BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Review of Duke Energy Ohio, Inc.'s Distribution Capital Investment Rider.	)))	Case No. 20-1205-EL-RDR

REPLY COMMENTS OF DUKE ENERGY OHIO, INC.

I. INTRODUCTION

Pursuant to the Commission's Entry of January 21, 2021, Duke Energy Ohio, Inc., (Duke Energy Ohio or the Company) respectfully submits the below Reply Comments in response to initial comments made by the Staff of the Public Utilities Commission of Ohio (Staff) and the Office of Ohio Consumers' Counsel (OCC).

II. COMMENTS

A. Staff Comments

1. Staff stated that it concurs with the recommendations of Rehmann Consulting (Rehmann) in its audit report submitted in this docket on January 8, 2021 (Report), and then summarized those recommendations.[1] In its initial comments in this case, Duke Energy Ohio has already addressed where it concurs with Rehmann's recommendations and where it disagrees.[2] These same comments apply to Staff's position, insofar as Staff concurs with Rehmann.

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[1] Comments Submitted on Behalf of the Staff of the Public Utilities Commission of Ohio, pp. 1-5 (February 22, 2021).
[2] Comments of Duke Energy Ohio, Inc., pp. 1-7 (February 22, 20201 (Duke Comments).

B. OCC Comments

1. Insofar as OCC recommends that the Commission adopt some or all of Rehmann's recommendations,[3] Duke Energy Ohio's initial comments already capture the instances where the Company disagrees with Rehmann's recommendations. However, OCC makes some additional recommendations and a number of assertions with which the Company disagrees herein.

2. OCC asserts that "[i]t was unable to be determined from the DCI quarterly filings whether the [Rider DCI] caps were exceeded due to sloppy record-keeping."[4] OCC later asserts that "there is not adequate information in the quarterly filings . . . that could demonstrate whether the actual amount of Rider DCI collected during the Audit Period was within the annual revenue cap," and that "[t]here is also no information on how to reconcile the difference, if any, between the total Rider DCI collection from consumers and annual revenue caps."[5] These assertions are simply false and they reflect OCC's failure to review the Company's filings.

   For 2019, the Company's January 31, 2020, quarterly filing clearly depicted that the Company collected $47,086,282 in 2019[6] and the cover letter even stated explicitly that "the revenue collected was above the permitted cap for 2019 for the fourth quarter and returned in this filing."[7] As depicted in the same filing, the revenue

[3] Consumer Protection Comments by The Office of the Ohio Consumers' Counsel, pp. 2, 6-10 (February 22, 2021) (OCC Comments).
[4] OCC Comments, p. 2
[5] Id., pp. 4-5.
[6] *See In the Matter of the Quarterly Reports of Rider DCI Schedules,* Case No. 19-1943-EL-RDR, Correspondence, Attachment B, p. 12, Line No. 13 (January 31, 2020).
[7] Id., Correspondence (January 31, 2020).

requirement was immediately adjusted to correct for the overcollection of $286,282 (less than 1% of the cap amount of $46,800,000) in 2019.[8] Similarly, although the fourth quarter of 2020 is outside the scope of this proceeding, the Company's January 26, 2021, quarterly filing clearly depicts that the Company's 2020 revenue collections were ***below*** the 2020 cap of $65,500,000 by $228,846.[9] The Company's accompanying cover letter flags this explicitly: "The attached schedules demonstrate that the revenue collected was below the permitted cap for 2020 for the fourth quarter."[10]

The Company's slight overcollection for 2019 and its immediate correction is entirely consistent with the commitments made by the Company in the governing Stipulation and reflects nothing more than the inherent uncertainty that is present whenever revenue is collected as a percentage of distribution revenues. The Stipulation provides that the "collection of the revenue requirement shall be based on a percentage of the customer's base distribution charge" and "the updated rates under Rider DCI will be temporarily approved sixty days after filing, ***subject to reconciliation*** . . . ."[11] Although utilities have historical data on distribution base charges and it is possible to forecast such charges, there is always considerable uncertainty from factors outside a utility's control, including but not limited to weather and fluctuations in the economy, that impact usage. As the Company accumulates actual (as opposed to estimated) data

