

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF
DUKE ENERGY OHIO, INC. FOR
APPROVAL OF ITS TEMPORARY PLAN
AND WAIVER OF TARIFFS AND RULES
RELATED TO THE COVID-19 STATE OF
EMERGENCY.

CASE NO. 20-599-GE-UNC

IN THE MATTER OF THE APPLICATION OF
DUKE ENERGY OHIO, INC. FOR
APPROVAL OF A REASONABLE
ARRANGEMENT.

CASE NO. 20-856-EL-AEC

IN THE MATTER OF THE APPLICATION OF
DUKE ENERGY OHIO, INC. TO MODIFY
ITS ECONOMIC COMPETITIVENESS FUND
RIDER AND REQUEST FOR WAIVERS.

CASE NO. 20-857-EL-RDR

ENTRY

Entered in the Journal on November 18, 2020

I. SUMMARY

{¶ 1} The Commission denies the joint motion of the Coalition on Homelessness and Housing in Ohio, Ohio Consumers' Counsel, Ohio Poverty Law Center, Pro Seniors, Inc., and Southeastern Ohio Legal Services to postpone Duke Energy Ohio, Inc.'s resumption of the anniversary date drop process for the percentage of income payment plan program.

II. PROCEDURAL HISTORY

{¶ 2} Duke Energy Ohio, Inc. (Duke or the Company) is an electric light company and 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.

{¶ 3} R.C. 4909.16 provides, in part, that, in the event of an emergency, when the Commission finds it necessary to prevent injury to the business or interests of the public or of any public utility, it may temporarily alter, amend, or suspend any existing rates or schedules.

{¶ 4} On March 9, 2020, the governor signed Executive Order 2020-01D (Executive Order), declaring a state of emergency in Ohio to protect the well-being of Ohioans from the dangerous effects of COVID-19. As described in the Executive Order, state agencies are required to implement procedures consistent with recommendations from the Department of Health to prevent or alleviate the public health threat associated with COVID-19. Additionally, all citizens are urged to heed the advice of the Department of Health regarding this public health emergency in order to protect their health and safety. The Executive Order was effective immediately and will remain in effect until the COVID-19 emergency no longer exists. The Department of Health is making COVID-19 information, including information on preventative measures, available via the internet at coronavirus.ohio.gov/.

{¶ 5} Pursuant to R.C. 3701.13, the Ohio Department of Health has supervision of “all matters relating to the preservation of the life and health of the people” and the “ultimate authority in matters of quarantine and isolation.” On March 12, 2020, the Director of the Ohio Department of Health issued an Order indicating that “all persons are urged to maintain social distancing (approximately six feet away from other people) whenever possible.”

{¶ 6} On March 12, 2020, the Commission opened Case No. 20-591-AU-UNC and directed all utility companies in this state to review their disconnection procedures in light of the state of emergency. *In re the Proper Procedures and Process for the Commission's Operations and Proceedings During the Declared State of Emergency and Related Matters*, Case No. 20-591-AU-UNC (*Emergency Case*), Entry (Mar. 12, 2020) at ¶ 7. On March 13, 2020, the Commission extended its winter reconnection order through May 1, 2020, and directed all utility companies in this state to review their reconnection procedures. *Emergency Case*, Entry (Mar. 13, 2020) at ¶ 6. In the March 12, 2020, and March 13, 2020 Entries, the Commission also directed all utility companies to promptly seek any necessary approval, for the duration of the emergency, to suspend otherwise applicable disconnection or reconnection requirements that may impose a service continuity or service restoration hardship on residential and non-residential customers or create unnecessary COVID-19

risks associated with social contact. The Commission determined that such filings shall be deemed approved on an emergency basis for a period of at least 30 days effective as of the filing date or until such date as the Commission may otherwise specify, which shall not be less than 30 days.

{¶ 7} On March 19, 2020, Duke filed an application proposing a temporary plan for addressing the COVID-19 state of emergency, which seeks the Commission's approval of certain policies, practices, and requirements the Company seeks to suspend pursuant to the Commission's March 12, 2020, and March 13, 2020 Entries and waiver of certain administrative rules. Duke filed additional requests on May 4, 2020.

