

# THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF  
DUKE ENERGY OHIO, INC. TO ADJUST  
AND SET ITS GAS AND ELECTRIC  
RECOVERY RATE FOR 2010 SMARTGRID  
COSTS.

CASE NO. 10-2326-GE-RDR

## ENTRY

Entered in the Journal on November 30, 2016

### I. SUMMARY

{¶ 1} The Commission approves the request of Duke Energy Ohio, Inc. and Ohio Consumers' Counsel to adjust the filing schedule for Duke Energy Ohio Inc.'s base electric distribution rate case.

### II. PROCEDURAL HISTORY

{¶ 2} Duke Energy Ohio, Inc. (Duke or Company) is an electric distribution utility (EDU) as defined in R.C. 4928.01(A)(6), a natural gas company as defined in R.C. 4905.03(A)(5), and a public utility as defined in R.C. 4905.02, and, as such, is subject to the jurisdiction of this Commission.

{¶ 3} On December 17, 2008, the Commission approved a stipulation that, among other things, provided a process for recovering costs associated with Duke's electric SmartGrid system, designated Rider Distribution-Reliability, Infrastructure Modernization (Rider DR-IM). The stipulation provided that, each year, Duke shall file for approval of Rider DR-IM adjustments, subject to due process, including a hearing. The stipulation also provided that Duke would include a mid-deployment program summary and review with its 2010 SmartGrid cost recovery application. *In re Duke Energy Ohio, Inc.*, Case No. 08-920-EL-SSO, et al., Opinion and Order (Dec. 17, 2008). On May 28, 2008 the Commission authorized Duke to file deployment plans for installation of an automated gas meter reading system, which would share the SmartGrid communications technology. The plan provided that Duke would recover costs related to the deployment plans through Rider

Advanced Utility (Rider AU). *In re Duke Energy Ohio, Inc.*, Case No. 07-589-GA-AIR, et al., Opinion and Order (May 28, 2008).

{¶ 4} On October 8, 2010, the instant case was initiated for the purpose of considering Duke's application to adjust Riders DR-IM and AU to allow for recovery of 2010 costs associated with the deployment of SmartGrid, as well as for the mid-deployment review.

{¶ 5} On June 13, 2012, the Commission issued an Opinion and Order approving and adopting a stipulation resolving the issues in the case. As part of the stipulation, Duke committed to filing a base electric distribution rate case within a year of full deployment. Staff would determine when full deployment had occurred.

{¶ 6} Staff filed a letter on October 22, 2015, asserting that Duke's SmartGrid system was fully deployed.

### III. DISCUSSION

{¶ 7} On September 15, 2016, Duke filed an application for a waiver of a certain provision of the June 13, 2012 Opinion and Order. Specifically, Duke seeks a waiver from the requirement to file a base electric distribution rate case by October 22, 2016. Duke contends that, since the June 13, 2012 Opinion and Order, circumstances have changed such that it would not be prudent for the Company to file a rate case. Duke notes that in 2014 the Commission created the Market Development Working Group (MDWG) and directed EDUs to file amended tariffs that specify charges associated with providing interval customer energy usage data (CEUD) to competitive electric retail service (CRES) providers. EDUs were also directed to participate in the MDWG and help develop a data exchange between CRES providers and the EDUs. Duke avers that it filed to amend its tariff and to address issues regarding CEUD and a data exchange with CRES providers in *In re Duke Energy Ohio, Inc.*, Case No. 14-2209-EL-ATA (*CEUD Case*). Duke states these issues are still pending before the Commission and have the potential to impact the

Company's current infrastructure and the costs associated with it. Therefore, until the issues in the *CEUD Case* are resolved, as well as the broader issues being addressed with the MDWG, the Company seeks a waiver from the requirement to file a base electric distribution rate case. Duke also states that customers will not be harmed by a delayed filing. Duke avers that, as part of the stipulation approved in the June 13, 2012 Opinion and Order, the Company is to return the value of operational savings from the SmartGrid deployment back to the customers through Rider DR-IM. According to Duke, these savings will continue as long as Rider DR-IM continues and, in Duke's most recent filing, customer savings are expected to increase from \$6.2 million to almost \$13 million. Thus, Duke argues that, if the rate case filing is delayed, customers will still see a benefit.

{¶ 8} On September 22, 2016, the Ohio Consumers' Counsel (OCC) filed a memorandum contra to Duke's application for a waiver. OCC states that the requirement for Duke to file a rate case was a negotiated term of the stipulation the Commission ultimately approved. OCC avers that the Company needs to reopen negotiations and obtain the agreement of all signatory parties if it wants to change terms of the settlement. According to OCC, the filing of a distribution rate case was a key term of the agreement and customers paid significant upfront costs with the anticipation a rate case would be filed after full deployment. Thus, OCC argues that, as a negotiated agreement, Duke has received its benefit of the bargain, but rate-paying customers have not. OCC also states that the *CEUD Case* only has the potential to impact the distribution rate case. According to OCC, this is not sufficient enough to warrant altering a stipulation. OCC maintains Duke's concerns are issues that could be addressed and considered in the rate case. Therefore, OCC asserts Duke has not met its burden to show the waiver should be granted.

{¶ 9} On October 12, 2016, Staff filed a reply to Duke's application. Staff asserts that Duke has not demonstrated why a waiver should be granted. Staff avers that, in finding that Duke reached full SmartGrid deployment, it used the defined metrics from

the stipulation and thus did not consider items related to privacy protection or CRES provider access to CEUD. According to Staff, because Duke reached full deployment, it should be bound by the terms of the stipulation. However, because Duke is required to net the equivalent of the annual steady state savings of almost \$13 million for the duration of Rider DR-IM, Staff supports a nine-month extension of the filing requirement.

{¶ 10} Thereafter, on November 8, 2016, Duke and OCC filed a joint response to Staff's reply. The parties request the Commission adjust the filing requirements such that the pre-filing notice should be filed by January 31, 2017, and the application for base electric distribution rate case should be filed by March 2, 2017. The parties further request that the case reflect a test year of April 1, 2016, through March 31, 2017, with a date certain of June 30, 2016. The parties also assert that the other intervenors, Direct Energy Services and Ohio Partners for Affordable Energy, do not oppose the requests.

{¶ 11} The Commission finds that Duke and OCC's request to adjust the filing schedule for Duke's base electric distribution rate case should be approved. In altering the terms of the stipulation, we note that no party objects to the request. Accordingly, Duke should file its pre-filing notice by January 31, 2017, and its application should be filed by March 2, 2017. We will address the requests that the Commission establish the test year and date certain after the application has been filed.

#### IV. ORDER

{¶ 12} It is, therefore,

{¶ 13} ORDERED, That the request by Duke and OCC to adjust the filing schedule for Duke's base electric distribution rate case be approved. It is, further,

{¶ 14} ORDERED, That Duke file its pre-filing notice by January 31, 2017, and its base electric distribution rate case application by March 2, 2017. It is, further,

{¶ 15} ORDERED, That a copy of this Entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

*A Z W*

Asim Z. Haque, Chairman

Lynn Slaby

*M. Beth Trombold*

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*Barcy F. McNeal*

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Secretary