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[8] Case No. 19-1943-EL-RDR, Correspondence, Attachment B, p. 12, Line No. 15 (January 31, 2020); *see In the Matter of the Application of Duke Energy Ohio, Inc. for an Increase in Electric Distribution Rates,* Case Nos. 17-32-EL-AIR, *et al*, Stipulation and Recommendation, p. 11 (April 13, 2018) (Stipulation) (noting that the 2019 cap would be $46.8 million if the Company achieves both of its reliability standards).

[9] *See In the Matter of the Quarterly Reports of Rider DCI Schedules* (Quarterly Reports), Case No. 20-1530-EL-RDR, Correspondence, Attachment B, p. 12, lines 13 and 15 (January 26, 2021); *see also* Stipulation, p. 11 (permitting $18.7 million cap ***increase*** in 2020 to prior year's $46.8 million cap if Company met its reliability standards).

[10] Quarterly Reports, Correspondence (January 26, 2021).

[11] Stipulation, p. 12 and p. 11 respectively (emphasis added).

on distribution charges over the course of a calendar year, it is reasonable to make corresponding adjustments to the rate.

Contrary to OCC's implications, Rehmann ***did*** review the Company's quarterly filings.[12] OCC suggests that Rehmann made "no determination" on the reasonableness of the adjustments in the Company's quarterly filings,[13] but that is misleading. Rehmann's statement that it "reviewed detailed schedules supporting the revenue requirements filed in the September 30, 2019 through June 30, 2020 Rider DCI filings" and then its immediate subsequent statement that it "has no other observations and no recommendations from this task,"[14] clearly imply that Rehmann found the schedules—which contained the adjustments, among other things—to be reasonable. Just because Rehmann did not call out the adjustments specifically does not mean that Rehmann did not read those portions of the schedules.

In any event, given the uncertainties involved, the Company's ability to come within less than 1% of the cap in 2019 and 2020 demonstrates the reasonableness of its iterative adjustments to the rate. And the Company's quarterly filings, as described above, provide all the necessary data on both the collections and the Company's timely reconciliation. Therefore, OCC's allegations regarding the Company's lack of "transparency" and "sloppy record-keeping" should be disregarded and OCC's recommendations in Part II.A of its comments should be rejected.

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[12] *See* Report, p. 6 ("Obtain and review all appropriate documentation related to compliance DEO's quarterly filings in Case No.18-1378-EL-RDR and 19-1943-EL-RDR."); *id.*, p. 25 ("Rehmann reviewed detailed schedules supporting the revenue requirements filed in the September 30, 2019 through June 30, 2020 Rider DCI filings.").
[13] OCC Comments, p. 2
[14] Report, p. 25.

3. In parts II.B and II.C of its comments, OCC appears to be summarizing errors identified during the audit. Although aspects of OCC's discussion are misleading,[15] its ultimate recommendations appears to be limited to recommending "adopt[ion]" of the auditor's recommendations. The Company has already commented on the recommendations on the Report in its initial comments, indicating where it agrees and where it disagrees and why.

4. In part II.D of its comments, OCC appears to be attempting to relitigate the reliability standards set in the Stipulation and approved by the Commission[16] and to impose new standards of its own for this audit. For example, OCC appears to disapprove of the Stipulation providing for increases to the Rider DCI cap conditioned on meeting the stipulated reliability standards,[17] but that determination has already been made by the Commission and this audit is not an appropriate forum to relitigate it.

