

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke)
Energy Ohio, Inc., for Approval to) Case No. 13-2417-GA-UNC
Implement a Capital Expenditure Program.)

In the Matter of the Application of Duke)
Energy Ohio, Inc., for Approval to Change) Case No. 13-2418-GA-AAM
Accounting Methods.)

MOTION FOR CLARIFICATION BY DUKE ENERGY OHIO, INC.

Comes now Duke Energy Ohio, Inc., (Duke Energy Ohio or Company) and hereby moves the Public Utilities Commission of Ohio (Commission) for an order clarifying the terms of its existing Capital Expenditure Program (CEP), as approved by the Commission in the above-captioned proceedings on October 1, 2014.

Specifically, the Company seeks an order clarifying that:

1. Deferrals under the CEP may include:
 - a. The replacement of any and all leaking service lines.
 - b. The replacement of any and all non-leaking, metallic service lines that are not cathodically protected, where the replacement is being made in connection with coordination with municipal street improvements.
2. The Company is authorized to take ownership of any and all curb-to-meter service lines that it replaces, whether such lines were leaking or not.

Duke Energy Ohio submits the following memorandum in support of its motion.

Respectfully submitted,

/s/ Jeanne W. Kingery

Amy B. Spiller (0047277) (Counsel of Record)

Deputy General Counsel

Jeanne W. Kingery (0012172)

Associate General Counsel

139 East Fourth Street

1303-Main

Cincinnati, OH 45202

(513) 287-4359 (telephone)

(513) 287-4385 (facsimile)

Amy.Spiller@duke-energy.com (e-mail)

Attorneys for Duke Energy Ohio, Inc.

MEMORANDUM IN SUPPORT

INTRODUCTION

Ohio Revised Code (R.C.) 4929.111 allows a natural gas company to file an application with the Commission, under R.C. 4909.18, R.C. 4929.05, or R.C. 4929.11, to implement a capital expenditure program (CEP). Pursuant to a CEP, a natural gas company may defer, or recover through an appropriate application, a regulatory asset for the post-in-service carrying costs on that 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 expenses directly attributable to the CEP.¹

The governing statute further specifies that a CEP may cover any of the following:

1. Any infrastructure expansion, infrastructure improvement, or infrastructure replacement program;
2. Any program to install, upgrade, or replace information technology systems; [or]
3. Any program reasonably necessary to comply with any rules, regulations, or orders of the commission or other governmental entity having jurisdiction.²

On October 1, 2014, the Commission considered the Company's Application in these proceedings, together with comments filed in the docket, and concluded that the proposed CEP was consistent with the Company's obligation to furnish necessary and adequate services and facilities, that the CEP was just and reasonable, and that it would not result in an increase in any rate or charge. Thus, the Commission approved the CEP, as modified by joint surreply comments filed in the docket, with conditions specified in its order.³ Specifically, the approved CEP covers all three of the program categories encompassed by the governing statute, initiated in and for

¹ R.C. 4929.111(D).

² R.C. 4929.111(A).

³ *In the Matter of the Application of Duke Energy Ohio, Inc. for Approval to Implement a Capital Expenditure Program*, Case No. 13-2417-GA-UNC, Finding and Order (Oct. 1, 2014)(Order).

2013 and succeeding years, but not including any non-jurisdictional services, any investments for which recovery has already been approved, or any other investments subsequently approved for recovery pursuant to any other mechanism, regardless of whether such other investments might also be deemed to fit within the parameters of R.C. 4929.111(A).⁴

In its ordinary course of business, the Company replaces leaking customer service lines and retains ownership of those new lines. It also replaces metallic service lines that are not cathodically protected, in connection with municipal street projects, even if such lines are not then leaking. The Company similarly retains ownership of the new lines it has so installed. For avoidance of doubt, the Company seeks Commission clarification that such service line replacements may be included in the approved CEP and that the Company should retain ownership of the new service lines it has so installed.

