

**A Report by the Staff of the
Public Utilities Commission of Ohio**

Duke Energy Ohio, Inc.
Case Number 20-0053-GA-RDR
Case No. 20-0054-GA-ATA

July 23, 2020

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke)	Case No. 20-0053-GA-RDR
Energy Ohio, Inc. for an Adjustment to Rider)	
MGP Rates.)	
)	
In the Matter of the Application of Duke)	Case No. 20-0054-GA-ATA
Energy Ohio, Inc. for Tariff Approval.)	

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

To the Honorable Commission:

In accordance with the Opinion and Order from Case No. 12-1685-GA-AIR, *et al.* on November 12, 2013, Duke Energy Ohio, Inc. (Duke or the Company) filed to adjust its rider for two manufacturer gas plants (Rider MGP) in Case No. 20-53-GA-RDR.

The Public Utilities Commission of Ohio's (PUCO) Staff reviewed these filings and herein submits its investigations and findings and recommendations within the Staff Report.

The Staff Report was prepared by the Commissions' Rates and Analysis Department. The Staff Report is intended to present for the Commission's consideration, the result of the Staff investigation. It does not purport to reflect the views of the Commission nor should any party to the proceeding consider the Commission as bound in any manner by the representations or recommendations set forth therein.

Respectfully submitted,



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

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INTRODUCTION:

In accordance with the Commission's Opinion and Order in Case No. 12-1685-GA-AIR, *et al.* (Rate Case Order),¹ on March 29, 2019, Duke Energy Ohio, Inc. (Duke or Company) filed an application (Application) in Case No. 20-53-GA-RDR seeking approval by the Public Utilities Commission of Ohio (Commission) to adjust its manufactured gas plant (MGP) rider (Rider MGP) to recover ongoing costs for investigation and remediation incurred in 2019 at two former MGP sites in its distribution service area.

In 2018, Staff submitted a detailed report to comment on investigation and remediation costs incurred for the period 2013-2017 (2018 Staff Report).² On July 12, 2019, Staff submitted a detailed report to comment on investigation and remediation costs incurred for the period 2018 (2019 Staff Report).³ This current report addresses specific adjustments for costs incurred in 2019. A summary of costs and adjustments pertaining to the entire period of 2013-2019 have been provided in tables at the end of this document.

SUMMARY OF APPLICATION:

On February 21, 2014, Duke filed the initial Rider MGP tariff for recovery of the initial \$55.5 million in MGP remediation costs authorized in the Rate Case Order, with rates effective March 3, 2014.⁴ Consistent with the Rate Case Order, and similar to filings made from 2014 through 2019, Duke filed an annual update for Rider MGP on March 31, 2020 describing the Company's annual MGP investigation and remediation activities seeking recovery of the costs. On July 7, 2020, the Company filed an amended application (Amended Application), testimony and schedules to accompany its filing.

The Company supported the Amended Application with testimony and schedules detailing the annual expenses incurred, remediation activities undertaken, and status of its efforts to locate and analyze potentially applicable insurance coverage and reimbursement from potential responsible third parties. Duke filed for Rider MGP investigation and remediation activities seeking recovery of \$39,435,627.32 for costs incurred in 2019. This amount includes \$13,545,929.30 for costs incurred on the East End site and \$25,889,697.72 for costs incurred on the West End site. In its Amended Application, the Company included a summary⁵ identifying certain costs related to remediation work conducted on the area West of the West Parcel on the East End site (\$504,149.55) as well as remediation work in the Ohio River for both the East End (\$2,042,646.21) and West End (\$1,315,091.20) sites.

STAFF'S REVIEW AND RECOMMENDATIONS:

Application to Adjust Rider MGP Rates, Case No. 20-0053-GA-RDR

Consistent with prior Staff Reports, Staff investigated Duke's proposed increases to Rider MGP for 2019 by reviewing the Company's Application, schedules, and supporting testimony and by conducting a series

¹ *In the Matter of the Application of Duke Energy Ohio, Inc., for an Increase in its Natural Gas Distribution Rates*, Case No. 12-1685-GA-AIR, *et al.*, Opinion and Order at 78 (Nov. 13, 2013) (Rate Case Order).

² *See In the Matter of the Application of Duke Energy Ohio, Inc. for an Adjustment to Rider MGP Rates*, Case No. 14-0375-GA-RDR, *et al.*, Staff Report (Sept. 28, 2018) (2018 Staff Report).

