Finally, if the Commission determines an audit is necessary, at a minimum it should consider the efficiencies of joining any audit in this proceeding with the ongoing audit of natural gas infrastructure in another case, considering the initiation of a capital expenditure rider, Rider CEP. As part of its application in the Rider CEP proceeding, the Company has already provided total natural gas plant in-service data, which includes natural gas SmartGrid assets as of December 31, 2018. In that case, the auditor has been instructed to audit the plant in-service balances with an emphasis on Rider CEP expenditures and investments. This currently excludes expenditures being recovered through Rider AU. The Company recommends that, if an audit is to be done for Rider AU, the audit in Rider CEP be modified to remove this exclusion so that these AU-related assets could be audited and considered as part of the Rider CEP application. The auditor in that case could add the metering infrastructure to the work already underway. And, subject to those audit findings, the metering infrastructure cost recovery could continue as part of the new Rider CEP and the Company would then discontinue Rider AU.

The Company therefore requests that the Commission approve the application in this case, as filed. If the Commission however is not inclined to do so, at a minimum, the Company recommends that the Commission either allow the Company to record the natural gas assets to a dying account to be treated consistently with the assets associated with electric operations or allow the audit of the natural gas metering infrastructure to be combined with the audit in the Rider CEP proceeding. The Commission should only order the Company to discontinue Rider AU if a dying asset account is created for the natural gas investments or if consolidated with the Rider CEP audit, once Rider CEP becomes effective.

Respectfully submitted,
DUKE ENERGY OHIO, INC.

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was served on the following parties, this 8th day of November, 2019.

/s/ *Jeanne W. Kingery*
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