BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke Energy Ohio, Inc. for an Increase in Gas Rates.	))	Case No. 12-1685-GA-AIR
In the Matter of the Application of Duke Energy Ohio, Inc., for Tariff Approval.	))	Case No. 12-1686-GA-ATA
In the Matter of the Application of Duke Energy Ohio, Inc., for Approval of an Alternative Rate Plan for Gas Distribution Service.	)))	Case No. 12-1687-GA-ALT
In the Matter of the Application of Duke Energy Ohio, Inc., for Approval to Change Accounting Methods.	)))	Case No. 12-1688-GA-AAM

OBJECTIONS TO THE STAFF REPORT OF INVESTIGATION OF OHIO PARTNERS FOR AFFORDABLE ENERGY AND SUMMARY OF MAJOR ISSUES

INTRODUCTION

Ohio Partners for Affordable Energy ("OPAE"), a party to the above-captioned cases, hereby submits these objections to the Staff Report of Investigation ("Staff Report") and a summary of major issues. The Staff Report was filed with the Public Utilities Commission of Ohio ("Commission") on January 4, 2013, covering the applications of Duke Energy Ohio, Inc., for an increase in natural gas distribution rates, for tariff approval, for approval to change accounting methods, and for an alternative rate plan for gas distribution service. Duke filed the pre-notification of intent to increase distribution rates on June 7, 2012, and the applications on July 2, 2012.

OBJECTIONS

I. OPAE objects to the Staff Report recommendation that Duke's revenue decrease be in the range from ($10,725,809) to ($3,358,775) when even this revenue decrease results in excessive rates. Staff Report, Schedule A-1, Page 1 of 1.

The Staff Report recommends a revenue decrease from -2.80% at the lower bound and -.88% decrease at the upper bound. The recommended revenue is excessive given that it is based, among other things, on excessive rates of return and costs of common equity.

II. OPAE objects to the Staff Recommendation that the rate of return be set in the range of 7.19% to 7.73% and the cost of common equity range of 8.82% to 9.84% because these ranges provide an excessive return when compared to the risk faced by Duke as a provider of monopoly gas distribution service. Staff Report at 15, 17.

The Staff Report fails to quantify the level of reduction of the rate of return that is appropriate given the reduced risk to Duke as a provider of monopoly gas distribution service and as a recipient of cost recovery through various riders. The Staff Report errs in not reducing the rate of return sufficiently to reflect the minimal risk faced by Duke. Moreover, Duke's financial and business risks are even lower given the current very high fixed delivery charges and the Staff Report's recommendation for continuing very high fixed delivery charges. The high fixed charges reduce the financial and business risks to Duke in providing gas distribution service.

The distribution cost recovery riders, such as the Accelerated Main Replacement Program Rider and the Advanced Utility Rider, effectively eliminate the risk of recovery for certain costs associated with the distribution system. Ohio's regulatory paradigm treats the recovery of these costs as an entitlement, and the riders and high fixed charges are designed to guarantee recovery of that entitlement. As a result, Duke faces little risk, as opposed to the traditional regulatory compact that had a risk premium because utilities were only provided with the opportunity to recover their costs, not guaranteed cost recovery. Because Ohio's new regulatory regime guarantees recovery, there should be a significant reduction in the allowed rate of return, which, along with the cost of equity, should be adjusted downward to reflect the assured recovery of the bulk of the revenue requirement.

III. OPAE objects to the revenue conversion factor recommended in the Staff Report for failing to use actual effective federal and state tax rates paid by Duke.

The Staff employs an approach to developing the revenue conversion factor that includes elements that gross up recovery for federal and state taxes. This is appropriate but only if the level of federal and state taxes used is the effective tax rates actually paid by the utilities. Otherwise, customers are paying far more to compensate a utility for taxes than the utility actually pays in taxes.

For example, the Staff uses a federal income tax rate of 35%. Staff Report at Schedule A-2, Page 1 and Schedule C-4, Page 1. The Staff does not verify that Duke actually pays a federal income tax rate of 35%. The Staff should determine the actual federal tax rate paid by Duke and use this actual rate for the revenue conversion factor. The data is readily available. A study by Citizens for Tax Justice published in November 2011 reported that Duke received a refund on its federal income tax of $5 million in 2010, despite profits of $2.150 billion, resulting in an effective rate of -0.2%. In 2009, Duke received a refund of $271 million on profits of $1.768 billion, an effective tax rate of -15.3%. See: https://docs.google.com/viewer?url=http%3A%2F%2Fwww.ctj.org%2Fcorporatetaxdodgers%2FCorporateTaxDodgersReport.pdf

IV. OPAE objects to the Staff Report's maintenance of very high fixed delivery charges.

The Staff Report recommends a very high residential fixed delivery service charge. Staff Report at 28. Very high fixed delivery charges harm customers with low usage and reduce incentives to achieve greater energy efficiency.

