

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Transmission Rates Con-)
tained in the Rate Schedules of Duke Energy) Case No. 05-727-EL-UNC
Ohio and Related Matters.)

In the Matter of the Application of Duke Energy)
Ohio for Authority to Modify Current) Case No. 05-728-EL-AAM
Accounting Procedures for Certain Transmis-)
sion Costs.)

ENTRY

The Commission finds:

- (1) *In In the Matter of the Application of The Cincinnati Gas & Electric Company to Modify its Nonresidential Generation Rates to Provide for Market-Based Standard Service Offer Pricing and to Establish an Alternative Competitive-Bid Service Rate Option Subsequent to the Market Development Period, Case Nos. 03-93-EL-ATA et al., the Commission authorized Duke Energy Ohio, Inc. (DE-Ohio), formerly known as the Cincinnati Gas & Electric Company, to establish a transmission cost rider (rider TCR), pursuant to the terms of a stipulation.*
- (2) In our October 5, 2005, finding and order in the above-captioned proceedings, approving the initial rider TCR subject to certain required recalculations, we established a procedure whereby DE-Ohio may apply to update and true-up rider TCR every six months. Comments may be filed, according to that procedure, within 20 days after the application and the modified rider becomes effective on the 46th day, barring action by the Commission.
- (3) On November 29, 2005, in our consideration of the required recalculations, we ordered Commission staff to perform a full review of costs included in rider TCR, including a determination of the appropriateness of various Midwest Independent Transmission System Operator, Inc. (MISO), costs in rider TCR and an assessment of DE-Ohio's operating practices within MISO, to ensure that costs that may be controlled or influenced by those operating practices have been minimized.

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- (4) On May 2, 2006, DE-Ohio filed its first application to update the rates in rider TCR. That proposed modification was suspended by the Commission by an entry dated June 14, 2006.
- (5) On October 16, 2006, DE-Ohio requested that the Commission set the rates for rider TCR for the six-month period from December 1, 2006, through May 31, 2007. In its filing, DE-Ohio stated that the new rider TCR rates for residential customers have been substantially lowered from previous rates. That filing was amended by subsequent information filed on November 3 and 6, 2006.
- (6) On November 3, 2006, the Office of the Ohio Consumers' Counsel (OCC) filed comments regarding the proposed rates for rider TCR. OCC expressed its concerns regarding refunds of previously billed revenue sufficiency guarantee (RSG) charges, based on litigation at the Federal Energy Regulatory Commission (FERC). Specifically, OCC requested that a decision regarding the appropriate level for RSG collections be held in abeyance pending the outcome of staff's investigation.
- (7) OCC also opined, in its comments, that the pending audit of DE-Ohio's fuel and purchased power (FPP) rider should consider the issue of possible double recovery of congestion costs.
- (8) Finally, OCC stated its belief that the proposed modification of rider TCR should be allowed by the Commission, in order to provide rate relief to those customers who will be impacted by the resultant reduction.
- (9) On November 16, 2006, staff of the Commission filed its review and recommendation, in response to the Commission's directive. In that review, staff set forth its findings, including the following:
 - (a) Staff found that the costs included in rider TCR are FERC-approved regional transmission organization (RTO), transmission, or ancillary service costs that are assessed to DE-Ohio as a result of its service to retail Ohio customers and are appropriately included in rider TCR.
 - (b) Staff found that rider TCR includes certain costs that are controllable. These costs are fully set forth in staff's filing and include such items as net congestion

costs, revenue sufficiency guarantee costs, and uninstructed deviation costs (controllable costs). Although staff had been informed that incentives to minimize these costs are in place, staff stated its belief that DE-Ohio's operating practices and procedures should be evaluated on an ongoing basis. Staff recommended that the controllable costs be included in rider TCR but be subject to a biennial review, beginning with the rates to become effective June 2007, to determine if management and operating processes minimize these costs.

- (c) Staff also recommended that it perform an audit of each update filing, to verify the accuracy of the charges and to ensure that the included costs reflect only those charges assessed to DE-Ohio to provide service to its retail customers in Ohio. Staff noted, however, that the update for rates to be effective December 1, 2006, is the first filing that includes a reconciliation adjustment and that staff's audit of that adjustment will not be complete within the 45-day standard review period. Staff found no reason to suspend rates but pointed out that its review of that filing will continue.
- (10) The Commission observes that staff has found that the costs included in rider TCR are appropriately included in the rider and has found no reason to suspend the proposed rates for rider TCR. Therefore, Commission finds that the proposed rates for rider TCR should be approved for the period of December 1, 2006, through May 31, 2007, subject to further reconciliation based upon staff's continuing review of the costs included in rider TCR.
- (11) The Commission recognizes OCC's concerns regarding the appropriate level of RSG costs for collection in rider TCR and staff's recommendation that controllable costs, which include RSG costs, be the subject of periodic staff review. Therefore, the Commission will order a biennial review of DE-Ohio's controllable costs, beginning with the update filing for the period beginning on June 1, 2007. The process for that review, as fully set forth in staff's recommendations filed on November 16, 2006, will be adopted.

- (12) The Commission also finds that issues relating to possible double recovery of congestion costs should be considered in the pending audit of the FPP rider, in Case No. 05-725-EL-UNC, *et al.*

It is, therefore,

ORDERED, That the proposed update of the rates to be charged under DE-Ohio's rider TCR, effective for the period from December 1, 2006, through May 31, 2007, be approved, subject to further reconciliation based on staff's continuing review of the costs included in rider TCR. It is, further,

ORDERED, That DE-Ohio be authorized to file, in final form, four complete copies of tariffs consistent with this finding and order. DE-Ohio shall file one copy in this case docket and one copy in its TRF docket (or may make such filing electronically, as directed in Case No. 06-900-AU-WVR). The remaining two copies shall be designated for distribution to the Rates and Tariffs, Energy and Water Division of the Commission's Utilities Department. It is, further,

ORDERED, That the proposed tariffs be effective pursuant to their terms and upon filing in final form, but not prior to December 1, 2006, on a services-rendered basis. It is, further,

ORDERED, That DE-Ohio shall notify all affected customers by means of a bill insert or bill message, no later than 30 days after the effective date of the proposed tariffs. It is, further,



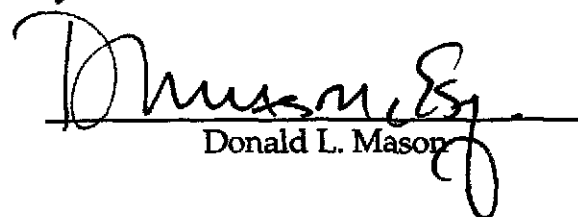
ORDERED, That nothing in this finding and order be binding upon this Commission in any future proceeding or investigation involving the justness or reasonableness of any rate, charge, rule, or regulation. It is, further,

ORDERED, That Commission staff perform a biennial review of DE-Ohio's controllable costs, as fully set forth in staff's review and recommendations filed on November 16, 2006. It is, further,

ORDERED, That issues relating to possible double recovery of congestion costs be considered in the pending audit of the FPP rider, in Case No. 05-725-EL-UNC, *et al.* It is, further,

ORDERED, That a copy of this entry be served upon all parties of record.

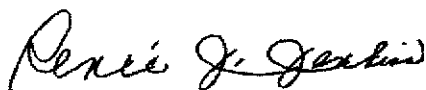
THE PUBLIC UTILITIES COMMISSION OF OHIO


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Renee J. Jenkins
Secretary