

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke Energy Ohio, Inc., for an Adjustment to Rider MGP Rates.)	
)	Case No. 20-0053-GA-RDR
)	

In the Matter of the Application of Duke Energy Ohio, Inc., for Tariff Approval.)	
)	Case No. 20-0054-GA-ATA

**AMENDED APPLICATION OF DUKE ENERGY OHIO, INC.
FOR AN ADJUSTMENT TO RIDER MGP RATES**

1. Duke Energy Ohio, Inc., (Duke Energy Ohio or the Company) is an Ohio corporation engaged in the business of providing natural gas service to customers in southwest Ohio and, as such, is a public utility as defined by R.C. 4905.02 and R.C. 4905.03.

2. On March 31, 2020, Duke Energy Ohio filed an Application in the above-captioned proceedings, seeking approval to adjust its Manufactured Gas Plant Rider (Rider MGP) to recover 2019 costs for investigation and remediation of manufactured gas plant (MGP) sites pursuant to Ohio and federal environmental laws. Rider MGP was originally approved for recovery of such costs in Case Nos. 12-1685-GA-AIR, *et al.*, (Natural Gas Distribution Rate Case) on November 13, 2013. Therein, the Public Utilities Commission of Ohio (Commission) authorized the Company to recover the prudently incurred costs of MGP investigation and remediation through annual adjustments to Rider MGP.¹ In the Application filed on March 31, 2020, Duke Energy Ohio requested such tariff approval and accounting authority as may be required for recovery.

¹ *In the Matter of the Application of Duke Energy Ohio, Inc., for an Increase in its Natural Gas Distribution Rates*, Case Nos. 12-1685-GA-AIR, *et al.*, Opinion and Order, at p. 72 (November 13, 2013).

3. Subsequent to the filing of its March 31, 2020 Application, Duke Energy Ohio has discovered that the Application (1) inadvertently omitted costs eligible for recovery due to the timing of the filing relative to the payment of certain invoices; and (2) inadvertently included a small number of minor errors.

4. In order to rectify these issues, Duke Energy Ohio now files this Amended Application. Along with this Amended Application, the Company files (1) an Amended Direct Testimony of Sarah E. Lawler, which includes an Attachment SEL-3 that explains the corrections made and provides corresponding corrected calculations in Amended Attachments SEL-1 and SEL-2; and (2) an Amended Direct Testimony of Todd L. Bachand, which incorporates the corrections as well and provides an Amended Attachment TLB-3 with corresponding corrections.

5. The Amended Application and the Amended Direct Testimony of Sarah E. Lawler filed today supersede in their entirety the Application and Direct Testimony of Sarah E. Lawler that were filed on March 31, 2020, and April 1, 2020, respectively. The Amended Direct Testimony of Todd L. Bachand supersedes the Direct Testimony of Todd L. Bachand filed on April 1, 2020, but continues to rely on all of the attachments to the Direct Testimony of Todd L. Bachand filed on April 1, 2020, *except* for Attachment TLB-3. The Amended Attachment TLB-3 supersedes the Attachment TLB-3 filed on April 1, 2020 in its entirety. In all remaining respects, the Amended Application, like the original Application, relies on the direct testimonies filed on March 31 or April 1, 2020, including the direct testimonies of Shawn Fiore and Keith Butler.

6. Rider MGP was established by a stipulation in the Company's Natural Gas Distribution Rate Case which provided, in part, for the establishment of Rider MGP and an appropriate allocation of any costs collected thereunder.

7. After an evidentiary hearing, the Commission's Opinion and Order authorized Duke Energy Ohio to recover \$62.8 million for investigation and remediation costs incurred for the period January 1, 2008, through December , 2012, for the East End site, and January 1, 2009, through December 31, 2012, for the West End site, less \$2,331,580 for the purchased parcel, 2008 costs for West End site, and carrying costs.² The Commission explicitly authorized the Company to continue to defer the MGP costs for the East and West End sites (collectively, the MGP sites) and to file annual updates to Rider MGP as set forth in the Commission's Opinion and Order.³