{¶ 8} On March 20, 2020, in the *Emergency Case*, the Commission directed all utility companies to suspend in-person, actual meter readings in circumstances where a meter is located inside a customer's home or similar location, as well as all other non-essential functions that may create unnecessary COVID-19 risks associated with social contact. The Commission also clarified that requests for accounting authority or incremental cost recovery related to the emergency will be addressed in each utility's individual case by subsequent entry. *Emergency Case*, Entry (Mar. 20, 2020) at ¶¶ 10-11, 13. On April 8, 2020, the Commission, among other things, extended the 30-day automatic approval period for filings to suspend otherwise applicable disconnection requirements for an additional 30 days, unless otherwise ordered by the Commission. *Emergency Case*, Finding and Order (Apr. 8, 2020) at ¶ 9.

{¶ 9} On June 17, 2020, the Commission granted, in part, the request of Duke for waiver of certain rules, consistent with recommendations from Staff. Additionally, the Commission acknowledged the state's relaxation of certain social distancing restrictions and directed Duke to work with Staff to develop a single, comprehensive plan to resume activities and operations, including timelines, and file the plan at least 45 days prior to resuming such activities and operations. The Finding and Order was affirmed in an Entry on Rehearing issued August 12, 2020.

{¶ 10} On June 26, 2020, Duke filed its plan to resume pre-emergency operations and activities in compliance with the Commission's rules. Among other things, Duke's plan expressed that the Company would continue to coordinate with Ohio Development Services Agency (ODSA) to resume the Percentage of Income Payment Plan (PIPP) program and the Graduate PIPP program as they were prior to the declared state of emergency.

{¶ 11} In a Supplemental Finding and Order issued July 29, 2020, the Commission approved Duke's transition plan. As it relates to the PIPP and Graduate PIPP programs, the Commission directed Duke to work with ODSA to resume normal operations and to file notice in the docket by August 7, 2020, regarding its plan.

{¶ 12} On August 7, 2020, Duke filed a motion seeking to extend the deadline to file notice of how the PIPP and Graduate PIPP programs will resume operations. The Company asked that the deadline be extended until September 1, 2020. The attorney examiner granted the request on August 20, 2020.

{¶ 13} On September 1, 2020, Duke filed notice confirming how the PIPP and Graduate PIPP programs will resume normal operations. Among other things, Duke states that the Company worked with ODSA to determine how and when eligibility and verification requirements will be reinstated and whether missed PIPP payments will be rolled into arrears. Duke states that ODSA will resume PIPP Plus reverification drops starting January 1, 2021. However, Duke further explains that ODSA will reassess the ongoing impact of COVID-19 in December 2020 and may push the resumption of reverification drops to a later date. Duke additionally maintains that the Company will begin its anniversary date drops in January 2021.

{¶ 14} On September 25, 2020, the Coalition on Homelessness and Housing in Ohio, Ohio Consumers' Counsel, Ohio Poverty Law Center, Pro Seniors, Inc., and Southeastern Ohio Legal Services (collectively, the Consumer Groups) filed a motion requesting that the Commission prohibit Duke from dropping customers from the PIPP program prior to January 2021.

{¶ 15} Duke filed a memorandum contra the motion on October 13, 2020, and filed a revised version of the memorandum later that same day. The Consumer Groups filed a reply on October 20, 2020.

III. DISCUSSION

{¶ 16} In the Consumer Groups' motion, they ask that Duke be prevented from dropping electric customers from the PIPP program no earlier than January 2021. The Consumer Groups affirm that such a request is consistent with recommendations from ODSA. Additionally, the Consumer Groups ask that Staff be directed to work with ODSA to coordinate future plans for reinstating electric PIPP eligibility.

{¶ 17} In its memorandum contra, Duke avers that its notice is consistent with ODSA. The Company contends, as stated in the September 1, 2020 notice, that the Company has no intention to remove customers from the PIPP Program without prior coordination with ODSA. Duke states that the Company is not beginning anniversary date drops until January 2021. Similarly, Duke states that ODSA is not resuming reverification drops until January 2021, and possibly later. According to Duke, since no drops will take place until January 2021, OCC's motion is moot and should be denied.

{¶ 18} The Consumer Groups reply that, while Duke states drops will not take place until January 2021, the Commission should make this an enforceable order. The Consumer Groups additionally emphasize that their motion also asks that Staff be directed to work with ODSA.

