

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.)

FINDING AND ORDER

The Commission finds:

- (1) Duke Energy Ohio, Inc. (Duke or the Company) is a public utility as defined in R.C. 4905.02 and a natural gas company under R.C. 4905.03 and, as such, is subject to the jurisdiction of this Commission.
- (2) On December 20, 2013, Duke filed an application for authority to implement an information technology capital expenditure program (CEP), pursuant to R.C. 4909.18 and 4929.111. Duke seeks to implement the CEP to install, upgrade, or replace information technology systems. In its application, Duke explains that the CEP will involve substantial redesign and upgrades for systems that Duke uses to provide natural gas service to its customers. The upgrades will improve efficiencies through such means as additional automated processes, quality assurance review, and enhanced regulatory and management reporting capabilities. Moreover, Duke contends that the upgrades will allow it to provide information consistent with the Commission's current compliance rules and regulations. Duke plans to initiate a five-year program beginning in 2013 and ending in 2018. The total cost for the CEP, exclusive of carrying costs, is expected to range between \$20 and \$25 million.
- (3) To inform the Commission and interested persons, Duke proposes to disclose, through annual informational reports filed by April 30 of each year, the amount of capital expenditures for the prior year. To allow responses from interested persons, Duke suggests that Staff and intervenors be allowed to file comments within 30 days of the filing of each

annual report. If no comments are filed, Duke requests that its CEP and its related ongoing deferral authority be deemed approved. If comments are filed, Duke requests that it be permitted to file reply comments within 15 days.

- (4) In addition to the approval of its CEP, Duke seeks authority to change its accounting methods. Specifically, Duke requests authority to capitalize post-in-service carrying costs (PISCC) on program investments for assets placed in service but not yet reflected in rates; defer depreciation expense and property tax expense directly attributable to the CEP; and establish a regulatory asset to which PISCC, depreciation expense, and property tax expense will be deferred for recovery in a subsequent, separate proceeding. Moreover, Duke notes that any accrual for deferral of PISCC, depreciation expense, and property tax expense associated with the CEP shall be recorded in accordance with the system of accounts established by the Commission under R.C. 4905.13. Furthermore, Duke maintains that it follows the Federal Energy Regulatory Commission Unified System of Accounts that is applicable to natural gas companies when accounting for the actual costs of capital projects. Duke informs the Commission that PISCC will be based upon the Company's cost of long-term debt as approved by the Commission in Duke's most recent natural gas distribution base rate case. *In re Duke Energy Ohio, Inc., Case No. 12-1685-GA-AIR, et al., Opinion and Order (Nov. 13, 2013)*. Duke notes that recovery of any deferred amounts will be sought in a separate proceeding to assess the prudence and reasonableness of the amounts deferred. In accordance with R.C. 4929.111(E), Duke states that it will not request recovery of costs under the CEP more than one time in each calendar year.
- (5) Duke submits that approval of the application will not result in an increase in any rate, joint rate, toll, classification, charge, or rental. Duke, therefore, concludes that the application should be considered as an application not for an increase in rates under R.C. 4909.18, which the Commission may approve without a hearing.
- (6) In an Entry dated March 14, 2014, the attorney examiner issued a procedural schedule setting April 25, 2014, as the deadline to file for intervention; May 2, 2014, as the deadline to file

comments; and May 16, 2014, as the deadline to file reply comments.

- (7) No motions to intervene were filed. In accordance with the established procedural schedule, Staff filed its comments on May 2, 2014, and Duke filed reply comments on May 16, 2014.
- (8) Staff made nine comments and recommendations. First, Staff notes that the CEP and associated deferrals are limited to capital expenditures related to Duke's gas operations. Staff explains that information technology upgrades may benefit both regulated and nonregulated services, or both electric and natural gas services, although the statute that authorizes CEPs only applies to natural gas utility service. Staff further explains that any capital expenditures that are shared between services would need to be apportioned and allocated to each service to ensure that only expenditures directly related to the utility's natural gas operations are included in the CEP. Because Duke's planned information technology redesign and upgrades will be made on systems that only serve its natural gas distribution functions, Staff confirms that no cost sharing or allocation will be necessary. In its reply comments, Duke clarifies that the underlying systems may be used by other parts of the business, although the redesign and upgrades will concern only functionality associated with the natural gas business.
- (9) In its second comment, Staff states that, in prior cases, the Commission has directed that the regulatory asset created to defer the total monthly PISCC, depreciation expenses, and property tax expenses associated with CEPs be reduced by any incremental revenue directly attributable to the capital investments made under the programs. Staff notes that, in response to a data request, Duke stated that its planned capital investments under the CEP will not involve any new products or services to customers and, thus, the CEP investments will not generate incremental revenue. Staff agrees with Duke's assertion and believes that no adjustment to reduce the Company's monthly deferrals for incremental revenue will be necessary.

