

**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)	Case No. 13-2418-GA-AAM
Change Accounting Methods.)	

COMMENTS OF DUKE ENERGY OHIO, INC.

Duke Energy Ohio, Inc., (Duke Energy Ohio or Company) submitted an application pursuant to R.C. 4909.18 and 4929.111 requesting approval from the Public Utilities Commission of Ohio (Commission) to implement an information technology capital expenditure program (IT-CEP) and for accounting authority to: (1) capitalize post-in-service carrying costs (PISCC) on investments under the IT-CEP for assets placed in service but not yet reflected in rates; (2) defer depreciation expense and property tax expense directly attributable to the IT-CEP; and (3) establish a regulatory asset to which PISCC, depreciation expense, and property tax expense will be deferred for recovery in a subsequent, separate proceeding. Said filing is authorized pursuant to Am. Sub. H.B. 95 (H.B. 95), which was intended, in part, to enable natural gas companies to implement capital expenditure programs (CEPs) and provide the option of seeking recovery outside of time-consuming base rate cases.

The Commission issued a procedural schedule on March 14, 2014, directing interested parties to intervene on or before April 25, 2014, and to file comments on or before May 2, 2014. No party has intervened. The Staff of the Public Utilities Commission of Ohio (Staff) filed Comments on May 2, 2014. Staff takes no position on the amount or prudence of the proposed

capital spend, but otherwise offered nine comments. Duke Energy Ohio responds to the comments below.

Staff Comment A – Scope of IT-CEP and Associated Deferrals

In its first comment, Staff concludes that there is no need to allocate costs between natural gas and other services because, according to Staff, the information technology (IT) work to be completed in connection with the IT-CEP concerns “systems and functions that serve [Duke Energy Ohio’s] natural gas distribution services exclusively.”¹ Staff’s conclusion is predicated upon information provided by the Company in discovery. Although Duke Energy Ohio agrees with Staff’s conclusion that no cost sharing or allocation is necessary, it offers comment here to avoid the conclusion that the underlying systems at issue are dedicated solely to the Company’s natural gas business. The redesign and upgrades described in the Application only apply to gas functions.² Thus, although the underlying systems may be used by other parts of the business, the redesign and upgrades will concern only functionality associated with the natural gas business.

Staff Comment B – Lack of Incremental Revenue

Staff’s second comment does not contain a recommendation. Rather, in this comment, Staff observes that the proposed IT-CEP will not generate any incremental revenue, as previously confirmed by the Company. Duke Energy Ohio does not believe that a reply comment is necessary here.

¹ Staff Comment, at pg. 7.

² Id. at footnote 12 (Duke Energy Ohio Response to Staff Data Request No. 1).

Staff Comment C – Applying PISCC to Net Plant

In its third comment, Staff asks the Commission to direct the Company to “compute the PISCC deferral on net plant... .”³ Duke Energy Ohio does not object to computing PISCC carrying charges on net plant for purposes of these proceedings and the IT-CEP requested herein. However, Duke Energy Ohio’s acquiescence here should not be interpreted as its consent to computing PISCC on net plant in all other instances.

Staff Comment D – Cap on Accrued Deferral Balances

Staff recommends that the:

Commission cap accrual of deferrals made under the IT-CEP and/or total deferrals for the IT-CEP in conjunction with other capital expenditure programs that [Duke Energy Ohio] may establish in the future at the \$1.50 per month cap established for other gas companies’ capital expenditure programs.⁴

The cap concerns only residential rates.⁵

In advancing this recommendation, Staff cites to the CEPs of other natural gas companies and contends that the Commission imposed identical caps upon said entities. Although the Commission may have imposed such a cap in respect of each of the CEPs implemented by these other natural gas companies, it did not impose a cumulative cap of \$1.50/month on all CEPs that each entity has implemented and may implement in the future. Accordingly, and as discussed herein, Duke Energy Ohio opposes Staff’s recommendation.

