

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke)
Energy Ohio, Inc., for Implementation of the) Case No. 18-1830-GA-UNC
Tax Cuts and Jobs Act of 2017.)

In the Matter of the Application of Duke)
Energy Ohio, Inc., for Approval of Tariff) Case No. 18-1831-GA-ATA
Amendments.)

**DUKE ENERGY OHIO, INC.'S COMMENTS ON
THE STAFF REVIEW AND RECOMMENDATION**

I. Introduction

Now comes Duke Energy Ohio, Inc. (Duke Energy Ohio or the Company), and hereby respectfully submits its Comments on the Staff Review and Recommendation (Staff Recommendation) filed on April 17, 2019.

On December 21, 2018, Duke Energy Ohio filed its application in these proceedings (Application) in response to the Public Utilities Commission of Ohio's (Commission) October 24, 2018, Finding and Order, in Case No. 18-47-AU-COI, directing Ohio's rate regulated utilities "to file applications 'not for an increase in rates,' pursuant to R.C. 4909.18, in a newly initiated proceeding, to pass along to customers the tax savings from the Tax Cuts and Jobs Act of 2017 (TCJA)."¹ The purpose of this Application is to resolve issues related to the TCJA as it relates the Company's natural gas operations. As part of its Application, Duke Energy Ohio proposed both a reduction in natural gas base rates and creation of a discrete rider (Rider GTCJA) as part of a twofold process to begin flowing the benefits of the TCJA back to natural gas customers. To

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, Finding and Order, p.18 (October 24, 2018).

address the lower federal income tax rate (FIT) going forward, Duke Energy Ohio proposed a reduction to base rates. Rider GTCJA's intent is to ensure that customers receive the appropriate credit for TCJA impacts related to both the reduction in FIT for the period beginning January 1, 2018, through the implementation of new rates and the Excess Accumulated Deferred Income Taxes (EDITs).

As it relates to the deferred FIT savings since January 1, 2018, the Company explained that it has been recording deferrals related to the reduction in the FIT, as of January 1, 2018, with carrying charges accumulated on the unrefunded balance from January 1, 2018, through the date Rider GTCJA is to be implemented. The carrying charge is calculated based on the long-term debt rate approved in the Company's most recent natural gas base rate case.² Including carrying costs, the deferral balance as of March 31, 2019, results in a credit of approximately \$18.8 million. The Company proposed the deferral amount to be credited to customers over a twelve-month period subject to a final true-up. The deferred amount will continue to increase until the Rider GTCJA is implemented.

As it relates to the EDITs, consistent with recent Commission precedent in the matter for natural gas utilities not involved in a base rate case,³ the Company proposed to calculate the EDIT balance related to the natural gas distribution service balance currently embedded in base rates as established in the Company's most recent natural gas base rate proceeding and as calculated by

² The carrying costs will be calculated by multiplying the applicable rate by the average of beginning and ending balance of the accrued deferral each month from January 1, 2018, through the date Rider GTCJA is to be implemented. Carrying costs stop accruing upon implementation of Rider GTCJA.

³ *In the Matter of the Application of Columbia Gas of Ohio, Inc. for Approval of an Alternative Form of Regulation to Establish a Capital Expenditure Program Rider Mechanism*, Case No. 17-2202-GA-ALT. Opinion and Order at 20 (November 28, 2018); "The reduction in base rates resulting from the need to pass back to customers excess deferred income taxes will be based on deferred tax balances at December 31, 2007, which were used in the establishment of current base rates adjusted for recognition of the turn-around through December 31, 2017." Id.

Commission Staff:⁴ Consistent with regulatory accounting rules and as affirmed by prior Commission decisions regarding the treatment of EDITs, Duke Energy Ohio divided its total EDIT balance into the categories of protected and unprotected EDITs⁵.

Protected EDITs (approximately \$93.7 million) included in the Company's current base rates were to be amortized based on the average rate assumption method (ARAM) as required to conform to 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 remaining protected EDITs will be included in the base revenue requirement.

The Company proposed that the unprotected EDITs currently included in the Company's base rates, including those related to property, plant, and equipment, be amortized over 120 months (ten years), beginning with the first month the rider is effective. The ten-year period is consistent with what the Commission approved for Duke Energy Ohio's electric TCJA proceeding.⁶ This component of the Rider GTCJA will end when the unprotected EDITs are fully amortized.

