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April 17, 2019

Docketing Division
Public Utilities Commission of Ohio
180 East Broad Street
Columbus OH 43215

RE: *In the Matter of the Application of Duke Energy Ohio, Inc. for Implementation of the Tax Cuts and Jobs Act of 2017, Case No. 18-1830-GA-UNC; In the Matter of the Application of Duke Energy Ohio, Inc., for Approval of Tariff Amendments, Case No. 18-1831-GA-ATA.*

Dear Docketing Division:

Enclosed please find the Review and Recommendations of the Staff of the Public Utilities Commission of Ohio (Staff) in the Matter of Duke Energy Ohio, Inc.'s Application for Implementation of the Tax Cuts and Jobs Act of 2017, Case No. 18-1830-GA-UNC, et al.

Tamara S. Turkenton
Director, Rates and Analysis Department
Public Utilities Commission of Ohio

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Enclosure
Cc: Parties of Record

Duke Energy Ohio, Inc.
Case No. 18-1830-GA-UNC
Case No. 18-1831-GA-ATA

SUMMARY

On December 22, 2017, the Tax Cuts and Jobs Act of 2017 (TCJA) was signed into law. Among other changes, the TCJA lowered the federal corporate income tax (FIT) rate from a maximum 35 percent to a flat 21 percent, effective January 1, 2018. Additionally, the reduction in the federal corporate tax rate may result in excess accumulated deferred income taxes (EDIT) balances because the amount of Accumulated Deferred Income Taxes (ADIT) that a public utility has recorded in its books will exceed the amount the public utility needs to pay its future federal income tax obligations.

On January 10, 2018, the Public Utilities Commission of Ohio (Commission) opened a Commission-ordered investigation (COI), Case No. 18-47-AU-COI, in order to study the impacts of the TCJA on the Commission's jurisdictional, rate-regulated utilities and determine the appropriate course of action to pass benefits on to ratepayers. By Entry issued January 10, 2018, the Commission invited all of the rate-regulated Ohio utilities, as well as other interested stakeholders, to file comments discussing the following: (i) those components of utility rates that the Commission will need to reconcile with the TCJA and (ii) the process and mechanics for how the Commission should do so.[1] Additionally, the Commission directed utilities to record on their books as a deferred liability, in an appropriate account, the estimated reduction in federal income tax resulting from the TCJA, effective January 1, 2018. The utilities were instructed to continue this treatment until otherwise ordered by the Commission.[2]

Duke Energy Ohio, Inc. (Duke or Company) has already begun the process of returning TCJA savings to customers via the Accelerated Main Replacement Program (Rider AMRP)[3] and the Advanced Utility Rider (Rider AU)[4].

On December 21, 2018, Duke filed an application before the Commission to request a tariff reduction and amendment approval to resolve issues related to the TCJA impacts on rates charged to customers (Application). Duke proposes to flow the remaining benefits of the TCJA through revisions to existing tariffs and creation of a credit mechanism in a proposed new rider: Rider Gas Tax Cuts and Jobs Act (Rider GTCJA).

Duke proposes a tariff reduction in order to revise the revenue requirement calculation agreed to the in the Company's prior rate case[5], which would reduce the overall base revenue requirement

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[1] *In the Matter of the Commission's Investigation of the Financial Impact of the Tax Cuts and Jobs Act of 2017 on Regulated Ohio Utility Companies*, Case No. 18-47-AU-COI, Entry at 1-2 (Jan. 10, 2018).
[2] *Id.* at 2.
[3] *In the Matter of the Annual Application of Duke Energy Ohio, Inc. for and Adjustment to Rider AMRP Rates*, Case No. 18-1452-GA-RDR.
[4] *In the Matter of the Application of Duke Energy Ohio, Inc. to Adjust Rider AU for 2017 Gas Grid Modernization Costs*, Case No. 18-0837-GA-RDR.
[5] *In the Matter of the Application of Duke Energy Ohio, Inc., for an Increase in Gas Rates*, Case No. 12-1685-GA-RDR.

by approximately $12.9 million, or approximately 5.3 percent of base revenues approved in that case. The Application included attachments that support the calculations of the TCJA impacts as well as typical bill impacts and revised tariffs.

Duke also seeks tariff-amendment approval under R.C. 4909.18, not for an increase in rates, to return to consumers the remaining tax savings resulting from the TCJA which are not currently reflected in various riders or as part of the tariff reduction described above. Duke has proposed to refund base rate-related tax savings through a credit mechanism in a new rider, Rider GTCJA. Per the Company's Application, Rider GTCJA is designed to provide the Company's customers with the following benefits, as a credit to base distribution rates:

1) Reduction in the FIT:

    a) The estimated balance of deferrals associated with the reduction of the FIT expense recorded by the Company for base distribution service in response to the Commission's COI Entry, accumulated from January 1, 2018, through such time as a mechanism to pass back TCJA tax savings is implemented (Stub Period). The Stub Period will include carrying charges, and is estimated to be approximately $18.8 million[6] as of March 31, 2019. Carrying charges[7] are to be based on the long-term debt rate approved in the Company's most recent gas base rate case. Such carrying costs shall cease to accrue once the Rider GTCJA becomes effective. Duke proposes to credit the Stub Period over a 12-month period.