³ *See In the Matter of the Application of Duke Energy Ohio, Inc. for an Adjustment to Rider MGP Rates*, Case No. 14-0375-GA-RDR, *et al.*, Staff Report (July 12, 2019) (2019 Staff Report).

⁴ *See Duke Gas Rate Case*, Revised final tariff (Feb. 21, 2014).

⁵ *See In the Matter of the Application of Duke Energy Ohio, Inc. for an Adjustment to Rider MGP Rates*, Case No. 20-53-GA-RDR, *et al.*, Amended Testimony of Todd L. Bachand at 20 and Amended Attachment TLB-3 (July 7, 2020) (2020 Duke MGP Case).

of meetings and telephone calls with Duke personnel responsible for implementing Rider MGP. The purpose of Staff's investigation was to obtain detailed information regarding the proposed MGP costs, environmental remediation activities, and efforts to locate and analyze insurance coverage and third-party coverage.

Based on this investigation, Staff makes the conclusions and recommendations set forth below. The Company submitted a total of \$39,435,627.05 for ongoing MGP recovery for 2019. Staff recommends removal of \$3,897,929.62 and recovery of \$35,537,697.43. Details pertaining to the adjustments are included below. Tables outlining the adjustments have been included at the end of the report.

East End and West End Sites

Staff reviewed the Company's filed testimony, vendor contracts, and all invoices for investigation and remediation activities at the East End and West End sites for 2019 to ensure that costs to perform the work are reasonable. Staff also reviewed costs to ensure that ratepayers were not charged for: (1) costs associated with remediation of the parcel of land adjacent to the East End site that the Commission denied for recovery, known as the Area West of the West Parcel (WOW)⁶ for the East End site, or (2) costs associated with investigation or remediation of soil, water or any other tracts of land located outside the original footprint of the East End and West End sites (such as in the Ohio River).

In the Amended Application, Duke provided Amended Testimony and exhibits⁷ which outlined specific costs associated with the Area West of the West as well as costs associated with river remediation for both the East End and West End sites. Staff reviewed the costs and compared these to all invoices provided in response to data requests. Staff recommends removing all costs associated with the WOW and river remediation outlined by the Company in Amended Attachment TLB-3. Staff identifies these costs as "direct" costs or costs associated with specific vendors for specific actions. These costs generally fall into the following categories: investigation, analytical laboratory, construction management, miscellaneous, and Duke laboratory labor. In addition to direct costs, Staff recommends an allocated adjustment for costs associated with "indirect" costs or costs associated with oversight and general functions undertaken by the Company. These costs would be associated with some of the direct costs but were not identified by the Company in TLB-3. Indirect costs generally fall into the following categories: contractor support, Duke internal expense, Duke laboratory labor, and Duke MGP project management and construction oversight.

The Company spent \$13,545,929.33 on the East End site in 2019. Staff recommends removing \$2,632,006.15 in direct costs as stated in Amended Attachment TLB-3, as well as indirect costs described above of \$85,210.38 for a total adjustment of \$2,627,657.93. Indirect costs were calculated by creating an allocation of TLB-3 costs for the East End divided by total East End site costs (18.80%) and applying this allocation to the indirect costs. Staff recommends the Company should be permitted to recover \$10,913,923.18 for the East End site. The Company spent \$25,889,697.72 on the West End site in 2019. Staff recommends removing \$1,253,669.38 in direct costs as stated in Amended Attachment TLB-3, as well as indirect costs of \$12,254.09 for a total adjustment of \$1,265,923.47 and recommends the Company should be permitted to recover \$24,623,774.25. Indirect costs were calculated by creating an allocation of TLB-3 costs for the West End divided by total West End site costs (4.84%) and applying this allocation to the indirect costs.

⁶ Also known as the Purchased Parcel. 2018 Staff Report at 3.

⁷ See 2020 Duke MGP Case, Amended Testimony of Todd L. Bachand, at Attachment TLB-3 (July 7, 2020).