Additional deferred taxes have been accrued since the date certain used in the last base rate case that are reflected in the Company's Accelerated Main Replacement Rider (Rider AMRP) and its Advanced Utility Rider (Rider AU). Because these riders, like base rates, reflect the rates customers are currently paying, the Company further explained that the EDITs associated with these two riders will be adjusted to be reflected in the revenue requirement calculation in those riders. The result will be that customers will be refunded every dollar the EDITs that are currently

⁴ *In the Matter of the Application of Duke Energy Ohio, Inc., for an Increase in its Natural Gas Distribution Rates*, Case No. 12-1685-GA-AIR, *et al.*, Direct Testimony of Wm. Ross Willis Attachment C-4, (April 22, 2013).

⁵ Staff refers to these as normalized (*i.e.*, protected) and non-normalized (unprotected).

⁶ *In the Matter of the Application of Duke Energy Ohio, Inc., for Implementation of the Tax Cuts and Jobs Act of 2017*, Case No. 18-1185-EL-UNC, *et al.*, Finding and Order at 6 (February 20, 2019).

reflected in the rates they currently pay for natural gas distribution service. Protected EDITs will be amortized using ARAM and unprotected EDITs will be amortized over ten years. Rider AMRP and Rider AU will be updated to reflect the flow through of EDITs. The unamortized balance of EDITs will continue to be included as an offset to the applicable rate base for the revenue requirement calculation in those riders.

Finally, the Company stated that the amortization of all EDITs will be grossed up using a gross revenue conversion factor based on the prevailing federal income tax rate.

On April 17, 2019, Staff filed its Staff Recommendations that, among other things, recommend several changes to the Company's proposed resolution to the Gas TCJA issues. While Duke Energy Ohio wishes that this proceeding be resolved as expeditiously as possible so that its natural gas customers can receive the benefits of the TCJA, such a resolution must be done in way that is fair to customers and not punitive towards the utility. While Duke Energy Ohio can agree with several of Staff's recommendations, there exist some recommendations that, without revision or clarification, result in an inequitable and improper calculation of such credits to customers to the detriment of Duke Energy Ohio.

Duke Energy Ohio's customers should indeed receive the TCJA benefits they are due, but no more. Duke Energy Ohio's position on providing customers with TCJA benefits is apparent insofar as it proactively filed its application to pass the TCJA benefits to its electric customers in July 2018 and the Application above in response to the Commission's directive.⁷ As further explained below, the Company's proposal in these proceedings resulted in a reasonable and accurate determination of EDITs that are currently reflected in rates and paid for by customers and a fair timetable for providing such benefits. Moreover, given the long pendency of other pending

⁷ *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, Finding and Order, p.18 (October 24, 2018).

rate proceedings that have EDIT balance impacts and the uncertainty of cost responsibility as between the Company and customers, using a date for establishing the balance of EDITs other than what is currently reflected in base rates as determined by the Commission in the Company's last natural gas base rate case will likely result in customers receiving more than they are due. Such a result is unreasonable.

For the reasons further explained below, and in the interest in commencing the flow of benefits to Duke Energy Ohio's gas customers as quickly as possible, Staff's erroneous recommendations should be rejected by the Commission. Otherwise, the Commission should establish a procedural schedule for evidence to be heard on the improper recommendations offered by Staff.

II. Discussion of Staff Recommendations

A. Summary of Staff Recommendations

The Staff Recommendations address all aspects of the Company's Application, including the reduction of the FIT on base rates going forward, the deferral period since January 1, 2018, (referred to as the "Stub Period") and the calculation of the EDIT balances. The Staff Recommendations agree with most of the Company's Application including the following:

- The Stub Period amount be credited to customers over a twelve-month period;⁸
- That carrying charges based upon the Company's most recently approved long-term debt be applied to the monthly balance of the Stub Period deferrals;⁹
- That carrying charges cease to accrue once the Rider GTCJA becomes effective;¹⁰

⁸ Staff Recommendations at 4.

⁹ Id.

¹⁰ Id.