{¶ 19} Upon thorough review of the Consumer Groups' motion, the Commission finds that the motion should be denied. Initially, we note that Duke addressed the resumption of the PIPP anniversary date drop process in its transition plan. In response, the Commission directed the Company to work with ODSA to determine how and when PIPP eligibility and verification requirements will be reinstated and to file a notice confirming how the PIPP and Graduate PIPP programs will begin to resume their normal

operations. July 29, 2020 Supplemental Finding and Order at ¶ 17. Following consultation with ODSA, Duke filed its notice on September 1, 2020. In the notice, Duke reported that ODSA plans to resume PIPP drops for failure to reverify eligibility¹ beginning in January 2021, although ODSA intends to evaluate the status and impact of COVID-19 in Ohio in December 2020, which may result in the postponement of PIPP reverification drops to a later date. Duke also noted that, under PIPP program rules,² it is required to drop an active PIPP customer from the program who is not current with monthly PIPP payments on the account's anniversary date. Duke explained that it will not renew the PIPP customers' anniversary date process until January 2021.

{¶ 20} In sum, Duke's notice affirms that the Company will not resume the anniversary date process until the same date requested by the Consumer Groups, January 2021. Additionally, Duke appears to have coordinated with ODSA, as directed, in establishing all dates for resumption. The Consumer Groups generally acknowledge this but seek a proactive order from the Commission binding the Company. As the interested groups are cooperating and in general agreement, the Commission does not find that any additional orders are necessary. For the same reasons, we do not find that any specific orders directing Staff to work with ODSA are necessary.

{¶ 21} As we have previously recognized, many customers may continue to experience financial stress as a result of COVID-19, despite the gradual reopening of businesses throughout Ohio. We have also noted that emergency measures such as the suspension of service disconnections for non-payment cannot remain in effect indefinitely.

¹ Ohio Adm.Code 122:5-3-03(C)(1) provides, in part, that, "[i]f a PIPP plus customer fails to submit information sufficient to verify continuing eligibility within sixty days after the customer's annual verification date, the customer will be ineligible to continue in the PIPP plus program, and the [ODSA's] office of community assistance will send the affected utility by electronic data transfer a drop file to remove such customer as an active PIPP plus customer."

² Ohio Adm.Code 122:5-3-02(H)(1)(b)(i) provides that, "[i]f the customer is not current on his/her anniversary date, the electric distribution utility will issue a notice on the customer's bill, and the customer will have one billing cycle after the date of the notice to pay past due monthly PIPP plus installment amounts. If such amounts are not timely paid, the electric distribution utility will drop the customer from the PIPP plus program, and such customer will cease to be an active PIPP plus customer."

July 29, 2020 Supplemental Finding and Order at ¶ 17. The Commission continues to take reasonable steps to protect customers, most recently by ordering an implementation date for the 2020-2021 winter reconnect order that is earlier than in prior years. *In re the Commission's Consideration of Solutions Concerning the Disconnection of Gas and Electric Service in Winter Emergencies for the 2020-2021 Winter Heating Season*, Case No. 20-1252-GE-UNC, Finding and Order (Aug. 12, 2020). The Commission will also continue to monitor service continuity and related issues, as well as the availability of extended payment plans and other customer assistance programs, through the *Emergency Case* and through the individual emergency plan cases of Duke and other public utilities regulated by the Commission.

IV. ORDER

{¶ 22} It is, therefore,

{¶ 23} ORDERED, That the Consumer Groups' motion be denied. It is, further,

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

COMMISSIONERS:

Approving:

M. Beth Trombold
Lawrence K. Friedeman
Daniel R. Conway
Dennis P. Deters

NJW/kck

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Case No(s). 20-0599-GE-UNC, 20-0856-EL-AEC, 20-0857-EL-RDR

Summary: Entry denying the joint motion of the Coalition on Homelessness and Housing in Ohio, Ohio Consumers' Counsel, Ohio Poverty Law Center, Pro Seniors, Inc., and Southeastern Ohio Legal Services to postpone Duke Energy Ohio, Inc.'s resumption of the anniversary date drop process for the percentage of income payment plan program. electronically filed by Ms. Mary E Fischer on behalf of Public Utilities Commission of Ohio