2) Excess ADIT:

    a) Normalized[8] EDIT (approximately $93.7 million) will be amortized in accordance with the Internal Revenue Code (IRC) Average Rate Assumption Method (ARAM) as required to conform to tax normalization rules. The normalization rate will adjust annually in accordance with ARAM. This credit will continue until new base rates are implemented as part of the Company's next base rate case, wherein the amortization of any Normalized EDIT will be included in the base revenue requirement.

    b) Non-Normalized EDIT[9] (approximately $19.5 million), including those related to property, plant, and equipment, will be amortized over 120 months (10 years), beginning with the first month the rider is effective. This component of the Rider GTCJA will end when the Non-Normalized EDIT balances are fully amortized.

    c) EDIT balances associated with the Rider AMRP and Rider AU will be amortized and flowed back to customers through their respective rider mechanisms. Rider AMRP and Rider AU will be updated to reflect the flow through of EDIT. The unamortized balance

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[6] Per Supplemental Staff Data Request #1.

[7] The carrying costs will be calculated by multiplying the applicable rate by the average of the beginning and ending balance of the accrued deferral each month.

[8] The Company's Application refers to this as "Protected EDIT". For purposes of this Staff Review and Recommendation, "Normalized EDIT" and "Protected EDIT" are intended to have the same meaning.

[9] The Company's Application refers to this as "Unprotected EDIT". For purposes of this Staff Review and Recommendation, "Non-Normalized EDIT" and "Unprotected EDIT" are intended to have the same meaning.

of EDITs will continue to be included as an offset to the applicable rate base for the revenue requirement calculation in those riders.

d) The amortization of all EDIT will be grossed up using a gross revenue conversion factor based on the prevailing federal income tax rate.

3) Rate Design:

a) The annualized credit amount for Rider GTCJA shall be allocated to each rate class based on the percentage of base rates as reflected in the most recent base rate case. The credit rate to be applied to all rate schedules except for Interruptible Transportation (IT) will be reflected as a dollar credit per bill. For IT, the allocable credit will be reflected on a volumetric ("per CCF") basis. The billing determinants for the rate calculation will be the billing determinants filed in the most recent Rider AMRP update.

STAFF REVIEW

Staff performed a review of Duke's attachments to the Application, including the original, proposed, and redlined tariffs that will be affected by approval of the Application (Attachment 1); calculations for the base rate reductions (Attachment 2); supporting calculations for the proposed Rider GTCJA, including balances of EDIT, deferrals, and estimated rates for each rate class (Attachment 3), as supported by Staff Data Request #1 and Staff Supplemental Data Request #1; and the bill impacts of the base rate reductions and the implementation of Rider GTCJA (Attachment 4).

STAFF RECOMMENDATION

Reduction in the FIT Recommendations:

Staff recommends that the Commission reject the Company's proposal to reflect the FIT savings as a tariff reduction. Instead Staff recommends the 5.3558 percent reduction to base rates be credited through the Rider GTCJA.

Staff also recommends that the Stub Period be included in the Rider GTCJA credit amount and credited to customers over a twelve month period. Staff further recommends that carrying charges, based on the Company's most recently approved long-term debt, be applied to the monthly balance of Stub Period deferrals and such carrying charges cease to accrue once the Rider GTCJA becomes effective.

EDIT Recommendations:

Staff recommends that Normalized EDIT include only such balances that are required to be amortized in accordance with ARAM. Staff recommends that Normalized EDIT be amortized based on ARAM, as required to conform to normalization rules, and that the monthly amortization of Normalized EDIT to be included in the Rider GTCJA be based on the balances as of December 31, 2017, less any balances of Normalized EDIT accounted for in the Rider AMRP and Rider AU. This would ensure that the full balance of Normalized EDIT as of December 31, 2017 is returned to customers. Additionally, the amortization of Rider AMRP and Rider AU-related EDIT will be recognized in the respective riders and will begin at the time of the next filing for each rider. This amortization will be based on 100 percent of the Rider AMRP- and Rider AU-related EDIT balances as of December 31, 2017.

Staff recommends that the Non-Normalized EDIT included as part of Rider GTCJA be based on the balance as of December 31, 2017, and be amortized over 72 months (six years) beginning with the first month the rider is effective.

Additionally, Staff recommends that the amortization of EDIT be grossed up using a gross revenue conversion factor based on the prevailing tax rates.

Rate Design of EDIT and Stub Period

Staff recommends that the annualized credit amount for Rider GTCJA be allocated to each rate class based on the percentage of base rates, as reflected in the most recent gas base rate case. The credit rate to be applied to all rate schedules except for IT will be reflected as a dollar credit per bill. For IT, the allocable credit will be reflected on a volumetric basis. The billing determinants for the rate calculation will be the billing determinants filed in the most recent Rider AMRP update.

True-Up of Pass Back Amounts and Actual TCJA Savings:

Staff recommends that Rider GTCJA be trued up annually to reconcile any differences between the actual tax savings passed back to customers and the tax savings recognized by the Company in this Application.