As an initial matter, Duke Energy Ohio states that the authorizing statute – R.C. 4929.111 – does not arbitrarily limit deferred balances or mandate that recovery proceedings be initiated once a certain dollar amount has been exceeded. Rather, the provision unambiguously identifies a maximum amount of the deferral. Specifically, the statute provides, in relevant part, that,

³ Id. at pg. 9.

⁴ Id. at pg. 10.

⁵ Id.

“[a]ny deferral...shall be limited to amounts that are no greater than those consistent with the total cost of the capital expenditure program as set forth in the application, unless the commission in its discretion authorizes additional recovery under this section.”⁶

Moreover, the statute does not mandate any time limit for accruing deferrals, which is implied by Staff’s recommended cap. Rather, R.C. 4929.111(H) unambiguously identifies when deferrals will cease and that is when “rates reflecting the cost of those assets are effective.”

As the General Assembly wanted to limited recovery to no more than one time per year and identified when deferrals would cease, it is reasonable to conclude that it did not contemplate the imposition of relatively small caps that, once met, would require cost recovery proceedings to be initiated. But Staff’s recommended cap, once nearing, would compel the Company to initiate recovery proceedings and such a recommendation is not contemplated under the express provisions of R.C. 4929.111.

As discussed herein, the cap to which Staff refers is the product of agreement or, more accurately, separate agreements concerning separate CEPs.

Columbia Gas of Ohio, Inc., (Columbia) was the first natural gas company to seek a CEP under H.B. 95. And in so filing, Columbia sought a CEP for the discrete period between October 1, 2011, and December 31, 2012 (Columbia CEP 1).⁷ In the comment phase of this proceeding, Columbia sought to balance, on the one hand, frequent recovery requests, and, on the other, ongoing deferrals that could cause rate shock once recovery commenced.⁸ Thus, Columbia proposed that “deferrals under its CEP be allowed to accrue until the impact from those deferrals on the rates for Columbia’s Small General Service (“SGS”) customers would exceed

⁶ R.C. 4929.111(C).

⁷ *In the Matter of the Application of Columbia Gas of Ohio, Inc., for Approval to Implement a Capital Expenditure Program*, Case No. 11-5351-GA-UNC, *et al.*, Application, October 3, 2011).

⁸ *Id.* Columbia Reply Comments, at pg. 4 (July 26, 2012).

\$1.50/month.”⁹ Notably, the only CEP to which this proposal was directed was Columbia CEP 1. Staff agreed with Columbia’s proposal and, in doing so, did not condition its acceptance on the application of the \$1.50/month cap to Columbia CEP 1 and every other CEP that Columbia may implement in the future.¹⁰ The Commission agreed with Columbia’s proposal, as supported by Staff.¹¹

Thereafter, Columbia sought to implement a second CEP for 2013 and succeeding years (Columbia CEP 2).¹² This CEP was, in all respects, a continuation of Columbia CEP 1. Thus, Columbia was not seeking to implement multiple CEPs, as expressly permitted under H.B. 95. Rather, it was merely extending that which had already been in place and approved by the Commission. As Staff recognized:

Columbia’s Application provides that, in-lieu of future applications for authority to continue its CEP and related deferral authority, approval of the current Application would grant it ongoing approval of its CEP and continuing deferral authority until the \$1.50/month Cap is reached.¹³

In finding the proposal efficient, Staff did not further recommend that the cap be applied to all CEPs that Columbia may implement. Rather, only one CEP was the subject of Staff’s Comments, which reiterated Columbia’s proposal to continue Columbia CEP 2 “until it reaches the point where the deferrals associated with the program would equate to \$1.50/month charge on [residential customers] if the deferrals were included in rates.”¹⁴ The Commission’s decision was similarly limited. And as there was agreement between Columbia and Staff as to the cap, the Commission found that:

⁹ Id., at pp. 4-5.

¹⁰ Id., Staff Surreply Comments, at pg. 8 (August 15, 2012).

¹¹ Id., Finding and Order, at pg. 12 (August 29, 2012).