- That “normalized” (*i.e.*, protected) EDITs include only such balances that are required to be amortized in accordance with the ARAM;¹¹
- Amortization of EDITs related to Rider AMRP and Rider AU will be recognized at the time of the next filing of each rider;¹²
- The amortization of EDITs be grossed up using a gross revenue conversion factor based upon prevailing tax rates;¹³ and
- That Rider GTCJA be allocated to each rate class based upon the percentage of base rates as reflected in the most recent natural 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.¹⁴

However, the Staff Recommendations propose several changes to the Company’s Application, including the following:

- Recommending that, instead of adjusting the Company’s base rates for the impacts of the TCJA going forward, Rider GTCJA be used as the single mechanism to credit all TCJA benefits including using a 5.3558 percent reduction to base rates for the change in the FIT rate;¹⁵
- Recommending that the Company’s balance sheet as of December 31, 2017, be used for calculating the balances for both “normalized”¹⁶ and “non-normalized” (*i.e.*, unprotected) EDITs;

¹¹ Id.

¹² Id. at 5.

¹³ Id.

¹⁴ Id. at 5.

¹⁵ Staff Recommendations at 4.

¹⁶ Less balances included in Rider AMRP and Rider AU.

- Recommending that non-normalized EDITs be amortized over 72 months (six years); and
- Recommending an annual true-up of Rider GTCJA to reconcile differences between actual tax savings passed back to customers and tax savings recognized by the Company.

B. Duke Energy Ohio's Comments to Staff Recommendations

i. Staff's Recommendation to Include the FIT Adjustment in Rider GTCJA is Unnecessarily Complicated.

Staff's first recommendation is to reject the Company's proposal to adjust base rates across the board for the impact of the lower FIT. The Company's proposal was to simply revise all of its base rates to reflect the impact of the lower FIT by revisiting the financial model used in its last base rate case that reflected the revenue requirement agreed to in a stipulation and ultimately approved by the Commission. Although the Staff appears to accept the Company's calculation of the percentage decrease in base rates, it opposes the Company's recommendation to revise base rates. Instead, the Staff recommends that the Company reflect the percentage reduction in base rates via its proposed Rider GTCJA. Staff does not explain why it disagrees with the Company's proposal to include the lower FIT in base rates. Presumably, the proposed 5.3558 percent reduction would be applied to the base charges included in each customer's bill.

Staff offers no rationale for this proposal and did not submit any discovery to the Company to determine what costs, if any, would be involved in creating a billing methodology for its gas service that does not exist now. Substantively, there is no difference in the amount of savings each customer will experience for this component of the Company's proposal. Mathematically, it makes no difference whether a customer's base rates are 5.3558 percent lower or if the base rate is unchanged but multiplied by a 5.3558 percent credit. The Company is well prepared to simply

adjust base rates, and indeed provided revised tariffs in its Application to reflect the change going forward. The Company's proposal is no less transparent to customers in that they can look at the applicable rate schedule reflected on their bills to understand the actual base rate. Staff's proposal is unreasonable insofar as it will create additional work for the Company, without any incremental benefit to any party, and will add unnecessary expense for the Company in modifying its billing system for this type of credit. The Company cannot simply add this credit to its proposed Rider GTCJA because the rate design is different than what is being proposed in Rider GTCJA. The FIT deferral and EDIT amortization being proposed through Rider GTCJA will be credited to customers on a per bill basis for all customers except those on Rate IT, which will be credited to customers on a volumetric basis. To accommodate Staff's recommendation, the Company would have to establish two separate riders. This seems unnecessarily burdensome as opposed to the Company's original proposal of a percentage reduction to existing tariffs. It also has the potential for added confusion for customers as there will be multiple components on their bills to reflect the impact of one event.

Adjusting base rates has been done in other cases where the TCJA issue was addressed outside of a base rate case. In the case involving Columbia Gas of Ohio's (Columbia Gas) TCJA, the Stipulation, signed by Staff and by the Ohio Consumers' Counsel (OCC), and approved by Commission¹⁷ provided that base rates were adjusted to reflect the lower FIT. It is unclear why the Staff found that method to be acceptable for Columbia Gas but recommends against it for Duke Energy Ohio. Staff's recommendation should be rejected as unnecessary and the Commission should approve the Company's original recommendation to adjust base rates.

¹⁷ *In the Matter of the Application of Columbia Gas of Ohio, Inc. for Approval of an Alternative Form of Regulation to Establish a Capital Expenditure Program Rider Mechanism*, Case No. 17-2202-GA-ALT, Opinion and Order at 20-21 (November 28, 2018).

ii. Staff's Recommendation Regarding the Impact of the FIT for the Stub Period is Reasonable.

