

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke Energy)
Ohio, Inc. to Adjust Rider AU for 2017 Grid) Case No. 18-0837-GA-RDR
Modernization Costs.)

**REPLY BRIEF
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

I. INTRODUCTION

The charges to consumers for utility service should not be viewed in a vacuum. That is what single-issue ratemaking allows. Utilities can “cherry pick” the costs that they propose to collect from consumers through riders. Utilities’ charges to consumers consist of base distribution rates plus a multitude of rider rates for various purposes. Although base rates are set by examining both the expenses and revenues of a utility, rider rates are strictly based on the utility’s expenses. Both base distribution rates and the rider rates should be periodically examined *in their totality* so that charges to consumers are truly just and reasonable as required by Ohio law.¹

The Office of the Ohio Consumers’ Counsel (“OCC”) recommends a base distribution rate case for the natural gas service of Duke Energy Ohio, Inc. (“Duke”). It has been more than six years since Duke’s last natural gas rate case (Case No. 12-1685-GA-AIR) and at least four years since Duke’s natural gas smart grid was fully deployed.² Consumers should be receiving actual savings attributable to Duke’s natural gas smart

¹ R.C. 4909.22.

² See Tr. at 56.

grid, rather than the projected savings they have received since 2012.³ In addition, investment that Duke collects through some other riders charged to customers has been completed and should be incorporated into base rates.⁴

Duke has vehemently argued against a base distribution rate case, in its comments, in its motion for continuance, in its supplemental testimony, and in its brief.⁵ But its arguments are without merit.⁶ To make sure that customers are only charged just and reasonable rates, as part of this case, the Public Utilities Commission of Ohio (“PUCO”) should order Duke to file a natural gas distribution rate case.

II. RECOMMENDATIONS

A. **Contrary to Duke’s assertions, OCC does not oppose the rates proposed in the application and the PUCO should implement them.**

Duke asserts that OCC opposes the rates proposed in the application.⁷ This statement is false.

Duke mischaracterizes OCC’s recommendation for the PUCO to order a natural gas distribution rate case as opposition to the PUCO implementing the rates proposed for the rider. OCC does not dispute the calculation of the rates proposed in the application.⁸ Instead, OCC’s recommendation is that the PUCO order Duke to file a gas distribution

³ Case No. 10-2326-GE-RDR, Opinion and Order (June 13, 2012) at 11.

⁴ *See* Tr. at 63.

⁵ Duke Comments (November 9, 2018); Duke Motion to Strike Testimony and Motion to Continue Date to File Testimony and Hearing (November 28, 2018) at 2-4; Duke Ex. 4 (Lawler Supplemental Testimony) at 2-4, 5-6; Duke Initial Brief at 3-4.

⁶ If OCC does not address a particular argument made by Duke in its initial brief, that fact should not be construed as OCC acquiescing to that argument.

⁷ Duke Initial Brief at 1.

⁸ *See* Tr. at 45-46, 65-66.

rate case as part of the decision in this case. A PUCO order directing Duke to file a gas distribution rate case would not preclude the rates proposed in this case from going into effect. The PUCO may implement the proposed rates *and* order Duke to file a gas distribution rate case.

B. Single-issue ratemaking harms consumers because the utility “cherry picks” the cost for collection from consumers through a rider, and the PUCO doesn’t take a holistic view of ratemaking. In this case, Duke’s narrow view should be rejected.

Duke claims that OCC’s recommendation for a gas distribution rate case is “moot as having been previously decided or otherwise irrelevant.”⁹ Duke is wrong. OCC’s recommendation for a gas distribution rate case is neither moot nor irrelevant. As discussed in OCC’s Initial Brief, the PUCO has already determined that this issue is relevant to this proceeding.¹⁰ Duke has already lost that argument. The PUCO should reject it.

Duke also contends that a gas distribution rate case is unnecessary because the smart grid investments and associated expenses collected from customers *through Rider AU* are examined every year.¹¹ Duke’s approach to ratemaking is to just look at the capital expenditures and expenses it makes concerning its smart grid program in isolation then collect those expenditures and related expenses from customers. This is an extremely narrow view of ratemaking that does not consider other factors, such as the actual savings Duke realizes from smart grid and Duke’s overall revenues.

⁹ Duke Initial Brief at 2.

¹⁰ OCC Initial Brief at 3.

¹¹ Duke Initial Brief at 2-4.

Ohio law requires utility rates to be just and reasonable. This means that the PUCO must take a more holistic approach to ratemaking and examine all the factors that go into base distribution rates.¹² This takes into account not only Rider AU, but also other Duke riders. For example, as discussed at hearing investment Duke's Accelerated Main Replacement Program rider has been completed and that investment and related expenses should be moved to gas distribution base rates.¹³

The PUCO should take a broader view of ratemaking than Duke would like. In approving a settlement in another smart grid rider proceeding, the PUCO ordered a base distribution rate case even though it wasn't part of the settlement.¹⁴ As part of its decision in this proceeding, the PUCO should order Duke to file a gas distribution rate case.

III. CONCLUSION

Consumers are paying rates through Rider AU that are based on factors developed seven years ago. And it has been six years since Duke's last gas distribution rate case. OCC is concerned that those rates are no longer just and reasonable. The PUCO should instruct Duke to file a base rate case within one year of the Order in this case. A gas distribution rate case is necessary to protect consumers.

¹² See OCC Ex. 5 (Williams Direct Testimony) at 6-7.

¹³ Tr. at 63.

¹⁴ *In the Matter of the Application of Ohio Power Company to Initiate Phase 2 of Its gridSMART Project and to Establish the gridSMART Phase 2 Rider*, Case No. 13-1939-EL-RDR, Opinion and Order (February 1, 2017), ¶67. The PUCO noted that Ohio Power's last distribution rate case was more than four years prior to the Order. *Id.*

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CERTIFICATE OF SERVICE

I hereby certify that a copy of this Reply Brief was served on the persons stated below via electronic transmission, this 6th day of June 2019.

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