The effects of high residential fixed delivery charges can be seen in the Staff Report at 27 where the Staff refers to "large price increases to low use customers" and the reduction of "the incentive on the part of the customer to reduce its usage." The Staff goes on to say that the distribution portion of the customer's bill is relatively small compared to the total bill. However, at 28 of the Staff Report, the Staff states that there are a "significant number of residential and general service accounts that use such small volumes of gas that it is likely that the usage is for something other than space or water heating." Staff claims that it is "very mindful of these customers" and recommends that Duke work with these customers to notify them that, in the future, they may see significant increases simply by taking limited service. Staff Report at 28.

High fixed delivery charges punish low-use customers and reward high-use customers. This is the wrong direction to take. This rate design discourages energy conservation and efficiency measures. It also frustrates low-usage customers and adds costs to them, while reducing rates paid by high-use customers. The rate design is inappropriate for a monopoly natural gas distribution service and should not be used.

V. OPAE objects to the failure of the Staff Report to require that Duke offer affordable payment plans based on the customer's income and energy burden.

Customers are not well served by 'one size fits all' payment plans which are often unaffordable and ultimately put customers in danger of disconnection. Payment plans should be customized based on a customer's income and the resulting burden that energy costs place on the customer; payment plans should consider the percentage of a customer's income spent on utility bills. The Staff Report erred in failing to require Duke to offer affordable payment plans based on the customer's income and the resulting burden on the customer.

MAJOR ISSUES

Pursuant to Revised Code Section 4903.083, OPAE proposes the following summary of major issues:

1. The appropriateness of the revenue requirement;
2. The appropriate rate design and fixed delivery charges;
3. The appropriate rate of return for ratemaking purposes;
4. The use of high fixed delivery charges;
5. The appropriate level of test-year revenues;
6. The appropriate level of operating and maintenance expenses;
7. The appropriate level of rate base;
8. The existence of distribution cost recovery riders that undermine the ratemaking process herein.

Respectfully submitted,

/s/Colleen L. Mooney
Colleen L. Mooney
Ohio Partners for Affordable Energy
231 West Lima Street
Findlay, OH 45840
Telephone: (419) 425-8860
FAX: (419) 425-8862
cmooney@ohiopartners.org

CERTIFICATE OF SERVICE

I hereby certify that a copy of these Objections to the Staff Report and List of Major Issues was served electronically upon the following parties identified below in these cases on this 4th day of February 2013.

/s/Colleen L. Mooney
Colleen L. Mooney

SERVICE LIST

Amy B. Spiller
Elizabeth H. Watts
Rocco D'Ascenzo
Duke Energy Ohio
155 East Broad Street, 21st Floor
Columbus, Ohio 43215
amy.spiller@duke-energy.com
elizabeth.watts@duke-energy.com
jeanne.kingery@duke-energy.com

Howard Petricoff
Stephen Howard
52 East Gay Street
Columbus, Ohio 43215
mhpetricoff@vorys.com
smhoward@vorys.com

Thomas J. O'Brien
Bricker & Eckler LLP
100 South Third Street
Columbus, Ohio 43215-4291
tobrien@bricker.com

Joseph Serio
Larry Sauer
Assistant Consumers' Counsel
Office of Ohio Consumers' Counsel
10 West Broad Street, 18th Floor
Columbus, Ohio 43215
serio@occ.state.oh.us
sauer@occ.state.oh.us
berger@occ.state.oh.us

William Wright
Public Utilities Commission Section
180 E. Broad Street, 9th Floor
Columbus, Ohio 43215-3793
William.Wright@puc.state.oh.us
Thomas.mcnamee@puc.state.oh.us
Devin.parram@puc.state.oh.us

Kimberly Bojko
Colleen M. O'Donnell
Carpenter Lipps & Leland LLP
289 North High Street, 1300
Columbus, Ohio 43215
Bojko@carpenterlipps.com
O'Donnell@carpenterlipps.com

J. Thomas Siwo
Matthew W. Warnock
Bricker & Eckler LLP
100 South Third Street
Columbus, Ohio 43215-4291
mwarnock@bricker.com
tsiwo@bricker.com

Joseph Clark
21 East State Street
Columbus, Ohio 43215
joseph.clark@directenergy.com

Douglas Hart
441 Vine Street, Suite 4192
Cincinnati, Ohio 45202
dhart@douglasehart.com

Mary Christensen
8760 Orion Place, Suite 300
Columbus, Ohio 43240
mchristensen@columbuslaw.org

A. Brian McIntosh
McIntosh & McIntosh
1136 Saint Gregory Street
Cincinnati, Ohio 45202
brian@mcintoshlaw.com

Vincent Parisi
Matthew White
Interstate Gas Supply
6100 Emerald Parkway
Dublin, Ohio 43016
vparisi@igsenergy.com
mswhite@igsenergy.com