¹² *In the Matter of the Application of Columbia Gas of Ohio, Inc., for Approval to Implement a Capital Expenditure Program*, Case No. 12-3221-GA-UNC, *et al.*, Application (December 24, 2012).

¹³ Id., Staff Comments, at pg. 12 (July 11, 2013)(emphasis added).

¹⁴ Id., Staff Comments, at pg. 4 (July 11, 2013)(emphasis added).

Columbia is authorized, pursuant to Sections 4909.18 and 4929.111, Revised Code, to implement the CEP and modify its accounting procedures as necessary to carry out the implementation of the CEP, consistent with this finding and order and the CEP Order, in 2013 and succeeding year, up until the point where the accrued deferrals, if included in rates, would cause the rates charged to the SGS class of customers to increase by more than \$1.50 per month.¹⁵

The East Ohio Gas Company d/b/a Dominion East Ohio (DEO) was the second company to seek implementation of a CEP and it, too, sought a program having a defined term between October 1, 2011, and December 31, 2012 (Dominion CEP 1).¹⁶ As the case developed and comments exchanged, DEO acknowledged limited acceptance of a cap on accrued deferrals. Specifically, for purposes of its case concerning Dominion CEP 1, DEO agreed to accrue deferred balances until such time as the bill impact on its General Sales Service class of customers would exceed \$1.50/month.¹⁷ In responding to DEO's proposal, Staff did not condition its acceptance on application of the \$1.50/month cap to all CEPs that DEO has implemented or may implement in the future. Rather, Staff's response was directed to the Dominion CEP 1.¹⁸ In approving the Dominion CEP 1, the Commission expressly noted that it found it appropriate to adopt the \$1.50/month cap because DEO and Staff had agreed upon it.¹⁹ And, as evident from the comments underlying that agreement, it was limited to one CEP.

Dominion's second request for a CEP was initiated in 2012 and concerned the period between January 1, 2013, and December 31, 2013 (Dominion CEP 2).²⁰ In its application, DEO proposed a \$1.50/month cap in connection with implementation of the program (*i.e.*, Dominion

¹⁵ *Id.* Finding and Order, at pg. 5 (October 9, 2013)(emphasis added).

¹⁶ *In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio to Implement a Capital Expenditure Program*, Case No. 11-6024-GA-UNC, Application (December 23, 2011).

¹⁷ *Id.* DEO Supplemental Reply Comments, at pg. 4 (August 3, 2012).

¹⁸ *Id.* Staff Surreply Comments, at pp. 9-10 (September 20, 2012).

¹⁹ *Id.* Finding and Order, at pg. 16 (December 12, 2012)(CEP approved, subject to

²⁰ *In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio to Implement a Capital Expenditure Program*, Case No. 12-3279-GA-UNC, *et al.*, Application (December 20, 2012).

CEP 2).²¹ Staff did not contest DEO's proposal. Significantly, however, Staff also did not recommend that such a cap be applied to all CEPs that DEO had implemented or may implement.²² And the Commission's approval of Dominion CEP 2 was thus not conditioned on the imposition of one cap for both Dominion CEP 1 and Dominion CEP 2.²³

Vectren Energy Delivery of Ohio's (Vectren) first CEP was requested in 2012 and concerned the specific, fifteen-month period ending December 31, 2012 (Vectren CEP 1).²⁴ The notion of a cap was addressed in the comment stage, with Vectren questioning the reasonableness of a \$1.50/month cap in light of applicable federal regulation and the infrastructure replacement programs necessitated thereby.²⁵ Importantly, Vectren further clarified that any cap would be need to be revisited if it were unable to gain Commission approval, in a separate proceeding, for infrastructure investments similar as those subject to its distribution replacement rider.²⁶ In response, Staff conceded that "the adequacy of the cap can be revisited in the future if [Vectren] is unsuccessful in obtaining an alternative recovery mechanism...for its modernization investments."²⁷ Because of Staff's acknowledgement that the cap could be revisited, Vectren agreed with the \$1.50/month cap for purposes of Vectren CEP 1.²⁸ Again, therefore, the Commission adopted the agreement between Staff and Vectren in respect of the cap that concerned only Vectren CEP 1.²⁹

²¹ *Id.*, at pg. 5.

