BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke Energy Ohio, Inc., to Adjust Rider AU for 2018 Gas Grid Modernization Costs.	))))	Case No. 19-664-GA-RDR

COMMENTS OF DUKE ENERGY OHIO, INC.

Pursuant to Ohio Administrative Code (O.A.C.) Section 4901-1-28(B), Duke Energy Ohio, Inc. (Duke Energy Ohio or Company) submits the following comments related to an audit report prepared at the direction of the Public Utilities Commission of Ohio Staff (Staff) by Blue Ridge Consulting, Inc., (Blue Ridge Consulting) and submitted to the docket in this proceeding on July 6, 2020 (Report).

I. BACKGROUND

A. The Company's Investment In SmartGrid Assets Currently Being Switched Out Was Prudent At The Time It Was Made And Cost Recovery Was Approved By The Commission.

In 2008, Duke Energy Ohio received approval from the Public Utilities Commission of Ohio (Commission) to deploy an automated gas meter reading system and to recover associated costs through Rider Advanced Utility (Rider AU).[1] Since that time, the Company has filed annual applications for approval of deployment costs incurred during the preceding year and the Commission has, each year, approved those applications after completing its review.

In 2010, approximately midway through deployment of the Company's natural gas and electric SmartGrid program, the Commission opened a docket, Case No. 10-2326-GE-UNC, "to

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[1] *In the Matter of the Application of Duke Energy Ohio, Inc. for an Increase in Rates*, Case No. 07-589-GA-AIR, *et al.*, Opinion and Order (May 28, 2008). Rider AU allows the Company to collect a return on rate base, depreciation, property taxes, and incremental expenses directly attributable to the SmartGrid program.

conduct an operational audit and an operational benefits assessment of [Duke Energy Ohio's] overall SmartGrid implementation to date."[2] In response to the audit report in that proceeding, Staff recommended that the "Commission should approve moving forward beyond December, 2011, with a complete deployment of SmartGrid conditioned on" additional recommendations.[3] At no point during the deployment of natural gas or electric SmartGrid did Staff suggest that the Company's investment was imprudent. Following Staff's recommendation and the Commission's order in that proceeding, the Company did complete its deployment by the end of 2014.

As part of its 2012 Natural Gas Base Rate Case,[4] the Commission approved Duke Energy Ohio's proposal to begin recovering in base rates the revenue requirement associated with its investment in natural gas SmartGrid infrastructure that was used and useful as of March 31, 2012, the date certain in that case.[5] The SmartGrid program was not yet fully deployed as of the date certain in that case. Staff recommended approving and the Commission approved of the Company's proposal to continue its SmartGrid deployment and to continue Rider AU as the mechanism to recover the revenue requirement on incremental investment in natural gas SmartGrid infrastructure made after March 31, 2012.[6]

As the Company proceeded to install natural gas modules and communications modules from March 31, 2012, until full deployment in 2014, the Company accounted for these assets by assigning them a useful life and depreciating them accordingly. The Company followed its accounting policy to record the costs of the assets placed into service and deemed used and useful

[2] *In the Matter of the Application of Duke Energy Ohio, Inc., to Adjust Rider DR-IM and Rider AU for 2010 SmartGrid Costs and Mid-Deployment Review*, Case No. 10-2326-GE-RDR, Entry, Request for Proposals No. EE10-OA01, p. 4 (Oct. 27, 2010).
[3] *Id.*, Comments Submitted on Behalf of the Staff of the Public Utilities Commission of Ohio, p. 29 (November 4, 2011).
[4] *In the Matter of the Application of Duke Energy Ohio, Inc. for an Increase in Rates*, Case No. 12-1685-GA-AIR, *et al.*
[5] *Id.*, Opinion and Order, pp. 12-13 (November 13, 2013).
[6] *Id.*, p. 14.

in the general ledger, depreciate them proportionally each year, and then auto-retire the assets when they reached the end of their useful life. All of the Company's annual cost recovery filings for Rider AU included installed assets that were depreciated in accordance with their useful life.[7]

B. For Reasons Beyond The Company's Control, The Company Was Forced To Transition To A Different AMI Infrastructure For Both Natural Gas And Electric.

