

FILE

6

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

RECEIVED-DOCKETING DIV

2010 MAY 26 PM 1:50

In the Matter of the Application of Duke)
Energy Ohio, Inc. for Approval to Modify)
Rider FBS and Rider EFBS.)

Case No. 10-241-GA-BDR

PUCO
RDR

COMMENTS
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL

I. PROCEDURAL HISTORY

On February 26, 2010, Duke Energy Ohio ("Duke" or "Company") filed an application ("Application") with the Public Utilities Commission of Ohio ("PUCO" or "the Commission"), pursuant to R.C. 4909.18, for approval to modify the rates in Rider FBS, Firm Balancing Service ("FBS"), and Rider EFBS, Enhanced Firm Balancing Service ("EFBS").¹ Duke proposes to modify the FBS and EFBS rider rates it charges consumers, and pursuant to R.C. 4909.18, the PUCO shall determine if the proposed rider charges are just and reasonable.²

On March 8, 2010, Interstate Gas Supply, Inc. ("IGS") filed a Motion to Intervene which was granted by Commission Entry on May 5, 2010 ("May 5 Entry"). The May 5 Entry also noted that "there is no indication, in this case, that Duke has served a copy of this application upon all gas suppliers and aggregators who would be affected by the proposed adjustments to Rider FBS and Rider EFBS."³ Accordingly, the Commission

¹ Balancing services are provided by the Company as a means to reconcile actual deliveries with forecasted deliveries and thus recover costs approximating the costs associated with such under/over deliveries.

² Application at 1 (February 26, 2010).

³ May 5 Entry at 2.

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business
Technician And Date Processed 5/26/10

directed Duke to serve, within seven days of the issuance of this entry, a copy of this entry upon all suppliers and aggregators who currently take service under these tariffs.⁴

Furthermore, the May 5 Entry established the following procedural schedule:

- (a) Motions to intervene shall be filed by May 26, 2010.
- (b) Comments by staff and other interested parties shall be filed by May 26, 2010.⁵

On May 11, 2010, Duke filed a Certificate of Service indicating that Duke has served a copy of the May 5, 2010, Commission entry in the above-referenced case upon all suppliers and aggregators taking service under the tariffs FBS and EFBS, as required by the May 5 Entry.

On May 14, 2010, OCC intervened. OCC hereby files its Comments in accordance with the Commission's established procedural schedule.

II. COMMENTS

The Commission should require the Company to file an application annually to update the Rider FBS and Rider EFBS rates. The determination of when to file an application to modify the Rider FBS and Rider EFBS should not be left to the discretion of the Company. The current Rider FBS tariff was effective April 1, 2007.⁶ In addition, the current Rider EFBS tariff became effective June 4, 2008.⁷

Duke explained the calculation in its Application, and is not making changes to the calculation used to develop the Rider FBS rate. Duke Stated:

The [Rider FBS] rate is based on the estimated cost of providing

⁴ May 5 Entry at 2.

⁵ May 5 Entry at 5.

⁶ Application at 1.

⁷ Application at 2.

daily balancing using a calculation attached as Exhibit 1. No changes are being proposed to the calculation method, but as of April 1, 2010, the demand charge that Duke Energy Ohio pays to Columbia Gas Transmission ("TCO") for transportation into and out of storage is increasing from \$3,963 per dth to \$4.2372 per dth. In addition, the amount of total throughput, used as the denominator in the calculation of the rate, has decreased nearly 10%. All of the remaining inputs to the calculation were also updated to reflect current charges from TCO for storage service.

Thus the main inputs to the rider calculation are the fixed and variable storage capacity charges and the total commodity throughput.⁸ Because the Rider FBS rate inputs can vary annually, the Commission should require that the Company file to modify the then current Rider FBS tariff and Rider EFBS tariff at least once a year.

The Rider EFBS calculation has similar calculation inputs. Duke relies upon demand charges and total throughput. These inputs for calculating the Rider EFBS rate can also vary from one year to the next. Thus the rate can similarly be impacted by the changes to these inputs. Therefore, the Commission should require Duke to make an annual filing to modify these rates.

As a result of this Application, the Rider FBS and Rider EFBS rates increased from the current rider rates. Duke explained that this increase resulted because: "the increase in storage service transportation rate and decrease in throughput had the most significant impacts."⁹ However, it is possible for the variance in the inputs to result in a decrease to these rider rates (e.g. an increase in throughput would cause a reduction in the rider rates assuming all other inputs remain unchanged). The concern is that in the event the change in inputs causes the rider rates to decline the Company might choose not to

⁸ Application at Exhibit 1.

