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Ohio | **Public Utilities Commission**

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FILE

June 12, 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 recovery of program costs, lost distribution revenue and performance incentives related to its Energy Efficiency and Demand Response Programs, Case No. 18-397-EL-RDR*

Dear Docketing Division:

Enclosed please find the Staff's Review and Recommendations in regard to the application filed by Duke Energy Ohio, Inc., to recover costs associated with its Energy Efficiency Demand Response Rider, in Case No. 18-397-EL-RDR.

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

David Lipthratt
Chief, Research and Policy Division
Public Utilities Commission of Ohio

Enclosure
Cc: Parties of Record

Duke Energy Ohio
Energy Efficiency and Peak Demand Reduction Rider (Rider EE-PDR)
Case No. 18-397-EL-RDR

OVERVIEW

On March 29, 2018, Duke Energy Ohio (Duke or the Company) filed Case No. 18-397-EL-RDR requesting approval to adjust its Energy Efficiency and Peak Demand Reduction Rider (Rider EE-PDR) rate in order to recover costs related to statutory energy efficiency mandates. The amount Duke seeks to recover for 2017, includes actual and/or forecasted program costs, lost distribution revenues and shared savings incentives.

STAFF REVIEW

Staff audited the revenues and expenses associated with the Company's Rider EE-PDR to verify that incurred costs were prudent, eligible for recovery, and truly incremental to base rates. Staff also examined filed schedules for accuracy, completeness, occurrence, presentation, valuation and allocation. Staff conducted this audit through a combination of document reviews, interviews, and interrogatories and requested documentation as needed until it was either satisfied that the costs were substantiated or concluded that an adjustment was warranted.

During its review, Staff identified operation and maintenance (O&M) expenses totaling $329,582 that should be deducted from the proposed Rider EE-PDR cost recovery amount. The following generally describe Staff's recommended adjustments.

Incentives

Staff discovered within Rider EE-PDR expenses related to incentive pay, performance awards, executive short term incentives, and restricted stock units that were linked to the financial performance of the Company. Consistent with past practices, Staff does not support the recovery of financial incentives,[1] based upon a utility's financial goals, being passed on to its ratepayers.[2] In the Opinion and Order in Case Nos. 16-664-EL-RDR and 17-781-EL-RDR, the Commission agreed with Staff's position and concluded that "[w]hile not all of the performance goals may be explicitly tied to financial objectives, they are correlated with Duke's bottom line and meeting shareholder interests."[3]

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[1] Financial incentives include but may not be limited to: performance awards, restricted stock units, executive incentives, earnings per share, shareholder returns, stock purchases, and/or other financially motivated incentives tied to the Company's bottom line and/or meeting shareholder interests.

[2] *See, e.g., In the Matter of the Application of Duke Energy Ohio, Inc. for Recovery of Program Costs, Lost Distribution Revenue, and Performance Incentives Related to Its Energy Efficiency and Demand Response Programs,* Case No. 15-534-EL-RDR, Staff Review and Recommendations (June 23, 2016).

[3] *In the Matter of the Application of Duke Energy Ohio, Inc. for Recovery of Program Costs, Lost Distribution Revenue, and Performance Incentives Related to Its Energy Efficiency and Demand Response Programs,* Case Nos. 16-664-EL-RDR and 17-781-EL-RDR, Opinion and Order at 6 (May 15, 2019).

During the audit, Staff requested information from Duke to trace, verify, and separate non-financial from financial incentives within the employee pay incentives. Through Staff's investigation, Duke's interagotory responses did not provide the full information required to isolate non-financial incentives from financial incentives in order for Staff to determine whether these expenses were incremental, prudent, reasonable, and appropriate for recovery. Consistent with past practices, Staff does not allow recovery for expenses that it cannot verify as appropriate for recovery. [4]

In regard to restricted stock units and performance awards (performance shares and tandem dividends), Staff believes that these programs promote and are inherently tied to the achievement of annual performance objectives and the Company's bottom line. Staff therefore recommends a deduction from the Company's proposed cost recovery, in the amount of $314,219, which is comprised of $246,987 for incentives allocated, $7,781 for performance awards, $35,776 for restricted stock units, and $23,675 for executive short term incentives.

Based on the orders in Case Nos. 16-664-EL-RDR and 17-781-EL-RDR, Duke should not include employee pay incentives including, but not limited to, incentive pay, performance awards, executive short term incentives, and restricted stock units, in its future Rider EE-PDR filings.