As the Commission explained in late 2018, the Company's need to transition to a different AMI infrastructure was caused by "issues, largely out of Duke's control":

> The need to transition away from the Echelon meters was not caused by a single issue, but rather a multitude of challenges. For example, not only did the nodes fail at a higher rate than expected, but now the nodes are no longer being produced. Further, the cellular service provider is upgrading to a 4G network and will no longer support the nodes. ***All of these issues, largely out of Duke's control, justify a transition to a superior approach.*** Other alternatives, including upgrades to the current system, were not demonstrated to be economical options.[8]

Even while affirming the need for transition, the Commission recognized the value of the Echelon equipment and rejected the argument that "the book value of the current smart meter system should be disallowed."[9] In explaining its reasoning, the Commission noted that the initial investment had been continuously reviewed for prudence and reasonableness and approved:

> [W]e note that the deployment of Duke's smart grid system has been ***subject to continuous review by the Commission***, in open proceedings, through, among other things, the Mid-Deployment Review Case as well as annual rider updates. Although the future functionality of Duke's infrastructure is in doubt, the present operation has been serviceable and benefits customers. Staff has reviewed Duke's smart grid expenses on an annual basis and

[7] *See, e.g., In the Matter of the Application of Duke Energy Ohio, Inc., to Adjust Rider DR-IM and Rider AU for 2014 Grid Modernization Costs*, Case No. 15-883-GE-RDR, Application (June 4, 2015); *In the Matter of the Application of Duke Energy Ohio, Inc., to Adjust Rider AU for 2015 Gas Grid Modernization Costs*, Case No. 16-794-GA-RDR, Application (April 18, 2016); *In the Matter of the Application of Duke Energy Ohio, Inc., to Adjust Rider AU for 2016 Gas Grid Modernization Costs*, Case No. 17-690-GA-RDR, Application (March 24, 2017); *In the Matter of the Application of Duke Energy Ohio, Inc., to Adjust Rider AU for 2017 Gas Grid Modernization Costs,* Case No. 18-837-GA-RDR, Application (June 29, 2018).

[8] Case Nos. 17-32-EL-AIR, *et al*., Opinion & Order, p. 77 (December 19, 2018), (internal citations deleted, emphasis added).

[9] *Id.*, p. 78 (emphasis added)

> ***determined whether spending was prudent and reasonable and the Commission has considered and approved those recommendations*.**[10]

Although the Commission, at the time, was addressing the Company's electric business, all of these statements are true in the natural gas context: (1) as described earlier, the natural gas assets were "subject to continuous review by the Commission" and the reasonableness and prudence of the Company's investment was repeatedly approved; and (2) the reasons for the transition to the new AMI infrastructure are the same, and equally outside the Company's control.

C. For The Electric Transition, The Commission Approved Dying Asset Treatment For The AMI Infrastructure Being Switched Out.

Recognizing that it had "previously approved recovery for the [Echelon] meters," the Commission agreed, for the electric business, "to accelerate the depreciation of the meters" and explained that it would be "prudent to treat the meters as dying accounts."[11] The Commission noted that this was consistent with precedent, and specifically consistent with the Commission's treatment of the metering infrastructure that preceded the Echelon meters in Case No. 08-709-EL-AIR, where Staff recommended that meters "be treated as dying accounts, and that the unrecovered investment be amortized over a 10 year period,"[12] and the Commission approved this treatment.[13] Inasmuch as the circumstances are essentially identical for the Company's investments in natural gas and electric SmartGrid infrastructure, the Commission should be consistent in ordering the Company to create a dying asset for its undepreciated investment in gas SmartGrid.

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[10] *Id.* (emphasis added).
[11] *Id.*
[12] *In the Matter of the Application of Duke Energy Ohio, Inc. for an Increase in Electric Distribution Rates*, Case No. 08-709-EL-AIR, Staff Report, p. 5 (January 27, 2009).
[13] *See id.*, Stipulation and Recommendation, p. 6 ("The Parties agree that DE-Ohio will implement new depreciation rates consistent with The Staff Report of Investigation . . . .") (March 31, 2009); *Id.*, Opinion and Order, p. 19 (July 8, 2009) (approving stipulation).

D. The Company's Application for Cost Recovery In This Case Was Consistent With Its Previously Approved Rider AU Filings.