The Staff's Recommendation is consistent with Duke Energy Ohio's proposal; therefore, the Company accepts the Staff's recommendation to refund the deferral recorded during the Stub Period (*i.e.*, the FIT impact on base rates from January 1, 2018, through the time base rates are adjusted to reflect the lower FIT), including carrying costs at the most recently approved long-term debt rate to be accrued up until the refund begins. Staff does not comment on the Company's calculation of the deferral for the Stub Period; so, the Company will use the methodology as reflected in its initial Application.

Duke Energy Ohio does suggest that since the Stub Period credit has grown and continues to grow to such a large amount, the Commission consider whether flowing that credit over two years versus one year as initially proposed provides a greater benefit for customers as a twelve-month credit would result in a very large decrease for the first twelve months, but once that credit is over, the rates will go up by a like amount. To avoid the large increase to customers in year two, the Company is merely suggesting that it may be reasonable to spread the credit out over a longer period so the change is not so dramatic when the credit ceases.

iii. Staff's Treatment of Protected EDITs is Inconsistent with Prior Commission Precedent and with Staff's Own Positions in other Cases.

Staff agrees with the Company's proposal to amortize protected EDITs using ARAM; however, Staff disagrees with the Company's proposal to use the EDITs based on the amounts actually included in current base rates and, instead, recommends using the normalized EDITs based on amounts that exist more than five years after base rates were approved. The Company's base rates reflect no other component of the balance sheet as of December 31, 2017, yet Staff recommends that this single component of the Company's balance sheet reflect more recent data.

Duke Energy Ohio's base rates for natural gas service reflect the statutory FIT rate that was in effect during the test year for the Company's last base rate case, which was the twelve months ending December 31, 2012. Every element of current base rates, including the amount of federal income taxes, the amount of accumulated deferred income taxes (ADITs) used to offset rate base, and the amortization of ADITs is based on the test year expense and date certain balances used in that case. Except for Rider AMRP and Rider AU, the extent to which customers rates reflect the impact of federal income taxes is based on the circumstances that existed in 2012, *i.e.*, the test year for current base rates.

The Company's proposal in these proceedings is to reflect the impact of the TCJA on 'current' base rates. There is no pending base rate case that uses December 31, 2017, as a date certain; therefore, Staff's proposal to use that date as the basis for refunding EDITs is illogical. Except for those EDITs that are related to the Company's Rider AMRP and Rider AU, the EDITs that exist on December 31, 2017, are not the same as the EDITs currently reflected in customers' base rates.

The Company's Application follows the same methodology for calculating the balances of EDITs as recently approved by the Commission for Columbia Gas.¹⁸ To date, the Columbia Gas case represents the only Commission-approved model for flowing through natural gas utility TCJA-related benefits outside of a rate case.¹⁹ The Staff and even the OCC clearly understood the rationale for using balances of deferred income taxes that are actually reflected in base rates and

¹⁸ *In the Matter of the Application of Columbia Gas of Ohio, Inc. for Approval of an Alternative Form of Regulation to Establish a Capital Expenditure Program Rider Mechanism*, Case No. 17-2202-GA-ALT, Opinion and Order at 20-21 (November 28, 2018).

¹⁹ Vectren Energy Delivery of Ohio resolved its TCJA issues in its most recently filed rate cases. Ohio Gas reached a stipulation, which is pending before the Commission, to resolve the aspects of the TCJA that were not resolved in its recent base rate case. Resolution of the TCJA issues for Suburban Natural Gas is a matter being addressed in its pending rate case. Dominion East Ohio Gas Company filed a proposal similar to the approved plan for Columbia Gas; this case is pending.

agreed to it when both of these parties signed a stipulation settling the TCJA matter for Columbia Gas, in Case No. 17-2202-GA-ALT.²⁰ In that case, the Stipulation provides that “[t]he Signatory Parties agree the reduction in base rates resulting from the need to pass back to customers excess deferred income taxes will be *based on deferred tax balances at December 31, 2007, which were used in the establishment of current base rates adjusted for recognition of the turn-around through December 31, 2017.*” (emphasis added).²¹ It should be noted that the turn-around provision for protected EDITs in the Columbia Gas’ case reduced amount of the refund it agreed to return to customers. Conversely, Duke Energy Ohio is not proposing any reduction to the amount of the protected EDITs currently included in base rates. The OCC’s witness in the case reflected the use of these EDIT balances based on Columbia Gas’s last base rate case in his testimony supporting the Columbia Gas Stipulation, as clearly reflected in WRW Attachment B.²²