- (10) Thirdly, Staff recommends that the deferred PISCC be applied to net plant rather than gross plant. Staff explains that, in response to a data request, Staff discovered that Duke intends to apply the PISCC to gross plant additions that have not been adjusted to net out accumulated depreciation or the retirement of existing plants. According to Staff, Duke's proposed formula is inconsistent with the Commission's past practice and will lead to the PISCC being applied to inflated plant balances and deferral of inflated PISCC amounts. Staff contends that Duke should be directed to compute the PISCC deferral on a net plant basis, meaning gross plant additions less retirements, accumulated depreciation, and cost of removal, if applicable. In its reply comments, Duke does not object to Staff's proposal, although Duke does not concede that computing PISCC on a net plant basis is appropriate in all other instances.
- (11) In its fourth comment, although Staff supports Duke's proposal for a five-year CEP and recognizes that Duke may seek to implement additional CEPs, Staff recommends that accrual of deferred amounts under the CEP, or the CEP in conjunction with other future CEPs, be capped at \$1.50 per month for residential customers, if the deferrals were to be included in residential rates. Staff notes that its recommendation is consistent with the orders issued for the CEPs of the other large natural gas companies. *In re Columbia Gas of Ohio, Inc.*, Case No. 11-5351-GA-UNC (*Columbia*), Finding and Order (Aug. 29, 2012); *In re Dominion East Ohio*, Case No. 11-6024-GA-UNC (*Dominion*), Finding and Order (Dec. 12, 2012); *In re Vectren Energy Delivery of Ohio, Inc.*, Case No. 12-530-GA-UNC (*Vectren*), Finding and Order (Dec. 12, 2012). Upon reaching the cap of \$1.50 per month, Staff recommends Duke be required to file for recovery of the deferred amounts. Staff explains that the purpose of the cap is to prevent the accruing of deferrals from rising to excessive levels and to avoid rate shock for customers.

Emphasizing that the Commission did not impose a cumulative cap of \$1.50 per month on all CEPs that each of the other large natural gas companies has implemented and may implement in the future, Duke opposes Staff's recommendation. For support, Duke points out that R.C. 4929.111 does not limit deferred

balances or mandate recovery proceedings upon exceeding a certain dollar threshold and, instead, sets a maximum amount for the deferral. Duke contends that Staff's recommended cap implies a time limit for accruing deferrals that is at odds with R.C. 4929.111(H), which states that deferrals will cease when rates reflecting the cost of those assets are effective. Duke states that, because the General Assembly wanted to limit recovery to no more than one time per year and identified when deferrals would cease, the General Assembly did not contemplate the imposition of relatively small caps that, once met, would require the initiation of cost recovery proceedings.

Reviewing the details of *Columbia*, *Dominion*, and *Vectren*, Duke concludes that the caps in those prior cases were the result of agreement and were applied only to individual CEPs, not multiple programs. Duke highlights that Staff did not recommend, in any of the previous cases, that the \$1.50 per month cap apply to all CEPs to be implemented in the future and the Commission did not impose a comprehensive, cumulative cap of \$1.50 per month on all current or future programs. Duke argues that Staff's recommended cap is arbitrary, requires information that is not known and that cannot be known, and, therefore, would not necessarily guard against rate shock. Further, according to Duke, many of the types of expenditures at issue in *Columbia* and *Vectren* had longer depreciable lives than the expenditures under Duke's CEP. Duke contends that information technology expenditures typically have relatively short depreciable lives of five years, which will cause the depreciation expense to be relatively higher. Ultimately, Duke requests that the cap of \$1.50 per month be applied only to its proposed CEP. In addition, Duke requests that Staff's comment and recommendation be modified to allow for the cap to be revisited.

- (12) Additionally, in its fifth comment, Staff notes that Duke requests authority to continue its CEP for a five-year period and, instead of annual applications, Duke proposes to submit annual informational filings and to have an abbreviated automatic approval process for annual continuation based upon its annual filings. Although Staff does not object to Duke's proposal, Staff recommends Duke maintain records to support the development and continuation of the CEP,

associated deferrals, and any future recovery of any amounts deferred under the program. In its comments, Duke states that it does not object to Staff's recommendation.