8. On June 29, 2017, the Supreme Court of Ohio affirmed the Commission's Opinion and Order determining the MGP remediation costs to be service-related costs and recoverable through rates under R.C. 4909.15(A)(4).⁴ The Court acknowledged, "[a]s the current owner or operator of facilities from which there is a release or threatened release of hazardous material, Duke is liable for remediation of the MGP sites under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)."⁵ The Company's liability is strict⁶ and not limited to contamination on only its owned property. Furthermore, the Court confirmed that such legally mandated costs incurred in providing service are recoverable.⁷

² *In the Matter of the Application of Duke Energy Ohio, Inc., for an Increase in its Natural Gas Distribution Rates*, Case Nos. 12-1685-GA-AIR *et al.*, Opinion and Order at p. 77 (November 13, 2013).

³ *Id.* and *In the Matter of the Application of Duke Energy Ohio, Inc., for Approval to Change Accounting Methods Associated with Its Integrity Management Program*, Case No. 16-387-GA-AAM, Opinion and Order at p. 3 (January 4, 2017).

⁴ *In re Application of Duke Energy Ohio, Inc.*, Slip Opinion No. 2017-Ohio-5536, p. 8.

⁵ *Id.*, p. 15; citing 42 U.S.C. 9601, *et seq.*

⁶ *Id.*

⁷ *Id.*

9. This Amended Application includes remediation and investigation costs incurred during calendar year 2019. The total amount of remediation and investigation expense incurred for calendar year 2019 is \$39,435,627 and is supported by the Direct Testimonies, Amended Direct Testimonies, and accompanying attachments and amended attachments filed by Duke Energy Ohio in these proceedings.

10. In support of this Amended Application, Duke Energy Ohio submits the testimony of Todd L. Bachand, Keith G. Butler, Shawn S. Fiore, and Sarah E. Lawler. Duke Energy Ohio witness Bachand discusses the continuing investigation and remediation at the MGP sites and the nature, reasonableness, and prudence of costs incurred. Witness Butler discusses the steps that Duke Energy Ohio has taken to comply with the Commission's mandate to actively pursue collection of remediation costs as may be available under applicable insurance policies. Witness Fiore discusses how the Company's remediation efforts comply with Ohio's Voluntary Action Plan for environmental remediation. Duke Energy Ohio witness Lawler provides details supporting the calculation of the rider and rate implementation.

11. This Amended Application will not result in an unjust or unreasonable outcome and, as such, the Commission may approve this Amended Application without a hearing.

WHEREFORE, for the reasons set forth herein, Duke Energy Ohio respectfully requests Commission approval to adjust Rider MGP, as described herein.

Respectfully submitted,

/s/ Larisa M. Vaysman

Rocco O. D'Ascenzo (Counsel of Record)

Deputy General Counsel

Jeanne W. Kingery (0012172)

Associate General Counsel

Larisa Vaysman (0090290)

Senior Counsel

139 E. Fourth Street, 1303-Main

Cincinnati, Ohio 45202

(513) 287-4320 (telephone)

(513) 287-4385 (facsimile)

Rocco.D'Ascenzo@duke-energy.com

Jeanne.Kingery@duke-energy.com

Larisa.Vaysman@duke-energy.com

Attorneys for Duke Energy Ohio, Inc.

Willing to accept service via email

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was served on the following parties this 7th day of July 2020 , by regular U.S. Mail, overnight delivery, or electronic delivery.

/s/ Larisa M. Vaysman
Larisa M. Vaysman

John.jones@ohioattorneygeneral.gov
steven.beeler@ohioattorneygeneral.gov

bojko@carpenterlipps.com

mkurtz@bkllawfirm.com
kboehm@bkllawfirm.com
jkylerecohn@bkllawfirm.com
paul@carpenterlipps.com

William.michael@occ.ohio.gov
Amy.botschner-obrien@occ.ohio.gov

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

7/7/2020 5:02:33 PM

in

Case No(s). 20-0053-GA-RDR, 20-0054-GA-ATA

Summary: Amended Application OF DUKE ENERGY OHIO, INC.
FOR AN ADJUSTMENT TO RIDER MGP RATES
electronically filed by Carys Cochern on behalf of Duke Energy