Because the revenue Duke Energy Ohio currently collects from customers via base rates only reflects the EDITs derived from ADIT balances that existed at the date certain used in the Company’s last base rate case, the Commission should reject the Staff recommendation to use balances that are not reflected in current base rates. The ADITs (including the amount that became EDITs after the TCJA) that existed at the time of the last base rate case represents the magnitude of the dollars that were “owed” to customers for deferred income taxes. It would be inappropriate to use the balance of EDITs as of December 31, 2017, when customers’ base rates were not based on that balance.

²⁰ *In the Matter of the Application of Columbia Gas of Ohio, Inc. for Approval of an Alternative Form of Regulation to Establish a Capital Expenditure Program Rider Mechanism*, Case No. 17-2202-GA-ALT Stipulation and Recommendation at 8, (October 25, 2018).

²¹ *Id.*

²² See Direct Testimony of W. Ross Willis in Support of the Stipulation and Recommendation, filed on October 29, 2018, in Case No. 17-2202-GA-ALT.

The Commission clearly recognized this when it approved the same treatment for Columbia Gas. The same justification for the treatment of these EDITs stands for Duke Energy Ohio as it did for Columbia. Staff does not explain why Duke Energy Ohio should be treated differently than, and contrary to, what the Commission has already approved as reasonable for another Ohio natural gas utility only a few months ago. Duke Energy Ohio is simply asking that it be treated in a manner that is similar another similarly situated natural gas utility having recently resolved the same issues as approved by the Commission.

It is clear that the issues created by the TCJA are complex and require thoughtful consideration and analysis. The Company appreciates Staff's efforts to pursue resolution of the TCJA issues all utilities subject the Commission's jurisdiction. However, the Commission should insist that the TCJA issues be resolved in a manner that is consistent for all utilities. Admittedly, there are circumstances that require different approaches for the utilities, such as those cases where the utility is in the midst of a base rate review. However, when there are no meaningful differences between the utilities, the Commission should endeavor to be as consistent as possible. In this case, Staff is not being consistent in its evaluation in that it recommends a different outcome for Duke Energy Ohio than for Columbia Gas. Not only did Staff sign a stipulation agreeing to an arrangement nearly identical to what Duke Energy Ohio is proposing here but the Commission approved that arrangement, which means that the Commission must have deemed it just and reasonable to use the EDIT balances from the last base rate rather than the December 31, 2017. It is illogical that the Commission would consider nearly identical proposals just and reasonable for one utility but not for another.

iv. Staff's Recommendation for Protected EDITs is Also Inconsistent with Recent Commission Decisions and Its Own Positions in Other Cases.

Following its unsupportable recommendation for normalized EDITs, Staff rejects the Company's proposal to refund EDITs based on the balances that existed at the date certain from the Company's most recent base rate case. Staff also rejects the Company's proposal to amortize the non-normalized (or unprotected) EDITs over ten years, proposing, instead, to use six years.

Similar to the discussion above, the Staff's recommendation to use December 31, 2017, balances for refunding EDITs is inappropriate and inconsistent with the Commission's Order in the Columbia Gas case. The Company's current natural gas base rates reflect the ADIT (and associated EDIT) that existed as of March 31, 2012, the date certain in the most recent rate case. Those balances are, in fact, what is reflected in current natural gas base rates. To highlight the fallacy of using the December 31, 2017, balances, one need only consider the underlying book versus tax differences that gave rise to the unprotected EDITs. A significant portion of the non-normalized natural gas EDITs are related to regulatory assets that have been recorded by the Company after March 31, 2012, and not yet approved for recovery through rates. As a result, using an EDIT balance date that includes these deferred regulatory balances would result in Duke Energy Ohio over crediting customers. This is particularly true if any of these deferred assets are determined at some point to be unrecoverable through rates. Such a result would be not only unreasonable, but also inequitable, and even confiscatory.

As an example, one major regulatory asset at issue is for deferrals related to the Company's investigation and remediation expenses for manufactured gas plants (MGP). The Company is currently seeking recovery of MGP investigation and remediation costs that it incurred from January 1, 2013, through December 31, 2017, in five separate proceedings (ten total cases)

(collectively, the MGP Cases).²³ Those investigation and remediation costs have been deferred for future recovery pursuant to prior Commission orders.²⁴ This is an expense that reduces the Company's federal income tax liability but, because it has been deferred for book purposes, there is a deferred tax liability (and, because of the TCJA, there is now an EDIT) recorded on the Company's books as of December 31, 2017.