- (13) In its sixth comment, Staff points out that, in its application, Duke gave notice that its actual CEP costs could vary from the estimates that it provided, due to the Company's management of its capital expenditures budget and the stages in which the information system will be redesigned and upgraded. Staff states that it agrees that Duke's actual costs could vary from its estimates and that Duke should have the flexibility to balance the implementation of the CEP with its capital budgeting requirements. Nevertheless, Staff states that it must be able rely on cost estimates and other data that Duke provides. Toward this end, Staff recommends Duke be required to explain any significant changes in its annual informational filings. In the event of frequent substantial deviations from estimates and previously filed information that impede Staff's ability to monitor the CEP, Staff advises that the Commission should reserve the option of revisiting this matter, as it has done for the other large natural gas companies. Duke does not disagree with Staff's recommendation. However, Duke emphasizes that a reasonableness standard should apply to determine if any variance impedes Staff's ability to monitor the CEP.
- (14) Further, in its seventh comment, Staff states that it supports Duke's proposal to provide annual informational filings, but recommends that Duke provide the same type of information that the other natural gas companies provide with respect to their CEPs. Duke does not oppose Staff's recommendation. However, Duke points out that it has not yet proposed a rate methodology with regard to recovery of the amounts deferred under the CEP. Duke, therefore, suggests that Staff's comment be modified to clarify that the information required to be filed may be preliminary in nature, derived from assumptions, and subject to revision when the recovery of costs is requested.
- (15) In its eighth comment, Staff recommends that the annual process for review of Duke's ongoing CEP should be the same process approved for the other natural gas companies. Staff notes that, in *Columbia* and *Vectren*, the Commission allowed

the companies to continue their CEPs through annual informational filings, with comments to be filed within 30 days and reply comments within 40 days. Staff further notes that, if no comments are filed within 30 days, authority to continue the CEP is deemed granted and, if comments are filed, the Commission will determine if additional review is necessary and decide within 60 days what form the review should take. Staff explains that Duke proposes a similar process, except that it suggests 15 days for reply comments if comments are filed. Staff does not oppose Duke's proposal, but believes the time constraints in CEP cases should be as consistent as possible. Staff, therefore, suggests that Duke could file a motion to request additional time, as necessary. Duke, in its comments, states that it does not object to Staff's recommendation of a 10-day response time to file reply comments.

- (16) Finally, in its ninth comment, Staff recommends that, in order to avoid future disagreement, the Commission clarify that it is only granting authority to establish the proposed CEP and the related accounting authority. Staff further recommends the Commission specify that recovery of any deferred amounts will be determined in a separate proceeding. Staff comments that *the Commission has made these clarifications in similar cases*. Duke responds that it understands that the reasonableness of the costs under the CEP for which Duke will seek recovery will be determined in a subsequent proceeding and, therefore, Duke believes that Staff's recommendations are unnecessary.

On June 26, 2014, Staff filed a motion for leave to file surreply comments, as well as its surreply comments. Regarding its recommendation of a \$1.50 per month cap, Staff maintains that its recommendation for Duke is consistent with the caps established in *Columbia*, *Dominion*, and *Vectren* and subsequent CEP cases for those companies. Staff claims that Duke has misconstrued the case histories and misunderstands Staff's position in those cases. Specifically, Staff asserts that the \$1.50 per month cap that the Commission adopted in *Columbia*, *Dominion*, and *Vectren* applies to the cumulative total of all deferrals, regardless of whether the deferrals are considered to have been created under one ongoing CEP or multiple programs. Staff contends that it advocated this position and that the other utilities understood and implemented their

tracking mechanisms accordingly. Staff also challenges Duke's assertion that it should be treated differently because its information technology expenditures involve relatively short depreciation lives. Staff contends that Duke failed to account for the fact that two of the other utilities expressly include annual information technology assets with similar depreciable lives in their CEPs that are greater than the annual amounts proposed in Duke's CEP. Staff points out that, nevertheless, both companies are subject to a cumulative \$1.50 per month cap.

- (17) By Entry issued August 26, 2014, the attorney examiner granted Duke 10 days, until September 5, 2014, to respond to Staff's surreply comments. On September 4, 2014, Duke filed a motion to extend the time to file a response to Staff's surreply comments until September 12, 2014. The attorney examiner issued an Entry on September 12, 2014, granting the motion.
- (18) On September 12, 2014, Duke and Staff filed joint surreply comments, noting that, with certain modifications to the application and prior comments, the parties have reached a comprehensive agreement. The following is a summary of the provisions agreed to by Duke and Staff and is not intended to replace or supersede their agreement:
 - (a) The CEP should be enlarged to include those programs delineated in R.C. 4929.111(A)(1) through (A)(3), initiated in and for 2013 and succeeding years.
 - (b) The proposed CEP meets Duke's obligation under R.C. 4905.22 to furnish necessary and adequate services and facilities that are just and reasonable.
 - (c) Duke should be granted accounting authority to defer PISCC on program investments for assets placed in service but not yet reflected in rates, using the Company's cost of long-term debt as approved in its most recent gas distribution case; defer depreciation expense and property tax expense directly associated with the assets placed

in service; and establish a regulatory asset to which PISCC, depreciation expense, and property tax expense will be deferred for future recovery. For purposes of the above-captioned proceedings only, Duke agrees to compute the PISCC deferral on a net plant basis.

