

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke )  
Energy Ohio, Inc., for Approval of an )  
Alternative Rate Plan Pursuant to R.C. ) Case No. 14-1622-GA-ALT  
4929.05 for an Accelerated Service Line )  
Replacement Program. )

ENTRY

The attorney examiner finds:

- (1) On September 17, 2014, Duke Energy Ohio, Inc. (Duke) filed a notice of intent to file an application for approval of an alternative rate plan under R.C. 4929.05.
- (2) On January 20, 2015, Duke filed its application, along with supporting exhibits, pursuant to R.C. 4929.05, 4929.051(B), 4929.11, and 4909.18. In its application, Duke states that it seeks approval of an accelerated service line replacement (ASRP) program. Duke argues the risks associated with service lines are great, given their close proximity to high population areas, and replacement of these lines could potentially take decades without acceleration. Therefore, Duke asserts that its application should be considered not for an increase in rates.
- (3) On February 17, 2015, Duke filed a motion for a waiver from certain filing requirements contained in Ohio Adm.Code 4901:1-19-06. In its motion, Duke first requests waiver of Ohio Adm.Code 4901:1-19-06(B)(1), requiring supporting testimony for the application. Duke notes that R.C. 4929.05 requires the submission of an application that the Commission may approve if the applicant demonstrates compliance with the conditions set forth in R.C. 4928.05(A)(1)-(3). Duke further asserts the Commission has the discretion to conduct a hearing for this proceeding, but is not statutorily required to conduct one during its review of Duke's application. Thus, Duke seeks a waiver from the requirement of this rule, pending any finding by the Commission that a hearing will be necessary. In such event, Duke agrees to file supporting testimony.
- (4) Next, Duke requests waiver of Ohio Adm.Code 4901:1-19-06 (C)(6), requiring identification of a witness supporting any

exhibits to an application. Duke submits that Peggy A. Laub will be the witness supporting the proposed Rider ASRP, which Duke asserts is the only exhibit to its application. Duke seeks a waiver from this requirement until such time the Commission determines a hearing is necessary.

- (5) Finally, Duke requests waiver of Ohio Adm.Code 4901:1-19-06(B)(2), requiring an applicant to provide a copy of its application to the Ohio Consumers' Counsel (OCC) and the parties to its last natural gas base rate case. Duke admits that it inadvertently failed to provide such copies as of the date its application was filed; however, Duke states that these copies were provided to these parties as of February 16, 2015. Duke further asserts that the delay in service will not result in any prejudice to the parties receiving copies of the application, should they seek intervention in this proceeding.
- (6) On February 20, 2015, Staff filed a letter reflecting that Duke's application was in substantial compliance with the filing requirements of Ohio Adm.Code 4901:1-19-06. Staff noted, however, that it would consider Duke to be in technical compliance if the Commission were to grant Duke's motion for a waiver, which was filed on February 17, 2015, for all three requirements.
- (7) In response to Staff's filing, Duke filed a letter on March 3, 2015, reiterating its arguments set forth in its motion for a waiver.
- (8) OCC filed a memorandum contra Duke's motion for waiver on March 4, 2015, arguing that, regardless if a hearing is determined to be necessary, the Commission is still required to conduct an investigation into the justness and reasonableness of the plan, pursuant to R.C. 4905.02. OCC contends that Duke has failed to provide enough information in its application to allow the Commission to thoroughly evaluate its application. Additionally, OCC states that the rules require Duke to show good cause for requesting such a waiver. OCC further argues that Duke has failed to show good cause, noting that the belief a hearing will be unnecessary or that all the requirements for approval of an alternative rate plan under R.C. 4929.05 do not constitute good cause for purposes of a waiver. OCC alleges the mere fact the proposal will charge customers an additional

\$320 million requires additional information, both from discovery and an evidentiary hearing. OP&A, in its memorandum in support of its motion to intervene, agreed with the concerns raised by OCC.

- (9) Duke filed a reply to OCC's memorandum contra on March 11, 2015. Duke notes in its reply that it is not requesting a waiver of the requirement to file testimony or the need for a hearing; rather, Duke contends that its request is simply a waiver for the timing to submit such information if the Commission deems it appropriate to conduct a hearing. Furthermore, Duke asserts that, in addition to meeting the three enumerated conditions set forth in R.C. 4929.05,<sup>1</sup> it has provided sufficient information regarding the benefits of the ASRP and the safety risks associated with its service lines. Contrary to OCC's arguments, Duke also asserts that its application is complete, although additional reconnaissance will be necessary before Duke will be able to provide a thorough analysis for curb-to-meter service lines. Duke maintains this should be treated as part of its ASRP, as opposed to a contingent requirement for its application. Finally, Duke argues that there is no monetary threshold the Commission must consider when determining whether to conduct a hearing.
- (10) The attorney examiner initially notes that Ohio Adm.Code 4901:1-19-02(D) provides that the Commission may waive any provisions in the chapter upon an application or a motion filed by a party. Upon consideration of Duke's request for waiver, the attorney examiner finds that Duke should be granted a waiver for all three requirements. In the event the Commission determines at a later date that a hearing should be held in this matter, a procedural schedule will be issued, which will establish deadlines for the filing of testimony. Therefore, the attorney examiner concludes that Duke's motion for waiver is reasonable and should be granted, contingent upon the Commission's review and consideration of the application.

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<sup>1</sup> R.C. 4929.05 provides that the Commission shall authorize an alternative rate plan if it finds "that the following conditions are met: (1) The natural gas company is in compliance with section 4905.35 of the Revised Code and is in substantial compliance with the policy of this state specified in section 4929.02 of the Revised Code; (2) The natural gas company is expected to continue to be in substantial compliance with the policy of this state specified in section 4929.02 of the Revised Code after implementation of the alternative rate plan; and (3) The alternative rate plan is just and reasonable."

(11) Accordingly, at this time, the attorney examiner finds it appropriate to set the following procedural schedule:

- (a) April 17, 2015 - Deadline for the filing of motions to intervene.
- (b) April 24, 2015 - Deadline for the filing of comments on Duke's January 20, 2015, application.
- (c) May 8, 2015 - Deadline for the filing of reply comments.

It is, therefore,

ORDERED, That, pursuant to Finding (10), Duke's motion for waiver is granted, contingent on the Commission's final review and consideration. It is, further,

ORDERED, That the procedural schedule set forth in Finding (11) be observed. It is, further,

ORDERED, That a copy of this Entry be served upon all parties and interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

s/ Christine M.T. Pirik

By: Christine M.T. Pirik  
Attorney Examiner

jrj/MJA/vrm

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**Case No(s). 14-1622-GA-ALT**

Summary: Attorney Examiner Entry setting procedural schedule; electronically filed by Vesta R Miller on behalf of Christine M.T. Pirik, Attorney Examiner, Public Utilities Commission of Ohio