DISCUSSION

Replacement of Leaking Service Lines

Public utilities subject to the jurisdiction of the Commission are required, by law, to furnish necessary and adequate service and facilities.⁵ Natural gas service lines that are leaking require attention of some sort, regardless of the classification of the leak. A grade one leak requires immediate repair, as set forth in its definition. A grade two leak is nonhazardous when detected, but should be scheduled for repair.⁶ Indeed, Staff of the Commission (Staff) has opined that it would be reasonable for Duke Energy Ohio to increase the frequency of its leak

⁴ *Id.*, Joint Surreply Comments, at pg. 2 (Sept. 12, 2014), *approved by* Opinion and Order, at pp. 12, 13 (Oct. 1, 2014).

⁵ R.C. 4905.22.

⁶ *See* Ohio Administrative Code (O.A.C.) 4901:1-16-04(H).

surveillance activities in order to discovery leaks sooner and to replace leaking service lines more quickly.⁷

Recent experience reflects that about 800 leaking service lines are replaced each year. However, the Company would replace, and include in the CEP, all leaking service lines, regardless of whether there were more or less than 800 in any given year.

The Company's replacement of leaking service lines falls well within the terms of the statute governing CEPs. As referenced above, R.C. 4929.011 provides that a CEP may cover infrastructure improvement or infrastructure replacement programs. The Company's program to replace leaking natural gas service lines fits both of those categories. It results in improved safety for customers and the public at large. This necessary and prudent activity should be included in the CEP.

Replacement of Service Lines for Coordination with Municipal Projects

Traditional approaches to underground utility work often result in excavating newly repaved streets. In order to avoid this outcome, Duke Energy Ohio uses its best efforts to coordinate with local governments, doing service line work while streets are otherwise under construction. To the extent the Company is able to accomplish this goal, based on the timing of street projects, this minimizes the interruption to traffic and street disturbances and conserves economic resources in a proactive way. The ultimate costs to customers are reduced by replacing lines while street work is ongoing and thereby avoiding costly repaving efforts.

The prudent approach is to replace metallic service lines that are not cathodically protected, which, in the Company's experience, are more likely to fail over time than ones not falling within that category and, thus, carry an enhanced element of risk. With regard to the

⁷ *In the Matter of the Application of Duke Energy Ohio, Inc., for Approval of an Alternative Rate Plan Pursuant to Section 4929.05, Revised Code, for an Accelerated Service Line Replacement Program*, Case No. 14-1622-GA-ALT, Staff Report, at pp. 6-7 (June 5, 2015).

extent of a replacement project, the Company has found, through experience with past projects, that service line replacement projects in a geographical area should extend to logical stopping points. That is, even though a municipal project that results in the opening of a street might cover only a portion of a block, for example, the customers on the untouched portion of such block would be likely to have comparable service lines. And, if the Company were to replace only those lines in the part of the street that was already accessible, a subsequent need to replace the other lines on the block would again result in the reopening of that same road. Thus, in connection with a municipal street project, the Company will use its reasonable discretion, based on relevant facts and experience, to determine the extent of the area in which non-leaking, non-protected, metallic service lines would actually be replaced.

The Company's recent experience shows that replacements such as those discussed above would total approximately 4,000 service lines per year. However, just as with leaking service lines, the Company would replace, and include in the CEP, all such service line replacements, regardless of whether there were more or less than 4,000 in any given year.

The Company's replacement of metallic service lines that are not cathodically protected, in connection with municipal street projects, falls well within the parameters of the statute governing CEPs. This necessary and prudent activity should be included in the CEP.

Ownership of Replaced Curb-to-Meter Service Lines

When Duke Energy Ohio incurs the cost to replace a curb-to-meter service line, it must be treated, for all purposes, as the owner of that line, regardless of who owned the service line that was removed and whether or not it was leaking at the time. Indeed, the Commission has previously reached this same conclusion. In the seminal decision considering utilities' service line replacements, the Commission ordered Columbia Gas of Ohio, Inc., to take responsibility

for repairing hazardous curb-to-meter service lines. The Commission specifically understood that such repairs would cause a “patchwork of ownership,” thus implicitly recognizing that the entity paying for the new line would, of necessity, own that line.⁸