Meals, Snacks, Entertainment, and Drinks

Staff identified many employee expense transactions for meals, food, entertainment, and drinks. The Company's supporting documentation indicated that expenses for team dinners, food for internal business meetings, and food and refreshments for other occasions were included in the rider. These expenses appeared to be repetitious, excessive and not beneficial to Ohio's ratepayers. Staff's view is that these items are costs that should be borne by the Company or its employees and not by its ratepayers. Staff therefore recommends that meals, snacks and drinks totaling $5,570 be deducted from the proposed cost recovery amount.

Sponsorships

Staff identified expenses in Rider EE-PDR that were related to a sponsorship. Similar to promotional advertising, sponsorships are generally not recoverable in riders or base rate cases.[5] Staff recommends that these amounts totaling $825 be deducted from the proposed cost recovery amount.

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[4] *In the Matter of the Application of Duke Energy Ohio, Inc. to Adjust Rider DR-IM and Rider AU for 2013 SmartGrid Costs,* Case No. 14-1051-GE-RDR, Opinion And Order at 10 (April 8, 2015) (denying recovery of expenses that were not properly documented because the Company did not provide the requested information that would allow Staff to make a determination).

[5] *In the Matter of the Application of Duke Energy Ohio, Inc. for Recovery of Program Costs, Lost Distribution Revenue, and Performance Incentives Related to Its Energy Efficiency and Demand Response Programs,* Case Nos. 16-664-EL-RDR and 17-781-EL-RDR, Opinion and Order (May 15, 2019).

Labor Expenses

Staff found multiple labor expenses that were found to be charged in error or were not able to be supported or verified as EE related expenses by Duke. Staff recommends $583 be deducted from the proposed cost recovery amount.

Employee Expenses

Staff found multiple expenses that were not directly associated with Rider EE-PDR or beneficial to Ohio's ratepayers. These expenses include personal mobile device reimbursements of $7,365 and telephone and communications of $421. Cellphones and telephone and communication devices have uses beyond those within the Rider EE-PDR program. Staff recommends that the total amount of these transactions, $7,786, be deducted from the proposed cost recovery amount.

Miscellaneous Expense Charges

Staff identified expenses totaling $599 for dues, fees, conferences, travel costs, and other miscellaneous items. After inquiries to the Company, Staff found that these items did not appear to be incremental or were inappropriate for recovery in Rider EE-PDR. Staff recommends $599 be deducted from the proposed Rider EE-PDR cost recovery amount.

Shared Savings and Lost Distribution Review

Staff has reviewed the calculations for the revenue collected through the 2017 Rider EE-PDR for the Company's shared savings and lost distribution revenue. On October 12, 2017, Duke filed a waiver to exceed its 2017 EE-PDR program budget, which the Commission approved while disallowing the recovery of any shared savings for that year. Accordingly, Staff notes that Duke did not seek to recover shared savings for program year 2017. Staff has also reviewed the methodology used by the Company to determine the amount of lost distribution revenue that should be included for recovery in Rider EE-PDR. Staff believes that the Company's methodology is appropriate. However, the claimed energy savings, which form the basis for the Company's calculation of lost distribution revenue, have yet to be verified and approved through the Commission's Evaluation, Measurement, and Verification (EM&V) review process. Staff therefore recommends that any approval given by the Commission for the Company to adjust its Rider EE-PDR rate be subject to further review and potential cost adjustment as deemed necessary in subsequent proceedings in which impacts of the EM&V process are considered.

CONCLUSIONS

Staff has completed its audit of Duke's Rider EE-PDR in Case No. 18-397-EL-RDR and recommends to the Commission the following:

First, Staff recommends that the Company's request for recovery be approved, and that Staff's adjustment of $329,582 be deducted from the revenue requirement in the Company's next Rider EE-PDR case.

Second, Staff recommends that the Commission direct Duke to not include in its future Rider EE-PDR filings expenses related to employee pay incentives (as detailed above), sponsorships, meals and entertainment, telephone communications, and personal cell phone reimbursements. This recommendation is based upon past precedent in the Commission's Opinion & Order in Case Nos. 16-664-EL-RDR and 17-781-EL-RDR.

Third, Staff recommends that any approval given by the Commission for the Company to adjust its Rider EE-PDR rate, be subject to further review and potential cost adjustment as deemed necessary in subsequent proceedings as a result of the impacts of the EM&V process.