Insurance Proceeds

Staff continued to investigate the Company's efforts to pursue collection of insurance proceeds, as directed by the Commission in the Rate Case Order.⁸ Staff verified that as of December 31, 2019, Duke successfully collected \$50,562,476, net of legal fees, from multiple insurance companies.⁹ Staff will continue to monitor the Company's efforts. These funds have not yet been reimbursed to ratepayers. Consistent with Staff testimony filed in Case No. 19-0174-GA-RDR, Staff recommends that any proceeds paid by insurers for MGP investigation, net of litigation costs and attorney fees, should be reimbursed to ratepayers. The proceeds should also not be held by Duke until all investigation and remediation is complete.¹⁰

SUMMARY OF COSTS AND STAFF ADJUSTMENTS 2013-2019

Staff has fully investigated Duke's MGP costs for 2019. Below are several tables which summarize total costs for the period 2013 - 2019, Staff adjustments, and costs that Staff recommends for recovery. The tables include the current adjustments. They also contain, for illustrative purposes, the adjustments from prior periods.

Table 1 Summary of Costs 2013-2019

Year	Costs	Time Period	Case Number
2013	\$8,346,698	January 1, 2013 through December 31, 2013	14-0375-GA-RDR
2014	\$686,031	January 1, 2014 through December 31, 2014	15-0452-GA-RDR
2015	\$1,061,056	January 1, 2015 through December 31, 2015	16-0542-GA-RDR
2016	\$1,296,160	January 1, 2016 through December 31, 2016	17-0596-GA-RDR
2017	\$14,652,068	January 1, 2017 through December 31, 2017	18-0283-GA-RDR
2018	\$19,804,031	January 1, 2018 through December 31, 2018	19-0174-GA-RDR
2019	\$39,435,627	January 1, 2019 through December 31, 2019	20-0053-GA-RDR
Total	\$85,281,670	January 1, 2013 through December 31, 2019	

Table 2 East End Site Adjustments

Year	Company Filing	Staff Recommended Adjustments	Recommended for Recovery
2013	\$482,455	(\$274,321)	\$208,134
2014	\$240,810	(\$135,380)	\$105,430
2015	\$329,992	(\$222,780)	\$107,212
2016	\$1,120,402	(\$561,999)	\$558,403
2017	\$13,825,962	(\$10,033,787)	\$3,792,175
2018	\$17,022,976	(\$9,366,276)	\$7,656,700
2019	\$ 13,545,929	(\$2,632,006)	\$ 10,913,923
Total	\$ 46,568,526	(\$23,226,546)	\$ 23,341,977

⁸ Rate Case Order at 67.

⁹ 2020 Duke MGP Case, Direct Testimony of Keith Butler at 4 (March 31, 2020).

¹⁰ *In the Matter of the Application of Duke Energy Ohio, Inc. for an Adjustment to Rider MGP Rates*, Case No. 14-375-GA-RDR, *et al.*, Testimony of Nicci Crocker at 12 (Oct. 16, 2019).

Table 3 West End Site Adjustments

Year	Company Filing	Staff Recommended Adjustments	Recommended for Recovery
2013	\$7,864,242	(\$22,456)	\$7,841,786
2014	\$445,221	(\$328,299)	\$116,922
2015	\$731,064	(\$97,728)	\$633,336
2016	\$175,758	\$0.00	\$175,758
2017	\$826,106	(\$191,149)	\$634,957
2018	\$2,781,055	(\$1,999,967)	\$781,088
2019	\$ 25,889,698	(\$1,265,923)	\$ 24,623,774
Total	\$ 38,713,144	(\$3,905,522)	\$ 34,807,621

Table 4 Total Staff Adjustments 2013-2019

Year	Company Filing	Total Staff Recommended Adjustments	Total Costs Recommended for Recovery
2013	\$8,346,697	(\$296,777)	\$8,049,920
2014	\$686,031	(\$463,679)	\$222,352
2015	\$1,061,056	(\$320,508)	\$740,548
2016	\$1,296,160	(\$561,999)	\$734,161
2017	\$14,652,068	(\$10,224,936)	\$4,427,132
2018	\$19,804,031	(\$11,366,243)	\$8,437,788
2019	\$39,435,627	(\$3,897,930)	\$ 35,537,697
Total	\$85,281,670	(\$27,132,072)	\$ 58,149,598

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7/23/2020 4:15:47 PM

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Summary: Staff Report Filed in the Matter of the Application of Duke Energy Ohio, Inc. for an Adjustment to Rider MGP Rates. electronically filed by Ms. Nicci Crocker on behalf of PUCO Staff