In the Company’s 2007 base rate case, it proposed to assume ownership of the curb-to-meter section of service lines whenever it installs a new service line or riser or replaces an existing curb-to-meter service line or riser.⁹ This assumption of ownership is not only a natural extension of incurring the cost of the replacement but, as explained in that filing, it would allow the Company to replace facilities in the future on a safe, proactive, systematic, and efficient basis.¹⁰ Staff supported the proposal through its Staff Report and Recommendation, as it would give the Company “complete responsibility for all pipelines covered by the federal pipeline safety regulations and [provide] for a uniform approach to correcting pipeline safety concerns.”¹¹ Staff also noted that company ownership of the curb-to-meter service line would establish “a clear line of responsibility between the utility and consumer, with the customer continuing to have responsibility for all inside piping and the Company all outside pipe.”¹² The Stipulation and Recommendation signed in the proceedings similarly agreed that the Company “shall take over ownership of the curb-to-meter service, including riser, whenever a new service line or riser is installed or whenever an existing curb-to-meter service or riser is replaced.”¹³ The stipulation was approved by the Commission in its entirety.¹⁴ Nothing in the application, testimony, Staff

⁸ *In the Matter of the Application of Columbia Gas of Ohio, Inc., for Approval of Tariffs to Recover, Through an Automatic Adjustment Clause, Costs Associated with the Establishment of an Infrastructure Replacement Program and for Approval of Certain Accounting Treatment*, Case No. 07-478-GA-UNC, *et al.*, Opinion and Order, at pg. 35 (April 9, 2008).

⁹ *In the Matter of the Application of Duke Energy Ohio, Inc., for an Increase in Gas Rates*, Case No. 07-589-GA-AIR, *et al.*, Application, at pg. 3 (July 19, 2007).

¹⁰ *Id.*, Direct Testimony of Gary J. Hebbeler, at pp. 12-15 (August 1, 2007).

¹¹ *Id.*, Staff Report and Recommendation, at pg. 43 (December 20, 2007).

¹² *Id.*

¹³ *Id.*, Stipulation and Recommendation, at pg. 14 (February 28, 2008).

¹⁴ *Id.*, Opinion and Order, at pg. 25 (May 28, 2008).

report, stipulation, or order limited the assumption of ownership on the basis of whether a service line being replaced was leaking or not leaking at the time of replacement. Thus, the assumption-of-ownership authority given in the 2007 rate case covers all new or replacement curb-to-meter service lines.¹⁵

Out of an abundance of caution, Duke Energy Ohio asks that the Commission confirm that any service lines replaced by the Company, regardless of circumstances, would, after replacement, be the property of Duke Energy Ohio.

CONCLUSION

For the reasons stated herein, Duke Energy Ohio respectfully requests that the Commission provide the clarifications discussed and requested herein.

Respectfully submitted,

/s/ Jeanne W. Kingery _____
Amy B. Spiller (0047277) (Counsel of Record)
Deputy General Counsel
Jeanne W. Kingery (0012172)
Associate General Counsel
139 East Fourth Street
1303-Main
Cincinnati, OH 45202
(513) 287-4359 (telephone)
(513) 287-4385 (facsimile)
Amy.Spiller@duke-energy.com (e-mail)

Attorneys for Duke Energy Ohio, Inc.

¹⁵ See *In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio to Adjust its Pipeline Infrastructure Replacement Program Cost Recovery Charge and Related Matters*, Case No. 09-458-GA-RDR, Opinion and Order, at pg. 7 (Dec. 16, 2009) (“Our decision . . . authorized DEO to assume responsibility for curb-to-meter service lines once DEO had a reason to become involved with those lines, i.e., through new installation, leak repair, or lines becoming unsafe.”); *In the Matter of the Application of Vectren Energy Delivery of Ohio, Inc. for Authority to Amend its Filed Tariffs to Increase the Rates and Charges for Gas Service and Related Matters*, Case No. 07-1080-GA-AIR, *et al.*, Opinion and Order (Jan. 7, 2009) (company authorized to assume ownership of any service lines installed or replaced by the company).

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was delivered by U.S. mail (postage prepaid), personal, or electronic mail, on this 12th day of October, 2017, to the following parties.

/s/ Jeanne W. Kingery
Jeanne W. Kingery

William Wright
Section Chief, Attorney General's Office
Public Utilities Section
30 East Broad Street, 16th Floor
Columbus, Ohio 43215-3793
William.wright@ohioattorneygeneral.gov

**Counsel for Staff, Public Utilities
Commission of Ohio**