- (d) Duke's CEP will not result in incremental revenue and, consequently, there is no need to adjust the deferred amounts to account for incremental revenue. For any future CEP that generates incremental revenue, the regulatory asset created to defer the total monthly PISCC, depreciation expense, and property tax expense associated with Duke's CEPs should be reduced by any incremental revenue directly attributable to the capital investments made under the programs pursuant to the formula adopted in *Vectren*.
- (e) The CEP should be subject to a cap for the period during which deferrals are being accrued. Specifically, Duke should be allowed to accrue deferrals under the CEP until the accrued deferrals, if included in Duke's residential service rates, would cause the rates charged to residential customers to increase by more than \$1.50 per month. If deferrals exceed the \$1.50 per month threshold, Duke will stop accruing future CEP deferrals until it files for authority to recover existing accrued deferrals. Duke is not precluded from submitting an application to the Commission for a subsequent adjustment to the cap in response to changes in applicable laws, regulations, or compliance activities related to pipeline safety.
- (f) Duke will make annual informational filings regarding its CEP on April 30, beginning in 2015. Within 30 days after each annual filing, Staff and any interested parties may file comments. If no comments are filed, Duke's CEP and related

ongoing deferral authority shall be deemed approved. If comments are filed within 30 days, Duke shall be permitted 10 days to file reply comments. The Commission shall determine whether that year's filing shall be approved.

- (g) Duke's annual filings shall consist of the following information: the CEP regulatory asset balance at December 31 of each year; calculations used to determine monthly deferred amounts, including a breakdown of investments in PISCC, depreciation expense, and property tax for each budget type; a breakdown of rate impact by customer class; capital budget for the calendar year in which the informational filing is made and the succeeding year; estimate of the effect that the deferred amounts would have on residential customer bills, if they were included in rates; schedules showing the calculations and inputs for deferrals; and explanation of any substantial deviation between the planned, estimated CEP expenditures and actual expenditures, where such substantial deviation would reasonably impede Staff's ability to monitor or review the filing. The first annual filing will include all of the above information, except for schedules showing the calculations and inputs for deferrals and explanation of any substantial deviation in estimated and actual CEP expenditures, for the 2013 and 2014 calendar years. All subsequent annual filings shall pertain to the immediately preceding calendar year.
- (h) For purposes of these proceedings, Duke will not seek recovery of costs under the CEP more than one time in each calendar year.
- (i) The parties recommend that the Commission find that the approvals requested in these proceedings under R.C. 4909.18 and 4929.111 to establish a CEP and for related accounting authority are not for an increase in rates. Accordingly, the parties

contend that the application, as modified by the joint surreply comments, should be considered an application not for an increase in rates and may be approved without a hearing.

- (j) Duke and Staff agree that the joint surreply comments address the establishment of a CEP and accounting authority for related deferrals and that recovery of deferred amounts shall be considered in a separate proceeding.
- (19) R.C. 4929.111(A) provides that a natural gas company may file an application with the Commission under R.C. 4909.18, 4929.05, or 4929.11 to implement a CEP for any of the following:
- (a) Any infrastructure expansion, infrastructure improvement, or infrastructure replacement program;
 - (b) Any program to install, upgrade, or replace information technology systems;
 - (c) Any program reasonably necessary to comply with any rules, regulations, or orders of the Commission or other governmental entity having jurisdiction.

R.C. 4929.111(C) requires the Commission to approve the application, if the Commission finds that the CEP is consistent with the natural gas company's obligation under R.C. 4905.22 to furnish necessary and adequate services and facilities, which the Commission finds to be just and reasonable.

