BEFORE

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

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| In the Matter of the Review of Duke Energy Ohio, Inc.’s Distribution Capital Investment Rider.  | ))) | Case No. 18-1036-EL-RDR |

**COMMENTS**

**BY**

**THE OFFICE OF THE OHIO CONSUMERS’ COUNSEL**

Bruce Weston (#0016973)

Ohio Consumers’ Counsel

William J. Michael, Counsel of Record

(0070921)

Amy Botschner-O’Brien (0074423)

Assistant Consumers’ Counsel

#

**Office of the Ohio Consumers’ Counsel**

65 East State Street, 7th Floor

Columbus, Ohio 43215

Telephone [Michael]: (614) 466-1291

Telephone [Botschner O’Brien]:

(614) 466-9575

William.michael@occ.ohio.gov

February 26, 2019 Amy.botschner.obrien@occ.ohio.gov

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# I. INTRODUCTION

The Distribution Capital Investment (“DCI”) Rider permits Duke Energy Ohio, Inc. (“Duke”) to charge consumers for significant capital costs related to its distribution system sooner than it could under traditional ratemaking.[[1]](#footnote-2) The Public Utilities Commission of Ohio (“PUCO”) requires an annual financial audit of the DCI Rider for the purpose of accuracy and determining reasonableness of the amounts being charged consumers.[[2]](#footnote-3) The audit in this case involved a review of capital spending during the period July 1, 2017 through June 30, 2018. Rehmann Consulting performed the review and memorialized the findings in an audit report filed with the PUCO.[[3]](#footnote-4)

The purpose of these comments filed by the Office of the Ohio Consumers’ Counsel (“OCC”) is to recommend that the PUCO adopt several key auditor

recommendations. Additionally, OCC recommends that the scope of next year’s audit (June 1, 2018 through June 30, 2019) be expanded to include further review of Duke’s procedures for estimating work orders and controlling costs. In this regard, Duke has been unwilling or unable to address this issue from previous DCI audit reviews. Accordingly, the PUCO should instruct the auditor to recommend disallowance of costs that are significantly more than the original budget. Specifically, overrun costs that exceed 25% of the original budget should be disallowed if Duke is unable or unwilling to produce sufficient documentation to support the reasonableness of the cost overrun. Because Duke missed its reliability performance standards in 2016 and 2017,[[4]](#footnote-5) OCC also recommends that either the auditor in the next case or the PUCO Staff (or both) review the impact that the DCI Rider is having on reliability performance. Finally, the PUCO should enforce its Order (adopting the Settlement in Case No. 17-1118-EL-RDR) that requires Duke to file (year end 2018) a report that includes details on the 19 Rider DCI programs.[[5]](#footnote-6)

# II. COMMENTS

## The PUCO should adopt recommendations made by the auditor so that customers are not overcharged under the Rider.

The auditor made four recommendations that will reduce the amount of distribution plant that was inaccurately recorded under the DCI by $17,061,943 and lower the ongoing revenue requirement sought from customers by $2,299,414, accordingly. See Audit Report Table 16, at page 34. The PUCO should adopt the following four recommendations with OCC’s additional recommendations:

1. The auditor determined that Duke has incorrectly classified $20,341,970 as distribution plant and subject to collection under the DCI Rider. That plant should have been recorded as transmission plant.[[6]](#footnote-7) The error occurred in September 2016 and was not detected until December 2017.[[7]](#footnote-8) The auditor correctly recommended that the transmission plant be removed from the DCI Rider.[[8]](#footnote-9) Further, the auditor recommended that the revenue requirement be reduced by $2,763,853 for five quarters (the length of time the error went undetected).[[9]](#footnote-10)

OCC recommends that the PUCO include requirements for the auditor in the next DCI Rider review to perform a comprehensive examination of the DCI to verify that only distribution plant (authorized for collection under the DCI Rider) are properly being included in the rider.

