

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE REPORTS ENCLOSING
QUARTERLY RIDER DCI SCHEDULES AND
TARIFFS OF DUKE ENERGY OHIO, INC.

CASE NO. 17-2088-EL-RDR

IN THE MATTER OF THE APPLICATION OF
DUKE ENERGY OHIO, INC. TO ADJUST ITS
ALTERNATIVE ENERGY RECOVERY RIDER.

CASE NO. 17-2215-EL-RDR

IN THE MATTER OF THE APPLICATION OF
DUKE ENERGY OHIO, INC. FOR THE ANNUAL
AUDIT OF RIDER SCR.

CASE NO. 18-46-EL-RDR

FINDING AND ORDER

Entered in the Journal on March 28, 2018

I. SUMMARY

{¶ 1} The Commission finds that the tariff language proposed by Duke Energy Ohio, Inc., which clarifies that the Distribution Capital Investment Rider, the Alternative Energy Recovery Rider, and the Supplier Cost Rider are subject to reconciliation, including, but not limited to, refunds or additional charges to customers, as ordered by the Commission as the result of audits by the Commission, should be approved.

II. DISCUSSION

{¶ 2} Duke Energy Ohio, Inc. (Duke) is an electric utility as defined by R.C. 4928.01(A)(11) and an electric distribution utility (EDU) as defined by R.C. 4928.01(A)(6).

{¶ 3} R.C. 4928.141 provides that an electric distribution utility shall provide consumers within its certified territory a standard service offer (SSO) of all competitive retail electric services necessary to maintain essential electric services to customers, including a firm supply of electric generation services. The SSO may be either a market rate offer in accordance with R.C. 4928.142 or an electric security plan (ESP) in accordance with R.C. 4928.143.

{¶ 4} On April 2, 2015, the Commission modified and approved an application for an ESP filed by Duke. *In re Duke Energy Ohio, Inc.*, Case No. 14-841-EL-SSO, Opinion and Order (April 2, 2015). Among other matters, the Commission authorized Duke to establish a Distribution Capital Investment (DCI) Rider, Alternative Energy Recovery (AER) Rider, and Supplier Cost (SCR) Rider. These riders are updated on a quarterly basis and become effective unless suspended by the Commission prior to the effective date. The riders are subject to an annual audit.

{¶ 5} On February 20, 2018, Duke filed the amended quarterly update tariffs for the DCI Rider in Case No. 17-2088-EL-RDR. On February 23, 2018, Duke filed the quarterly update for the SCR Rider in Case No. 18-46-EL-RDR. On February 26, 2018, Duke filed the quarterly update for the AER Rider in Case No. 17-2215-EL-RDR.

{¶ 6} On March 19, 2018, Duke filed proposed tariffs for its AER, DCI, and SCR Riders. Duke proposes to modify the tariffs to provide that each rider is subject to reconciliation, including, but not limited to, refunds or additional charges to customers, as ordered by the Commission as the result of audits by the Commission. Additionally, Duke proposes language for Rider DCI that the rider is subject to reconciliation, including, but not limited to refunds or additional charges to customers based upon the impact to the rates recovered through the rider due to changes in federal corporate income tax, including the Tax Cuts and Jobs Act of 2017 and pursuant to an order by the Commission directing changes to this rider as a result of the Commission's investigation in Case No. 1847-AU-COI (*Tax COI Case*).

{¶ 7} On March 20, 2018, Staff filed its review and recommendation. Staff reviewed the proposed tariff language for all three riders and found that the language appropriately clarifies the Commission's authority with respect to reconciliations and adjustments to riders. Additionally, Staff maintains that Rider DCI will be subject to the outcome of the *Tax COI Case*. Thus, Staff concludes that the proposed language should be approved.

{¶ 8} On March 21 and March 27, 2018, OCC filed comments. Citing a recent decision of the Ohio Supreme Court, OCC asserts that Duke's proposed tariff modifications, as accepted

by Staff, threaten consumers with the prospect of paying unreasonable and unlawful changes. *In re Rev. of Alternative Energy Rider Contained in Tariffs of Ohio Edison Co.*, Slip Opinion No. 2018-Ohio-229 (*Ohio Edison Case*). Among other things, OCC argues that the Commission should modify Duke's proposed refund language in the tariff to better protect customers from future rulings that utility charges were imprudent or otherwise unlawful or unreasonable. Specifically, OCC avers that Duke's language is ambiguous and OCC proposes additional language that explicitly affirms that and charges found to unlawful, imprudent, or unreasonable will be refunded.

{¶ 9} The Commission finds that Duke's proposed tariffs, as filed on March 19, 2018, are reasonable and in the public interest. Duke's proposed tariffs are consistent with the Commission's prior directives and make clear the riders are subject to reconciliation and adjustment. In response to OCC's position, we note that Duke's revised tariffs explicitly clarify that the riders are subject to reconciliation, including, but not limited to, refunds to customers, based upon results of Commission-ordered audits. To the extent OCC recommends tariff language addressing customers refunds based on decisions of the Ohio Supreme Court, OCC's proposal exceeds the scope of the *Ohio Edison Case*. We, therefore, find that Duke's proposed tariffs in above-captioned cases should be approved, effective with the first billing cycle of April 2018. We further find that no hearings are necessary in these proceedings.

III. ORDER

{¶ 10} It is, therefore,

{¶ 11} ORDERED, that Duke's proposed AER, DCI, and SCR Rider tariffs, as filed on March 19, 2018, be approved. It is, further,

{¶ 12} ORDERED, That Duke be authorized to file tariffs, in final form, consistent with this Finding and Order. Duke shall file one copy in these case dockets and one copy in its TRF docket. It is, further,

{¶ 13} ORDERED, That the effective date of the new tariffs shall be a date not earlier than the first day of the April 2018 billing cycle, and the date upon which the final tariff pages are filed with the Commission. It is, further,

{¶ 14} 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,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

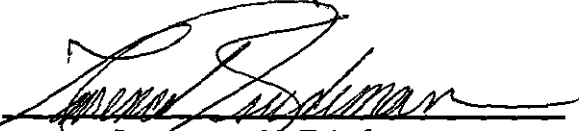
Asim Z. Haque, Chairman



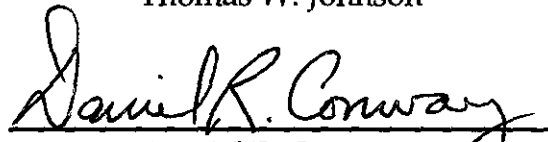
M. Beth Trombold



Thomas W. Johnson



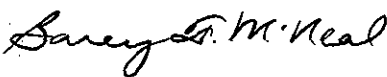
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