In this case, the Company filed an application for Rider AU cost recovery for 2018 costs, in a manner consistent with its prior annual filings for costs incurred in 2013 through 2017. As it had done in prior years, the Company included all the capital equipment that it had installed, depreciating in accordance with each category's useful life. The Company has never denied or disputed that much of the previously installed capital equipment included in the Rider AU had been removed from the field at some point.[14] However, the Company's position was that the costs in question were prudently incurred and approved for recovery, and therefore continued cost recovery, via Rider AU, should not be truncated even if the underlying assets were removed from the field.[15]

Pursuant to the Commission's order on the prior Rider AU filing, in Case No. 18-837-GA-RDR, the Staff conducted a review in this case "to examine whether the SmartGrid assets that Duke has deployed for its gas operations continue to be used and useful on a going-forward basis."[16] During this review, the Company was able to provide Staff with a listing of its capital equipment (including locational data) and with financial records from its continuing property records (CPR) illustrating transactions related to the equipment, but was unable to link individual items of equipment to specific CPR entries.[17] Staff recommended that the Commission issue an RFP for a third-party audit and, in the meantime, suspend Rider AU collections.[18]

E. The Commission Ordered The Instant Audit and Suspended Rider AU Pending the Outcome.

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[14] *See, e.g.*, Report, pp. 23-24.
[15] Reply Comments of Duke Energy Ohio, pp. 3-4 (November 8, 2019).
[16] *In the Matter of the Application of Duke Energy Ohio, Inc. to Adjust Rider AU for 2017 Grid Modernization Costs*, Case No. 18-837-GA-RDR, Opinion and Order, p. 6 (July 2, 2019).
[17] *See* Staff Review and Recommendation, pp. 2-3 (October 25, 2019).
[18] *Id.*, p. 3.

On December 4, 2019, the Commission issued an Entry (Entry), ordering that an RFP be issued for a third-party audit and the Rider AU collections be suspended in the meantime.[19] The RFP defined the scope of the audit as to "determine the accuracy, prudency, and used and useful nature of the Company's Rider AU capital assets."[20] The Commission explained that it would "address the issue of Duke's recovery of its remaining AMI investment" after the completion of the audit and a review of the findings. The auditor, Blue Ridge Consulting, filed the Report on July 6, 2020.

II. COMMENTS ON THE REPORT.

A. The Company Agrees With Four of the Five Adjustments Recommended By Blue Ridge Consulting And Has Incorporated Them Into Its Rider AU Filing For 2019 Costs.

The Company agrees with the following four adjustments recommended by Blue Ridge Consulting:

> Adjustment #1: Remove $9,527,398 of Leased AMI Meters transferred to non-Rider AU Project in 2016 and to the Electric Business Segment in 2017. The adjustment also removes $836,667 for the related net PISCC regulatory asset. For further detail, see Rider AU Overstatement under section Plant in Service.
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> Adjustment #2: Remove $32,974 of five-year life auto-retired assets that occurred in 2017 and 2018. For further detail, see Rider AU Overstatement under section Plant in Service.
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> ….
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> Adjustment #4: Adjust for the difference of $130,557 between CPR and Rider AU filing for 2012–2015 identified by Staff's Review and Recommendation of the Company's filing in Case No, 19-664-GA-RDR. For further detail, see section Historical Records.
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> Adjustment #5. Correct opening December 31, 2017, EDIT balance in connection with PISCC, operating expense deferrals, and related carrying charges. For further detail, see Development of Schedules under section Rider AU-Related Schedules.[21]

[19] Entry, p. 5. Duke Energy Ohio filed an application for rehearing challenging the suspension, which remains pending before the Commission.

[20] Entry, RFP, p. 2.

[21] Report, pp. 7-8.

The Company has made these adjustments in its most recent Rider AU filing on July 31, 2020, in Case No. 20-1117-GA-RDR.

B. The Company Disagrees With Adjustment #3 Recommended By Blue Ridge Consulting.

The Company disagrees with Blue Ridge Consulting's recommended Adjustment #3, which is to "[r]emove [from the Rider AU plant-in-service balances and revenue requirements] 60,771 Badger modules that were replaced with Itron OpenWay modules and 15,995 Ambient communication nodes that were removed and replaced with connected grid routers (GCRs)," which would remove approximately $5.6 million from the total Rider AU plant-in-service.[22] Although the Company does not disagree with Blue Ridge Consulting on the number of modules and nodes removed and does not dispute the calculation of plant-in-service amounts associated with these items, the Company disagrees on the appropriate treatment of these assets. The Company believes it is inappropriate to remove these assets, previously found to be a prudent investment, from Rider AU in the absence of any alternate mechanism to recover their remaining costs.

