

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF
DUKE ENERGY OHIO, INC. FOR
AUTHORITY TO DEFER ENVIRONMENTAL
INVESTIGATION AND REMEDIATION
COSTS.

CASE NO. 19-1085-GA-AAM

IN THE MATTER OF THE APPLICATION OF
DUKE ENERGY OHIO, INC. FOR TARIFF
APPROVAL.

CASE NO. 19-1086-GA-UNC

ENTRY

Entered in the Journal on August 13, 2019

{¶ 1} Duke Energy Ohio, Inc. (Duke or the Company) is a natural gas company as defined by R.C. 4905.03 and a public utility as defined by R.C. 4905.02 and, as such, is subject to the jurisdiction of this Commission, pursuant to R.C. 4905.04, 4905.05, and 4905.06.

{¶ 2} On November 12, 2009, the Commission authorized Duke to defer environmental investigation and remediation costs related to two former manufactured gas plant sites in Ohio for potential recovery of reasonable and prudent costs in a future base rate proceeding. *In re Duke Energy Ohio, Inc.*, Case No. 09-712-GA-AAM, Finding and Order (Nov. 12, 2009) at 4.

{¶ 3} On November 13, 2013, the Commission authorized the recovery of such environmental investigation and remediation costs as had been incurred by the Company between 2008 and 2012. The Commission authorized Duke to recover and continue deferring environmental investigation and remediation costs. The Commission also established dates by which the deferral authority would end, absent the existence of exigent circumstances. Particularly, in respect to the costs applicable to the property designated as the East End site, the Commission determined that the Company could continue to defer and recover such reasonable and prudent costs through December 31, 2016. *In re Duke Energy Ohio, Inc.*, Case No. 12-1685-GA-AIR, et al. (*Duke Rate Case*),

Opinion and Order (Nov. 13, 2013) at 70-74. On rehearing, the Commission stated that Duke would be permitted to file an application for an extension of its deferral and related recovery authority in the event of exigent circumstances. *Duke Rate Case*, Entry on Rehearing (Jan. 8, 2014) at 4.

{¶ 4} Duke filed an application for an extension of its deferral authority on May 16, 2016, in Case Nos. 16-1106-GA-AAM and 16-1107-GA-UNC, requesting Commission authorization to continue to defer environmental investigation and remediation costs for the East End site subsequent to December 31, 2016, and seek recovery of those costs utilizing the same mechanism and process as provided in the *Duke Rate Case*.

{¶ 5} On December 21, 2016, the Commission granted Duke's application for an extension of said authority for an additional three-year period, or until December 31, 2019. The Commission also emphasized that any future request submitted by Duke for an additional extension beyond December 31, 2019, would be heavily scrutinized, in order to ensure that the Commission's original intent to protect the public interest and hold Duke and its shareholders accountable, in part, for the remediation continues to be realized. *In re Duke Energy Ohio, Inc.*, Case No. 16-1106-GA-AAM, et al., Finding and Order (Dec. 21, 2016) at ¶¶ 35-39.

{¶ 6} On May 10, 2019, Duke filed an application for an additional extension in the above-captioned proceedings, requesting Commission authorization to continue to defer environmental investigation and remediation costs incurred in regard to the East End site subsequent to December 31, 2019, and seek recovery of those costs utilizing the same mechanism and process as provided in the *Duke Rate Case*. Duke also requests that the Commission authorize it to extend its current accounting procedures and permit Duke to defer income statement recognition of environmental investigation and remediation costs for the East End site after December 31, 2019. In support of its request, Duke asserts it cannot remediate areas directly over and adjacent to certain critical infrastructure "until

such facilities can be safely and responsibly retired and decommissioned.” Furthermore, Duke states that it cannot complete remediation until the Central Corridor Pipeline is approved by the Ohio Power Siting Board. *In re the Application of Duke Energy Ohio, Inc., for a Certificate of Environmental Compatibility and Public Need for the C314V Central Corridor Pipeline Extension Project*, Case No. 16-253-GA-BTX (*Central Corridor Pipeline Case*).

{¶ 7} On July 12, 2019, Staff filed its review and recommendations in these matters. In its report, Staff notes that the *Duke Rate Case* imposed a finite period of time in which Duke was expected to complete remediation of the East End site, which was later extended by an additional three years. Staff claims there is no new information which supports an additional extension for an indefinite period of time. Staff adds that Duke’s request is not subject to any spending caps and Duke has not offered any estimates for remaining costs associated with the remediation. Moreover, Staff alleges that costs are escalating and may encapsulate certain areas that were not permitted by the *Duke Rate Case*. In response to Duke’s reasoning for its request, Staff states that the existing deferral authority should not be tied to the decommissioning of the critical infrastructure and the resolution of the *Central Corridor Pipeline Case* as both timeframes are unknown. Ultimately, Staff recommends that the Commission deny Duke’s request to extend its existing deferral authority. At the very least, Staff suggests a finite timetable be maintained and that any insurance proceeds collected relating to the remediation efforts be netted against those costs.

{¶ 8} On August 12, 2019, Duke filed comments in response to the Staff Report, reiterating many of its earlier arguments warranting an additional deferral extension.

{¶ 9} Accordingly, at this time, the attorney examiner finds it appropriate to set the following procedural schedule:

- (a) September 13, 2019 – Deadline for the filing of motions to intervene.

- (b) September 13, 2019 – Deadline for the filing of comments relating to Duke’s May 10, 2019 application and the Staff Report.¹
- (c) October 2, 2019 – Deadline for the filing of reply comments.

{¶ 10} It is, therefore,

{¶ 11} ORDERED, That the procedural schedule set forth in Paragraph 9 be observed. It is, further,

{¶ 12} ORDERED, That a copy of this Entry be served upon all parties and interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/Megan J. Addison

By: Megan J. Addison
Attorney Examiner

JRJ/hac

¹ While Duke filed comments on August 12, 2019, in response to the Staff Report, the attorney examiner notes that the Company will be permitted to file any supplemental comments the Company finds to be necessary by the September 13, 2019 deadline, as well as any reply comments.

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Case No(s). 19-1085-GA-AAM, 19-1086-GA-UNC

Summary: Attorney Examiner Entry setting forth procedural schedule electronically filed by Heather A Chilcote on behalf of Megan Addison, Attorney Examiner, Public Utilities Commission