2. The auditor reported that 15 work orders were sampled that included new additions to plant-in service and retirements of plant-in-service.[[10]](#footnote-11) One of the work orders for $1,246,914 had not been billed contributions in aid of construction (“CIAC”) but should have been.[[11]](#footnote-12) The auditor recommends that $623,457 be removed from the DCI.[[12]](#footnote-13) Further, the auditor recommends that the DCI revenue requirement collected from customers be reduced by $83,865 for four quarterly DCI filings (the length of time the under-billing went undetected).[[13]](#footnote-14) Finally, the auditor recommends improvements in Duke’s accounts receivables to ensure CAIC is being properly collected.[[14]](#footnote-15) While OCC agrees with this audit finding, there is concern that the relatively small sample of 15 work orders that were audited may not accurately reflect all work orders where Duke should have been collecting CIAC. OCC recommends that the PUCO include requirements for the auditor in the next DCI Rider review to perform a more comprehensive examination of all DCI work orders (that should be subject to CIAC) to ensure that the DCI Rider is not collecting costs from all customers that should be borne by those causing the need for investment

3. The auditor found that Duke had included $631,853 of plant classified as Electric Plant Held For Future Use accounts in the DCI Rider.[[15]](#footnote-16) The auditor observed that the $631,853 should be eliminated from the DCI Rider because the plant is not used and useful in providing service to utility customers.[[16]](#footnote-17) Further, the auditor recommended that the revenue requirement be reduced by $62,464 for 14 quarterly filings (the length of time that the Electric Plant Held For Future Use was included in the Rider DCI filings, and the utility was earning a return on the plant, up to June 30, 2018).[[17]](#footnote-18)

OCC supports the elimination of plant that is not used and useful from the DCI Rider and lowering the revenue requirement that is collected from all customers as proposed by the auditor. Based on the fact that this error was found OCC recommends that the PUCO require the auditor in the next DCI Rider review to perform a more comprehensive review of all accounts that are being included in the DCI to verify that only used and useful investments are being collected from customers in the DCI Rider.

1. The auditor also determined that $4,487,077 in construction work in progress (“CWIP”) should have been included in the June 30, 2018 Rider DCI filing that was not. The auditor recommended that the revenue requirement be increased by $610,768 for one quarterly DCI filing (reflecting the single quarterly that the CWIP was excluded). OCC is not opposed to this accounting adjustment.

## B. The PUCO should direct the auditor in Duke’s next DCI Rider review to examine Duke’s procedures for estimating projects to ensure their accuracy, to verify the sufficiency of cost control measures, and to recommend disallowances for any costs that have exceeded the budget by more than 25% unless Duke can provide sufficient documentation for the cost overrun.

Under a settlement in Duke’s last Rider DCI audit case, the PUCO directed that requirements be included in the request for proposal for the auditor in the current case to review and render detailed findings in the Audit Report on the effectiveness of Duke’s work order estimating process.[[18]](#footnote-19) The auditor in Case 17-1118-EL-RDR had found that out of a sample of fifteen workorders, 11 were over budget by more than 25%.[[19]](#footnote-20)

In the current audit, Rehmann sampled 15 work orders again and found that at least nine were over budget by more than 25%.[[20]](#footnote-21) For a second year in a row, a PUCO-appointed auditor was unable to determine the effectiveness of Duke’s budgeting process and follow-up controls.[[21]](#footnote-22) And for the one overrun where documentation was provided, the explanation was merely that the “$452,000 overrun was due to high contract labor costs of $450,000.”[[22]](#footnote-23) Rehmann correctly concluded that this explanation is not satisfactory and could mean that Duke was overbilled for contract labor or that costs were misallocated. And equally important, the auditor concluded that the work order estimating system is not capturing all costs.[[23]](#footnote-24)

