THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF DUKE ENERGY OHIO, INC., FOR APPROVAL OF ITS 2021 ENERGY EFFICIENCY AND DEMAND SIDE MANAGEMENT PORTFOLIO OF PROGRAMS AND COST RECOVERY MECHANISM.	**CASE NO. 20-1013-EL-POR**
IN THE MATTER OF THE APPLICATION OF DUKE ENERGY OHIO, INC. FOR APPROVAL OF TARIFF AMENDMENTS.	**CASE NO. 20-1114-EL-ATA**

ENTRY

Entered in the Journal on June 17, 2020

I. SUMMARY

{¶ 1} In this Entry, the Commission, on our own motion, strikes the shared savings provision from the application filed by Duke Energy Ohio, Inc.

II. DISCUSSION

{¶ 2} Duke Energy Ohio (Duke) is an electric distribution utility (EDU) as defined in R.C. 4928.01(A)(6), and a public utility as defined in R.C. 4905.02, and, as such, is subject to the jurisdiction of this Commission.

{¶ 3} Am. Sub. House Bill 6 (H.B. 6), which became effective October 22, 2019, terminates Ohio's annual energy efficiency mandates, previously codified in R.C. 4928.66, and associated cost recovery mechanisms except final reconciliations on December 31, 2020, provided that the total cumulative energy savings achieves a statewide collective benchmark of 17.5 percent. R.C. 4928.66.

{¶ 4} In light of H.B. 6, on February 26, 2020, the Commission extended Duke's existing energy efficiency portfolio plan through December 31, 2020, directed Duke and the other EDUs in Ohio to wind-down their statutorily-required energy efficiency programs, commencing on September 30, 2020, and ordered that those programs be terminated on

December 31, 2020. *In re the Application of Duke Energy Ohio, Inc., for Approval of its 2017-2019 Energy Efficiency and Peak Demand Reduction Program Portfolio Plan*, Case Nos. 16-576-EL-POR et al. (*Duke Portfolio Plan Case*), Finding and Order (Feb. 26, 2020).

{¶ 5} On June 8, 2020, Duke filed an application in this proceeding to implement a new portfolio of energy efficiency (EE) and demand-side management (DSM) programs to be offered in calendar year 2021 and to implement a non-bypassable recovery mechanism for program costs, shared savings and lost distribution revenue. Duke proposes that the EE and DSM programs will be available to eligible customers on a voluntary basis. Duke also proposes to recover program costs, shared savings and lost distribution from customers that elect to participate in the programs and non-participating customers.

{¶ 6} On our own motion, the Commission strikes the shared savings provision contained in Duke's application. The EDUs in this state have been directed to wind-down their existing EE programs. Duke's application proposes to replace these mandate-related programs with new programs accompanies by a cost recovery mechanism with an annual revenue requirement of $21 million, a shared savings component of an estimated $4 million and a lost distribution revenue component lacking a specific dollar amount. As we have noted previously, it is clear that the General Assembly envisioned significant adjustments to Ohio's energy efficiency requirements when it passed H.B. 6 into law, and it is our duty to comport with, and effectuate, the General Assembly's intent to reduce the costs to consumers in order to facilitate the state's effectiveness in the global economy. *Duke Portfolio Plan Case*, Finding and Order at ¶ 42. Approval of the shared savings provision contained in Duke's application, where such shared savings are recovered through a non-bypassable rider, would be against the objectives of this state which favors outcomes that provide customers with *effective choices* over the selection of supplies and suppliers and would discourage market access for cost effective supply- and demand-side retail services.

{¶ 7} Further, Duke has not established that the shared savings provision is needed to ensure the availability to consumers of adequate, reliable, safe, efficient, nondiscriminatory, and reasonably priced retail electric service. R.C. 4928.02(A). Our regional transmission organization, PJM Interconnection (PJM), maintains a substantial surplus of generation capacity to assure continued reliability of electric service. In fact, PJM issued a capacity forecast on February 19, 2020, projecting a summer reserve margin of between 31 percent and 35.9 percent for 2020 through 2024.[1] In light of this reserve margin, there is no need to provide an incentive to Duke to offer these EE programs in order to ensure the reliability of retail electric service in this state.

{¶ 8} Moreover, the shared savings provision has no statutory basis. The shared savings provisions previously contained in the portfolio plans to implement the EE programs mandated by statute were intended to provide utilities with an incentive to exceed the statutory benchmarks in any given year, in order to establish a bank of energy savings which could be called upon to mitigate the expected costs of meeting the energy efficiency mandates when the statutory requirements significantly increased in the future. However, the General Assembly has reworked and, ultimately, eliminated the statutory energy efficiency mandates. 2014 Sub. Senate Bill 310; H.B. 6. With the repeal of the statutory energy efficiency mandates by H.B. 6, there is no legal rationale for a shared savings provision, and, thus, the shared savings provision should be stricken. We do not intend to rule out any future shared savings provisions. But future proposed shared savings provisions must be accompanied with a demonstration of need that cannot otherwise be met through market-based approaches and a demonstration that the shared savings provision is narrowly tailored to promote the policies of the state codified in R.C. 4928.02.

{¶ 9} Although there may be an important role for the EDUs to play to enable cost-effective EE and DSM programs, the Commission believes that, in light of HB 6, the future

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1 https://www.pjm.com/-/media/planning/res-adeq/20200219-forecasted-reserve-margin-graph.ashx?la=en

for EE programs in this state will be best served by reliance upon market-based approaches such as those available through PJM and competitive retail electric service providers. The policy of this state directs the Commission to encourage *innovation and market access* for cost-effective supply-and demand-side retail electric service including DSM programs. R.C. 4928.02(D). The competitive market can provide cost-effective energy efficiency programs to the customers who choose to participate in such programs. In a competitive market, customers and suppliers are free to work out mutually beneficial cost and benefit sharing arrangements without subjecting other customers to extra risk or cost burdens. In this context, it continues to be important that EDUs focus on providing consumers and CRES providers with direct and comparable access to meter data and enabling billing mechanisms that properly reflect cost-causation for things like generation capacity and network integration transmission service.

{¶ 10} Accordingly, for the reasons set forth above, the Commission strikes the shared savings provision from Duke's application. Further, we direct the attorney examiners to establish a procedural schedule in order to consider the remaining provisions in Duke's application.

III. ORDER

{¶ 11} It is, therefore,

{¶ 12} ORDERED, That the shared savings provision in the application filed by Duke be stricken. It is, further,

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

COMMISSIONERS:
Approving:
Sam Randazzo, Chairman
M. Beth Trombold
Lawrence K. Friedeman
Daniel R. Conway
Dennis P. Deters

GAP/hac