- (20) Upon review of Duke's application, Staff's comments, Duke's reply comments, Staff's surreply comments, and the joint surreply comments filed by Duke and Staff, the Commission finds that Duke has demonstrated that the CEP is consistent with its obligation under R.C. 4905.22 to furnish necessary and adequate services and facilities, which the Commission finds to be just and reasonable. Further, the Commission finds that Duke's application will not result in an increase in any rate or

charge. Accordingly, the application should be considered as an application *not for an increase in rates under R.C. 4909.18.*

- (21) With the recommendations proposed by Duke and Staff in their joint surreply comments, as well as the requirements set forth below, the Commission finds Duke's proposed CEP to be both reasonable and consistent with R.C. 4929.111. Accordingly, Duke is authorized, pursuant to R.C. 4909.18 and 4929.111, 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 parties' joint surreply comments, in 2013 and succeeding years, up until the point where the accrued deferrals, if included in Duke's residential service rates, would cause the rates charged to residential customers to increase by more than \$1.50 per month.
- (22) While the Commission approves Duke's application for 2013 and succeeding years, as modified by the joint surreply comments filed by Duke and Staff, we find that a process should be adopted, as proposed by Duke and Staff and clarified herein, to allow interested persons and Staff to comment on the information provided by the Company in its annual informational filings due on April 30 of each year. Therefore, the Commission directs that any comments and reply comments should be filed within 30 days and 40 days, respectively, of the date of Duke's annual informational filing. After receipt of each annual informational filing and review of any comments submitted, the Commission will determine whether there should be further review of Duke's approved deferral authority at that time. If the Commission finds such *further review to be necessary, within 60 days after the filing of each annual informational filing, an appropriate procedure for the review will be established.* If such a review is initiated, Duke may continue to accrue appropriate deferrals, unless and until the Commission orders otherwise. The Commission notes that Duke's annual informational filings, as well as any comments and reply comments, should be filed in the above-captioned cases. With these requirements in place, we find that Duke's application, as modified by the joint surreply comments filed by Duke and Staff, should be approved, subject to our review of the Company's annual informational filings and any

comments or reply comments filed in response. Our approval of Duke's application, as modified by the joint surreply comments filed by Duke and Staff, is contingent on the Company's adherence to the formulas for calculating the total monthly deferral, PISCC, depreciation expense, and property tax expense, as proposed by Staff and adopted by the Commission in *Columbia, Dominion, and Vectren*.

- (23) Additionally, the Commission emphasizes that, consistent with Duke's application, we approve the Company's request for deferral authority, but do not authorize recovery of the deferred amounts at this time. The question of recovery of the deferred amounts, including, but not limited to, issues such as prudence, proper computation, proper recording, and reasonableness, will be considered when Duke files an application to recover the deferred amounts. The Commission has not granted cost recovery for any CEP-related items, and the prudence and reasonableness of the magnitude of Duke's CEP-related regulatory assets and associated capital spending will be considered by the Commission in any future proceedings seeking cost recovery, at which time the Company will be expected to provide detailed information regarding the expenditures for review.

It is, therefore,

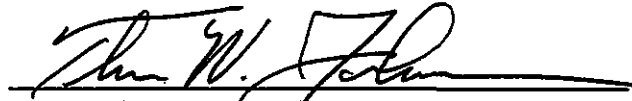
ORDERED, That Duke's application, as modified by the parties' joint surreply comments, be approved, subject to the Commission's review of the Company's annual informational filings and any comments or reply comments received in response. It is, further,

ORDERED, That Duke be granted the necessary and appropriate accounting authority to implement the CEP, as modified by the parties' joint surreply comments, and consistent with this Finding and Order. It is, further,

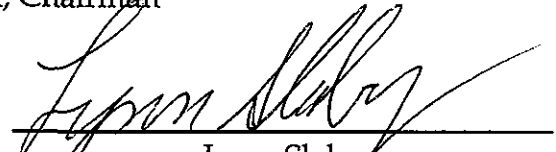
ORDERED, That nothing in this Finding and Order shall be binding upon this Commission in any future proceeding or investigation involving the justness or reasonableness of any rate, charge, rule, or regulation. It is, further,

ORDERED, That a copy of this Finding and Order be served upon all parties of record.

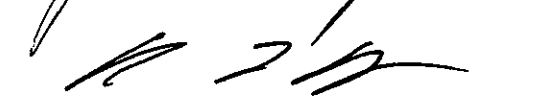
THE PUBLIC UTILITIES COMMISSION OF OHIO


Thomas W. Johnson, Chairman


Steven D. Lesser


Lynn Slaby

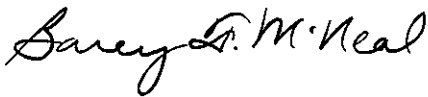

M. Beth Trombold


Asim Z. Haque

LDJ/vrm

Entered in the Journal

OCT 01 2014



Barcy F. McNeal
Secretary