   As for OCC's request to expand the scope of this audit to "assess[] whether the spending for each program [in the DCI Work Plan] is achieving the expected reliability improvement," the Stipulation offers no basis for such an expansion and this recommendation should be rejected. The Stipulation provides that the "Rider DCI shall continue to be subject to an annual audit."[18] Thus, it is specified that the ***rider*** is being audited and the phrase "continue to be" indicates that the audit will remain a financial

[15] *See, e.g.*, OCC Comments, p. 7 (referring to "the Auditor's specific recommendations that Duke improve its record-keeping and reporting in order to reduce or eliminate these clerical and record-keeping errors," even though, for example, the Report did not make a recommendation of improvement in overall record-keeping)
[16] Stipulation, p. 13; *In the Matter of the Application of Duke Energy Ohio, Inc. for an Increase in Electric Distribution Rates,* Case Nos. 17-32-EL-AIR, *et al.*, Opinion and Order, pp. 40-41.
[17] *See* OCC Comments, p. 11 ("And incredulously, if Duke meets its new relaxed standards, the Utility can spend more customer money . . . .").
[18] Stipulation, p. 11.

audit of the rider as in the past. The DCI Work Plan, on the other hand, is not subject to the audit, but required to be "submitted to Staff" for Staff's review.[19]

As provided in the Stipulation, the Company has worked with Staff to develop the format of the DCI Work Plan and submitted it timely for 2019 and 2020. OCC complains that "there are no specific programs intended to reduce customer minutes interrupted even though this was a requirement" in the Stipulation.[20] Although the DCI Work Plan does not allude specifically to "customers' minutes interrupted" as the Stipulation does, the described impacts of the items included, such as "[i]mproved outage response," "prevention of future outages," "reduce[d] impacts of outages," "expedit[ing] the restoration of service," and "restor[ing] power to those areas not directly involved in the outage,"[21] all point towards a reduction in the total number of customers' minutes interrupted (though not necessarily the average length of each interruption). The reliability impacts of the different measures in the DCI Work Plan are often intertwined, making it difficult to retroactively causally attribute a specific reduction in customers' minutes interrupted to a specific item of work. But this work, collectively, has enabled the Company to meet the stipulated reliability standards.

The Company acknowledges that its descriptions in the DCI Work Plan could be clearer and will take that into account in its DCI Work Plan filings going forward. Nonetheless, this annual financial audit is not the appropriate place to assess the

[19] Stipulation, p. 14.
[20] OCC Comments, p. 11.
[21] *See In the Matter of the Application of Duke Energy Ohio, Inc. for an Increase in Electric Distribution Rates,* Case Nos. 17-32-EL-AIR, *et al*, Duke Energy Ohio, Inc.'s Annual Distribution Capital Investment Workplan, Annual DCI Workplan – DCI Program Schedule (December 1, 2020).

technical merits of the Company's work plan, especially as long as the Company continues to meet its stipulated reliability standards.

For the above reasons, OCC's recommendations in Part II.D of its comments should be rejected.

III. CONCLUSION

Duke Energy Ohio appreciates the opportunity to reply to the comments of Staff and OCC and submits these reply comments for the Commission's consideration. Duke Energy Ohio respectfully requests that the Commission's order in this case be in accordance with the Company's initial comments and these reply comments.

Respectfully submitted,

/s/ Larisa M. Vaysman
Rocco O. D'Ascenzo (0077651)
Deputy General Counsel
Larisa M. Vaysman (0090290)
Senior Counsel
(Counsel of Record)
Duke Energy Business Services, Inc.
139 East Fourth Street, ML 1301
Cincinnati, Ohio 45202
Phone: 513-287-4320
Rocco.D'Ascenzo@duke-energy.com
Larisa.Vaysman@duke-energy.com

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Reply Comments of Duke Energy Ohio, Inc. was served on the following parties this 15th day of March 2021 by regular U. S. Mail, overnight delivery or electronic delivery.

/s/ Larisa M. Vaysman
Larisa M. Vaysman

Steven.beeler@ohioattorneygeneral.gov
Kyle.kern@ohioattorneygeneral.gov
William.michael@occ.ohio.gov
Amy.botschner.obrien@occ.ohio.gov

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Summary: Reply Reply Comments of Duke Energy Ohio, Inc. electronically filed by Mrs. Tammy M Meyer on behalf of Duke Energy Ohio Inc. and D'Ascenzo, Rocco and Vaysman, Larisa