On September 28, 2018, the Staff filed a report in the MGP Cases recommending that nearly \$12 million of the Company's MGP deferral for the January 1, 2013, through December 31, 2017, period be disallowed for future recovery.²⁵ If the Commission accepts Staff's proposed disallowance in the MGP cases, disallowing \$12 million of deferred MGP costs, it will have to write off the associated ADITs and EDITs that exist at the time the Commission makes that decision. Accepting Staff's proposal in this case to require Duke Energy Ohio to refund the December 31, 2017, balance of EDITs would mean that the Company would be refunding EDITs to customers for costs they never paid. Staff's proposals, if both are accepted, would mean that customers get the benefit of the \$12 million proposed disallowance in the MGP cases plus the EDITs associated with the deferral of costs they would never pay.

²³ See e.g. *In the Matter of the Application of Duke Energy Ohio, Inc., for an Adjustment to Rider MGP Rates* Case No. 14-0375-GA-RDR *et al.*, Application (March 31, 2014); *In the Matter of the Application of Duke Energy Ohio, Inc., for an Adjustment to Rider MGP Rates* Case No. 15-0452-GA-RDR, *et al.*, Application (March 31, 2015); *In the Matter of the Application of Duke Energy Ohio, Inc., for an Adjustment to Rider MGP Rates* Case No. 16-0542-GA-RDR *et al.*, Application (March 31, 2016); *In the Matter of the Application of Duke Energy Ohio, Inc., for an Adjustment to Rider MGP Rates* Case No. 17-596-GA-RDR *et al.*, Application (March 31, 2017); and *In the Matter of the Application of Duke Energy Ohio, Inc., for an Adjustment to Rider MGP Rates* Case No. 18-283-GA-RDR Application (March 28, 2018).

²⁴ *In the Matter of the Application of Duke Energy Ohio, Inc., for Authority to Defer Environmental Investigation and Remediation Costs*, Case No. 09-712-GA-AAM, Finding and Order, at pg. 4 (November 12, 2009); *In the Matter of the Application of Duke Energy Ohio, Inc., for an Increase in its Natural Gas Distribution Rates*, Case No. 12-1685-GA-AIR, *et al.*, Opinion and Order (November 13, 2013); *In re: Application of Duke Energy Ohio, Inc for Authority to Defer Environmental Investigation and Remediation Costs*, Case No. 16-1106-GA-AAM, *et al.*, (Application) (May 16, 2016).

²⁵ *In the Matter of the Application of Duke Energy Ohio, Inc., for an Adjustment to Rider MGP Rates*, Case No 14-0375-GA-RDR, A report by the Staff of the public Utilities Commission of Ohio, at p. 7 (September 28, 2018).

The MGP-related deferral is but one example of the complication and unreasonableness of using a date as of December 31, 2017, for calculating the EDIT balance. Unless and until these issues are resolved, it is not possible to determine an accurate calculation of EDITs based upon a balance as of December 31, 2017. Moreover, as was previously explained, that balance date does not reflect the amount of ADITs currently reflected in base rates. Using the ADIT balances from the most recent rate case to determine the EDITs to refund to customers, as proposed by the Company and as was done with Columbia Gas, avoids the potential for customers getting a double benefit related to deferrals that have not yet been approved for recovery and may never be approved for recovery. For this reason, and for the reasons mentioned in the section for normalized EDITs, the Company recommends that the Commission reject the Staff's proposal.

As for the period of amortization, in the spirit of being consistent with other approved TCJA mechanisms, the Company will accept a six-year amortization for non-normalized EDITs.

v. Segregating EDITs for Rider AMRP and Rider AU Only Applies if a Balance of March 31, 2012 is Used.