Simply removing these assets from the Rider AU, without offering any alternative for fully recovering the Company's investment, would violate the Ohio standard for prudence review by invoking improper hindsight judgment. The Ohio Supreme Court defines a prudent decision as "one which reflects what a reasonable person would have done in light of conditions and circumstances which were known or reasonably should have been known at the time the decision was made."[23] This standard "contemplates a retrospective, factual inquiry ***without the use of hindsight judgment***, into the decision making process of the utility's management."[24] As

[22] Report, p. 7.
[23] *Cincinnati v. Pub. Util. Comm.*, 67 Ohio St.3d 523, 5528, 620 N.E. 2d 826 (1993) (emphasis added).
[24] *Id.* (emphasis added)

described at length in Section I, the deployment of the equipment in question was approved as reasonable and prudent by the Commission at the time it was made. It was not until years later that the need to replace the equipment—due to reasons largely outside the Company's control—arose. Thus, the Company must be able to fully recoup its investment in the equipment it deployed with full Commission approval.

The Company would not oppose the removal of these assets from the Rider AU if the Commission approved the creation of a dying asset account to address the remaining recovery of the Company's investment, as it did for the electric business. The Company is in the exact same situation here: "the deployment . . . has been subject to continuous review by the Commission," the Commission has approved prior annual expenses as prudent and reasonable, and changes "largely out of Duke's control" caused the need to transition.[25] Thus, as with the Company's electric equipment, a dying asset account would be an appropriate mechanism to ensure full recovery of an investment deemed prudent by the Commission.

If the dying asset accounting for the natural gas investments was approved by the Commission, the Company would then discontinue Rider AU. The recovery of dying asset costs would then be addressed in the Company's next natural gas base rate case. At that point, the "dying account" concept would be applied to those assets currently being recovered in base rates and Rider AU that will be retired early due to the transition.

Unless and until dying asset treatment, or another path for recouping the Company's investment in the equipment that has had to be removed, has been granted, the Company opposes removal of these assets from Rider AU and, accordingly, opposes the recommended Adjustment #3.

[25] Case Nos. 17-32-EL-AIR, *et al*., Opinion & Order, pp. 77-78 (December 19, 2018).

C. The Company Agrees With Four of The Five Other Recommendations Made By Blue Ridge Consulting.

In addition to the recommended adjustments discussed above, Blue Ridge Consulting made five "other recommendations."[26] The Company agrees with four of these.

The first recommendation was to perform a "thorough and careful reconciliation" of the Rider AU and Rider CEP.[27] The Company will perform such reconciliation.

The second recommendation was to "continue to reflect in Rider AU the retirement of equipment that will be replaced through 2022 and to not rely on auto-retirement for assets that have been replaced."[28] The Company opposes this recommendation, for the reasons discussed in Section B above. The Company believes that, until and unless another recovery mechanism is provided for these assets, their prudently incurred costs should continue to be recovered through Rider AU.

The third recommendation was to "take into consideration issues of transparency and public trust in addressing prior filing mistakes going forward."[29] In the future, the Company will indicate when it is making corrections to opening balances in an annual Rider AU filing.

The fourth recommendation was to address certain spreadsheet modeling issues and to formalize the Company's procedures in writing. The Company agrees to assess the supporting spreadsheets for its schedules for improvements that can be made and to formalize any changes in writing.

The fifth recommendation is to retain excess accumulated deferred income taxes (EDIT) in Rider AU pending their disposition in Case No. 18-1830-GA-UNC. The Company agrees with this and is already doing so. It should be noted, however, that, to the extent the Commission

[26] Report, p. 8.
[27] Report, p. 9.
[28] Report, p. 9.
[29] Report, p. 9.

disallows recovery of its investment in natural gas SmartGrid, the EDITs currently owed to customers will be adjusted, as the Company's liability for EDITs is limited to investment for which the Company is allowed to recover from its customers.

III. CONCLUSION

The Company respectfully requests that the Commission either (1) permit Rider AU collections to resume, with revenue requirements to be calculated ***including*** all modules and nodes approved for deployment, regardless of whether they have since been removed from the field; or (2) approve creation of a dying asset account for removed modules and nodes in accordance with the above comments and, correspondingly, discontinue Rider AU.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Comments of Duke Energy Ohio, Inc. was served on the following parties this 5th day of August 2020 by regular U. S. Mail, overnight delivery or electronic delivery.

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