Similar to comments OCC filed in Case 17-1118-EL-RDR, the continuing significant cost overruns without documentation show that Duke’s implementation and management of the DCI Rider is inadequate. Given that Duke has failed to implement sufficient management controls in the DCI budget planning and implementation process, the PUCO must act now to protect consumers by imposing more stringent requirements before more DCI Rider costs are collected from customers. The auditor for the next DCI Rider audit review should be instructed to recommend a disallowance for the overrun portion of any sampled work orders where the final costs exceeded the original budget by more than 25% if Duke does not produce sufficient documentation to verify the reasonableness of the cost overruns. The auditor should increase the sample size of the work orders that are audited if more than 20% of the sampled work orders are over-budget by more than 25%. In selecting work orders that should be added to the original sample, the auditor should select a minimum of 15 additional work orders based on criteria including total work order costs.

Requiring customers to pay charges in the DCI Rider for significant cost overruns that continue is not just and reasonable. The additional scrutiny OCC is requesting should incent Duke to adequately manage the programs and costs that it seeks to collect from consumers through the DCI Rider.

## C. Either the auditor in the next annual review of the DCI Rider or the Staff should examine the programs that are being paid for by consumers under the DCI Rider to determine the impact on distribution reliability.

Under the PUCO’s order adopting the settlement in Duke’s last Rider DCI audit case, Duke agreed to file an annual report with the PUCO beginning in December 2018 that includes certain specific details of the 19 DCI programs that were approved as part of Case No. 14-841-EL-SSO.[[24]](#footnote-25) To date, this report has not been publicly filed.[[25]](#footnote-26) The PUCO should enforce the settlement in Case 17-1118-EL-RDR and require Duke to comply with the commitment it made to file an annual report.

This section of the order states:

(d) To the extent Rider DCI continues beyond May 31, 2018, Duke will file an annual report with the Commission, beginning in December of 2018, that includes the following information, where applicable, for each of the 19 Rider DCI programs approved as part of Case No. 14-841-EL-SSO, et al.

• A general description of the program;

• A description of how the program is designed to

improve reliability for customers (i.e., measures

for reliability improvements);

• A description of how the program affects Duke's

annual filing under Ohio Admin, Code 4901:1-

10-11 (i.e., how many circuits were involved in

the program);

• The expected reliability improvement under the

program;

• The equipment that is affected by the program;

• The unit of measure for the program;

• The costs expended under the program; and

• The costs estimated for the program.

The PUCO should enforce this settlement provision of the Order and require Duke to provide this report with the detail described in the Order. OCC further recommends that after the report is filed, the PUCO should provide an opportunity for Staff and parties to address the report.

 Additionally, in recognition that Duke failed to meet its reliability performance standards in 2016 and 2017,[[26]](#footnote-27) either the auditor in the next DCI Rider annual review, Staff, or both should examine the impact (if any) that the DCI Rider is having on distribution reliability performance. In 2016, Duke’s reliability performance standard for CAIDI[[27]](#footnote-28) was 122.81 minutes and the actual performance for the year was 136.42 minutes. In 2017, Duke’s SAIFI[[28]](#footnote-29) performance standard was 1.05 and the actual performance was 1.16. In 2017, Duke’s CAIDI reliability performance standard was 122.81 minutes and the actual performance was 127.28 minutes. Thus, Duke failed to meet the CAIDI reliability standard in both 2016 and 2017, and the SAIFI standard in 2017. The impact on consumers is more frequent outages that can last for longer durations of time.

# III. CONCLUSION

The PUCO should adopt the auditor recommendations identified in these comments along with OCC’s recommendations.

Respectfully submitted,

 Bruce Weston (#0016973)

Ohio Consumers’ Counsel

*/s/ William J. Michael*\_\_\_\_

William J. Michael, Counsel of Record

(0070921)

Amy Botschner-O’Brien (0074423)

Assistant Consumers’ Counsel

#

**Office of the Ohio Consumers’ Counsel**

65 East State Street, 7th Floor

Columbus, Ohio 43215

Telephone [Michael]: (614) 466-1291

Telephone [Botschner O’Brien]:

(614) 466-9575

William.michael@occ.ohio.gov

Amy.botschner.obrien@occ.ohio.gov

(Willing to accept service via email)

**CERTIFICATE OF SERVICE**

 I hereby certify that a copy of these Comments have been served via electronic transmission upon the following parties of record this 26th day of February 2019.