Staff appears to agree with the Company in recommending that EDITs associated with Rider AMRP and Rider AU be segregated from the EDITs associated with base rates. This proposal from the Staff further highlights the rationale for using the last base rate case as the basis for determining the EDIT liability in base rates. Staff recommends using the December 31, 2017, balances for EDITs but also proposal to segregate the refund of EDITs between base rates and riders. The balance of EDITs at December 31, 2017, does include remnants of the deferred taxes that existed at the time of the last rate case but it also includes all of the EDITs associated with both Rider AMRP and Rider AU. If the Commission accepts the Staff's recommendation to use the December 31, 2017, balance for normalized and non-normalized EDITs, there is no reason to

separately track the refund of EDITs via either Rider AMRP or Rider AU, as all of the EDITs associated with these two riders will already be captured in the overall Rider GTCJA.

Additionally, the deferred taxes related to the AMRP and Gas SmartGrid programs that existed as of March 31, 2012, are included in base rates, whereas all of the deferred taxes associated with capital additions for both programs since March 31, 2012, are currently being tracked in the respective riders. Under the Company's proposal, using the date certain from the last base rate case ensures that customers received all of the EDITs embedded in base rates for AMRP and Gas SmartGrid and Rider AMRP and Rider AU would flow through all of the EDITs that have been generated from capital investment since that time.

III. Staff's Gross-up of EDITs is Reasonable.

Consistent with the Company's proposal, Staff recommends grossing up the amortization of EDITs (normalized and non-normalized) using the gross revenue conversion factor based on prevailing tax rates. The Company accepts this proposal.

IV. Staff's Rate Design of Amortization of EDITs and Refund for Stub Period is Reasonable.

The Staff's recommendation for rate design is consistent with the Company's proposal; therefore, the Company accepts the Staff's recommendation. The credit for amortization of EDITs and the refund of the FIT deferral for the Stub Period will be allocated to each rate class based on the percentage of base rates as reflected in the most recent base rate case and the credit will be applied to all customers, except IT, on a per bill basis. For IT customers, the credit will be based on volumetric ("per CCF") consumption. The billing determinants for the rate calculations will be the billing determinants filed in the most recent Rider AMRP update filing.

V. Staff's Proposal to True-Up of Pass Back Amounts and Actual TCJA Savings is Reasonable.

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 its Application. As it relates to the credits for EDIT amortization and the refund related to the Stub Period, the Company accepts this recommendation. Until such time as new base rates are established, annual updates will be required in any event to adjust the amortization of Normalized EDITs to reflect changes in the ARAM rates. No true-up is necessary or appropriate to reconcile the change in base rates accounted for with the 5.3558 percent reduction, no matter whether that reduction is in the form of lower base rates or achieved via a rider.

VI. CONCLUSION

Duke Energy Ohio and Staff are aligned on a number of the elements of the Company's proposal to reflect the TCJA benefits in customer rates. While the Company desires customers to receive the benefits of the TCJA as quickly as possible, such expediency cannot come at the cost of an inequitable or unreasonable result to the Company. As explained above, some of Staff's recommendations, if adopted, would create such an unfortunate result and would be detrimental to Duke Energy Ohio. The Company disagrees with the Staff's recommendation (1) to flow through the ongoing FIT benefit via a rider; (2) to use balances for deferred taxes for a period that was not used in setting base rates; (3) to segregate the refund of EDITs between base rates and Riders AMRP and AU if the overall EDIT balances as of December 31, 2017, are used for refunding EDIT balances, and (4) to use balances for deferred taxes related to items for which the Staff is currently recommending be disallowed for recovery or the Commission has not yet ruled on allowance for recovery. The Company asks that the Commission approve its Application as filed and as accepted herein and reject the Staff's unreasonable recommendations as discussed above.

In the alternative, the Company requests the Commission establish a procedural schedule in this proceeding in order to fully vet the issues that have been raised.

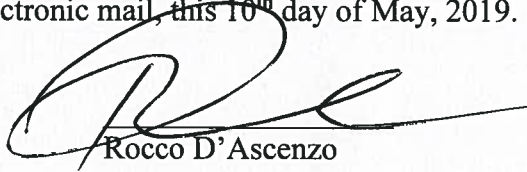
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CERTIFICATE OF SERVICE

The undersigned certifies that notification of the filing of the foregoing document is being made upon the persons listed below via electronic mail, this 10th day of May, 2019.


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Case No(s). 18-1830-GA-UNC, 18-1831-GA-ATA

Summary: Comments Duke Energy Ohio, Inc.'s Comments on the Staff Review and Recommendation electronically filed by Mrs. Debbie L Gates on behalf of Duke Energy Ohio Inc. and D'Ascenzo, Rocco O. Mr. and Kingery, Jeanne W