⁹ Application at 3.

file an application for a rate reduction, absent a Commission requirement. To the extent that the inputs can change in both directions -- increasing or decreasing -- then it is imperative that all customers in general and captive residential customers in particular, be protected from discretionary Company decisions that can result in passing on all rate increases while withholding rate decreases. Therefore, OCC recommends that the Commission require an annual filing. Duke should be required to file an Application no later than February 28 each year to recalculate the Rider FBS and Rider EFBS rates.

If the Commission is unwilling to mandate annual FBS and EFBS Rider rate updates, then, in the alternative, the Commission should establish parameters that necessitate when the Company must file to update these rider rates. In the Commission proceeding which established the uncollectible expense rider for certain natural gas companies ("UEX Proceeding") in Ohio, the Commission adopted such a concept. In the UEX Proceeding, the Commission stated:

We agree that yearly adjustments should not be mandated. However, the joint applicants proposed riders should include some parameters under which they must propose to adjust the effective mechanism (e.g., if the level of uncollectibles over prior period "X" period of time is more than "Y" percent different [plus or minus] from the amount being recovered under the effective mechanism). That information may be contained in a request to adjust the rider rate, but must be provided via a separate filing if no adjustment to the rider rate is sought. The companies shall provide such data as necessary to permit Commission staff and OCC to audit the amounts, validate such amounts, and determine whether the adjustments were made in accordance with the parameters.¹⁰

¹⁰ *In the Matter of the Joint Application of The East Ohio Gas Company d/b/a Dominion East Ohio, Columbia Gas of Ohio, Inc., Vectren Energy Delivery of Ohio, Inc., Northeast Ohio Natural Gas Company Corp., and Oxford Natural Gas Company for Approval of an Adjustment Mechanism to Recover Uncollectible Expenses*, Case No. 03-1127-GA-UNC, Finding and Order at 13-14 (December 17, 2003).

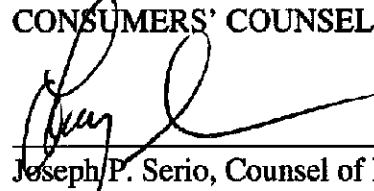
The Commission should establish parameters that will dictate when the Company must file to update the FBS and EFBS Rider rates. OCC recommends that an increase or decrease of ten percent to the current FBS Rider and/or EFBS Rider rates will require an application to update the rate(s). In addition, the Commission should require the Company to provide such data as necessary to permit Commission Staff, OCC and any other interested parties to audit the rider rate input amounts, validate such amounts, and determine whether the rider rate adjustments were made in accordance with the parameters that dictate the adjustment.

III. CONCLUSION.

For all the reasons discussed above, the Commission should require that the Company file to modify the then current Rider FBS tariff and Rider EFBS tariff at least once a year. In the alternative, the Commission should establish parameters that will dictate when the Company must file to adjust the FBS and EFBS Rider rates.

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER
CONSUMERS' COUNSEL

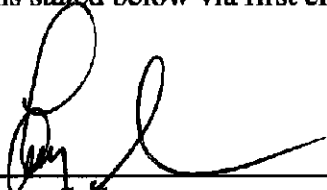


Joseph P. Serio, Counsel of Record
Larry S. Sauer
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
(614) 466-8574 (Telephone)
serio@occ.state.oh.us
sauer@occ.state.oh.us

CERTIFICATE OF SERVICE

I hereby certify that a copy of these *Comments by the Office of the Ohio Consumers' Counsel*, was served on the persons stated below via first class U.S. Mail, postage prepaid, this 26th day of May 2010.



Larry S. Sauer
Assistant Consumers' Counsel

SERVICE LIST

Amy Spiller
Duke Energy Ohio
139 Fourth Street,
Room 25 ATII
Cincinnati, Ohio 45202

Stephen Reilly
Werner Margard
Attorney General's Office
Public Utilities Section
180 East Broad Street, 6th Floor
Columbus, Ohio 43215

John W. Bentine
Mark S. Yurick
Matthew S. White
Chester, Willcox & Saxbe LLP
65 East State Street, Suite 1000
Columbus, Ohio 43215-4213