²² *Id.*, Staff Comments (August 12, 2013).

²³ *Id.*, Finding and Order, pp. 4-5 (October 9, 2013).

²⁴ *In the Matter of the Application of Vectren Energy Delivery of Ohio, Inc., to Implement a Capital Expenditure Program*, Case No. 12-0530-GA-UNC, *et al.*, Application (February 3, 2012).

²⁵ *Id.*, Vectren Supplemental Reply Comments, at pp. 5-6 (September 14, 2012).

²⁶ *Id.*

²⁷ *Id.*, Staff Comments, at pg. 15 (October 26, 2012).

²⁸ *Id.*, Vectren Second Supplemental Reply Comments, at pg. 2 (December 4, 2012).

²⁹ *Id.*, Finding and Order, at pg. 15 (December 12, 2012).

With the term of its CEP 1 drawing to an end, Vectren thereafter sought to implement a second CEP applicable only to the 2013 calendar year (Vectren CEP 2).³⁰ In its application, Vectren proposed a \$1.50/month cap, subject to the express qualification that such a cap would be insufficient if it were unable to obtain Commission approval of a separate filing pursuant to which it sought to extend and expand an infrastructure replacement program.³¹ Staff did not contest this qualification in its Comments; nor did it recommend application of the \$1.50/month cap to all CEPs that Vectren had implemented or may implement.

In approving Vectren CEP 2, the Commission found that:

Vectren is authorized, pursuant to Sections 4909.18 and 4929.111, Revised Code, to implement the CEP and modify its accounting procedures as necessary to carry out the implementation of an ongoing CEP, consistent with the requirements of the Commission's Order in *Vectren 2012 CEP Case* and this Finding and Order, until the accrued deferrals, if included in rates, would cause the rates charged to Residential (Rates 310, 311, and 315) and General Default Sales Service, Group 1 (Rates 320, 321, and 325) customers to increase by more than \$1.50 per month.³²

As the history of these various proceedings confirms, Staff has not recommended, and the Commission has not imposed, a comprehensive and cumulative cap of \$1.50/month on all CEPs that a natural gas utility has implemented or may implement in the future. Rather, the CEPs at issue were for discrete periods that did not overlap and the caps were applicable to each separate CEP derived from agreement. Here, however, Staff is not recommending individual caps on individual CEPs. Rather, it is proposing a single cap on all CEPs that the Company may implement. It is thus incorrect to urge consistency where the underlying circumstances are different.

³⁰ *In the Matter of the Application of Vectren Energy Delivery of Ohio, Inc., to Implement a Capital Expenditure Program*, Case No. 13-1890-GA-UNC, *et al.*, Application (August 29, 2013).

³¹ *Id.*, at pp. 4-6.

³² *Id.*, Finding and Order, at pg. 7 (December 4, 2013)(emphasis added).

Duke Energy Ohio appreciates the desire to balance the cost and resources that must be dedicated to more frequent rate filings with efforts to mitigate rate shock. But this balance must be done within the framework of H.B. 95, which expressly permits CEPs and the deferral of costs thereunder and which was intended to enable more efficient cost recovery mechanisms. In this regard, one must first understand how Staff's recommended cap translates into a dollar impact. But this cannot be done because to determine whether the \$1.50/month cap would fairly guard against rate shock, one must know: (1) allocation of costs between residential and non-residential customers under the IT-CEP; (2) allocation of costs between residential and non-residential customer in connection with every other CEP; and (3) the Commission-approved amortization period for the deferral. But these items are currently unknown and unknowable. The cap, therefore, is as arbitrary as applied to these proceedings and assumes facts that cannot be known at this time and its reasonableness cannot be determined.