 */s/ William J. Michael*\_\_\_\_\_

 William J. Michael

 Assistant Consumers’ Counsel

**SERVICE LIST**

|  |  |
| --- | --- |
| Steven.beeler@ohioattorneygeneral.govAttorney Examiners:Stacie.cathcart@puc.state.oh.usNicholas.walstra@puc.state.oh.us | Elizabeth.Watts@duke-energy.comJeanne.kingery@duke-energy.comRocco.dascenzo@duke-energy.com |

1. Compliance Audit of the July 1, 2017 to June 30, 2018 Distribution Capital Investment Rider (“Rider DCI”) Duke Energy Ohio, Case No. 18-1036-EL-RDR, at 2 (December 6, 2018). [↑](#footnote-ref-2)
2. *Id*. [↑](#footnote-ref-3)
3. *Id.* at 2. The review included November 1, 2017 quarterly filing up to and including the August 1, 2018 filing. [↑](#footnote-ref-4)
4. <https://www.puco.ohio.gov/puco/index.cfm/industry-information/statistical-reports/electric-reliability-performance-data/duke-energy-ohio/> [↑](#footnote-ref-5)
5. *In the Matter of the Review of Duke Energy Ohio, Inc.’s Distribution Capital Investment Rider*, Case 17-1118-EL-RDR, Order adopting the Stipulation and Recommendation, at 6-7 (September 26, 2018). [↑](#footnote-ref-6)
6. Compliance Audit Report at 19. [↑](#footnote-ref-7)
7. *Id.* [↑](#footnote-ref-8)
8. *Id*. [↑](#footnote-ref-9)
9. *Id.* [↑](#footnote-ref-10)
10. Compliance Audit Report at 21. [↑](#footnote-ref-11)
11. *Id.* [↑](#footnote-ref-12)
12. *Id.* [↑](#footnote-ref-13)
13. *Id.* [↑](#footnote-ref-14)
14. *Id.* [↑](#footnote-ref-15)
15. Compliance Audit Report at 5. [↑](#footnote-ref-16)
16. *Id.* [↑](#footnote-ref-17)
17. *Id.* [↑](#footnote-ref-18)
18. 17-1118-EL-RDR Order adopting the Stipulation and Recommendation (Sept. 26, 2018) at 6. [↑](#footnote-ref-19)
19. Case 17-1118-EL-RDR, OCC Comments (March 28, 2018) at 2. [↑](#footnote-ref-20)
20. Compliance Audit Report at 9. [↑](#footnote-ref-21)
21. *Id.* [↑](#footnote-ref-22)
22. *Id.* [↑](#footnote-ref-23)
23. *Id.* [↑](#footnote-ref-24)
24. *In the Matter of the Review of Duke Energy Ohio, Inc.’s Distribution Capital Investment Rider*, 17-1118-EL-RDR, Order adopting the Stipulation and Recommendation at 6-7. [↑](#footnote-ref-25)
25. Case No. 17-1118-EL-RDR, PUCO DIS records. [↑](#footnote-ref-26)
26. <https://www.puco.ohio.gov/puco/index.cfm/industry-information/statistical-reports/electric-reliability-performance-data/duke-energy-ohio/> [↑](#footnote-ref-27)
27. The Customer Average Interruption Duration Index (“CAIDI”) is a measure of the duration of the average outage within a year. [↑](#footnote-ref-28)
28. The System Average Interruption Frequency Index (“SAIFI”) is a measure of the number of outages an average customer experiences in a year. [↑](#footnote-ref-29)