Further, it must be noted that, in the Columbia and Vectren cases, many of the types of expenditures included in the CEPs had longer depreciable lives than the IT expenditures at issue in Duke Energy Ohio's IT-CEP. IT expenditures have a relatively short life (*e.g.*, five years) as compared to the life of assets such as measuring and regulating stations, meters, and meter sets. This difference will cause the depreciation expense to be relatively higher in the Company's program.

To enable meaningful programs and to advance the notion of consistency, the Company submits that the suggested cap should apply only to this IT-CEP. Further, Duke Energy Ohio requests that Staff's comment be modified so as to allow for the cap to be revisited.

Staff Comment E – Maintaining Records

Staff recommends that the Commission direct the Company to retain records to support the approvals requested herein and any future recovery of amounts deferred in connection with the IT-CEP. Duke Energy Ohio does not object to this recommendation.

Staff Comment F – Cost Variances

Staff acknowledges that the actual IT-CEP costs could vary from the amounts set forth in the Application and agrees that the Company should have flexibility in the implementation of the IT-CEP. Staff recommends that Duke Energy Ohio inform the Commission, in subsequent informational filings, of any significant variation between actual and estimated costs. Further, Staff recommends to the Commission caution the Company that it may revisit this topic should frequent substantial deviations prevent Staff from monitoring the IT-CEP. To the extent this procedural recommendation has been adopted for the CEPs of all other natural gas utilities and is further qualified to impose reasonable limitations, Duke Energy Ohio does not object to it. In this regard, the Company recommends that the cautionary instruction pertain to deviations that reasonably impede Staff's ability to monitor the filing. Such a qualification may be inferred, given that reasonableness should underlie the actions of parties and Staff in the regulatory arena. However, for avoidance of doubt, Duke Energy Ohio respectfully offers this qualification.

Staff Comment G – Content of Informational Filings

Staff recommends that, for purposes of its informational filings, Duke Energy Ohio should be required to submit the same information as that required by other natural gas companies in respect of their CEP informational filings. The Company does not necessarily oppose the items delineated in Staff's Comments.³³ However, such items include a schedule of potential rate impacts if the deferred amounts were to be included in residential rates. As Duke

³³ Id. at pp. 13-14.

Energy Ohio has not yet proposed any rate methodology, including allocation between customer groups, with regard to the recovery of amounts deferred in connection with its IT-CEP, such a schedule will be predicated upon a series of assumptions. To avoid any premature determination of rate redesign for the deferred amounts, Duke Energy Ohio suggests that Staff's Comment G be modified to clarify that such information may be preliminary, derived from certain assumptions, and subject to revision when recovery of costs is requested.

Staff Comment H – Process for Informational Filings

Staff recommends that Duke Energy Ohio's informational filings follow the same process as that adopted for other natural gas companies and their respective CEP informational filings. In this regard, Staff suggests that the Company's reply comments should be submitted within ten days of the filing of comments by Staff and, as applicable, intervenors, as opposed to fifteen-day deadline offered by Duke Energy Ohio. The Company has no objection to this recommended, ten-day response time.

Staff Comment I – Scope of Deferral

In its final comment, Staff recommends that the Commission's Order state that the recovery of deferred amounts shall be considered in a separate proceeding, so as to avoid future disagreement. The Company does not envision a dispute as to the scope of these proceedings – they were not initiated to seek approval of a rate or a tariff adjustment. Moreover, consistent with prior Commission decisions, the prudence and reasonableness of the costs under the IT-CEP for which Duke Energy Ohio will seek recovery will be determined in a subsequent proceeding. Consequently, Duke Energy Ohio finds that further qualification as to the deferral authority is unnecessary.

WHEREFORE, for the reasons set forth herein, Duke Energy Ohio respectfully requests Commission approval to implement the IT-CEP, as described in its Application, and authorization for the creation of a regulatory asset and deferral of PISCC on investments under the IT-CEP, depreciation expense, and property tax expense.

Respectfully submitted,




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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was delivered, via electronic mail delivery, facsimile, or regular mail delivery, postage prepaid, on this the 16th day of May 2016 to the following:


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