

## THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF  
DUKE ENERGY OHIO, INC. FOR  
APPROVAL TO MODIFY RIDER FBS AND  
RIDER EFBS.

CASE NO. 21-180-GA-RDR

IN THE MATTER OF THE APPLICATION OF  
DUKE ENERGY OHIO, INC. FOR  
APPROVAL TO MODIFY ITS RATE IMBS  
TARIFF.

CASE NO. 21-188-GA-ATA

### FINDING AND ORDER

Entered in the Journal on August 25, 2021

#### I. SUMMARY

{¶ 1} The Commission approves the application of Duke Energy Ohio, Inc., as amended, to adjust the rates of its firm balancing service rider, enhanced firm balancing service rider, and interruptible monthly balancing service tariffs to the extent set forth in this Finding and Order.

#### II. DISCUSSION

{¶ 2} Duke Energy Ohio, Inc. (Duke or the Company) is a natural gas company as defined in R.C. 4905.03 and a public utility as defined in R.C. 4905.02, and, as such, is subject to the jurisdiction of this Commission.

{¶ 3} R.C. 4909.18 provides, in part, that a public utility may file an application to establish any rate, charge, regulation, or practice. If the Commission determines that the application is not for an increase in any rate and does not appear to be unjust or unreasonable, the Commission may approve the application without the need for a hearing.

{¶ 4} On March 21, 2007, in Case No. 05-732-EL-MER, et al., the Commission approved a stipulation, which, inter alia, set the rate of Duke's firm balancing service rider (Rider FBS). *In re Cinergy Corp.*, Case No. 05-732-EL-MER, et al. (*Merger Case*), Entry (Mar. 21, 2007). Rider FBS is a mechanism that enables Duke to recover the estimated portion of storage costs associated with daily balancing from choice suppliers and

aggregators, and the charges collected by the Company are then applied as a credit to the gas cost recovery (GCR) mechanism. As a result of the stipulation in the *Merger Case*, Duke participated in a collaborative that resulted in the proposal of Duke's enhanced firm balancing service rider (Rider EFBS). In Case No. 15-50-GA-RDR, the Commission approved, with modifications, Duke's application to amend the terms under which choice suppliers and aggregators receive either firm balancing service or enhanced firm balancing service. *In re Duke Energy Ohio, Inc.*, Case No. 15-50-GA-RDR, Opinion and Order (Jan. 6, 2016), Second Entry on Rehearing (Oct. 12, 2016).

{¶ 5} On September 23, 2020, the Commission approved the current rates of Rider FBS and Rider EFBS. *In re Duke Energy Ohio, Inc.*, Case No. 20-794-GA-RDR, Finding and Order (Sept. 23, 2020).

{¶ 6} On March 1, 2021, in the above-captioned proceedings, Duke filed, pursuant to R.C. 4909.18, an application to adjust Rider FBS and Rider EFBS, as well as its interruptible monthly balancing service rate (Rate IMBS). Duke states that Rate IMBS is determined based on the charges from Columbia Gas Transmission (TCO) to provide 20,000 dekatherm (dth) per day of withdrawal rights, which is the amount required to provide this balancing service for interruptible transportation customers. Through this application, Duke seeks approval to update the inputs used to calculate Rider FBS, Rider EFBS, and Rate IMBS. Duke explains that, as of February 1, 2021, the demand charges that the Company pays to TCO for storage service and for transportation into and out of storage have increased, while the amount of total throughput used in the calculations has decreased. Duke adds that all of the remaining inputs to the calculations have been updated to reflect current charges from TCO and Texas Gas Transmission for storage service. In the application, Duke also notes that TCO has changed its tariff to include revised confiscation of gas provisions that apply if storage balances are above the specified inventory levels as of February 1, April 1, June 30, and August 31 of each year. Duke, therefore, proposes to revise Rider EFBS to include

these new confiscation provisions, in order to remain consistent with how storage must be managed.

{¶ 7} On March 2, 2021, Duke filed a revised version of its proposed tariffs.

{¶ 8} On March 12, 2021, Duke filed a second revised version of its proposed tariffs and a revised version of its supporting calculations, in order to correct an inadvertent error. As corrected, the proposed rate adjustments are summarized as follows:

	<b>Current Rate</b>	<b>Proposed Rate</b>	<b>Proposed Increase</b>
Rider FBS	\$0.363 per Mcf <sup>1</sup>	\$0.614 per Mcf	\$0.251 per Mcf
Rider EFBS (Demand)	\$7.34 per dth	\$11.06 per dth	\$3.72 per dth
Rider EFBS (Commodity)	\$0.038 per Mcf	\$0.045 per Mcf	\$0.007 per Mcf
Rate IMBS	\$0.0848 per Mcf	\$0.1222 per Mcf	\$0.0374 per Mcf

{¶ 9} On various dates, motions to intervene in these proceedings were filed by Interstate Gas Supply, Inc. (IGS), Retail Energy Supply Association (RESA), and Ohio Consumers' Counsel (OCC).

{¶ 10} On April 2, 2021, Staff filed its review and recommendation regarding Duke's application. Staff states that it reviewed the application and concludes that it is reasonable. Accordingly, Staff recommends that the Commission approve the application filed by Duke.

{¶ 11} On April 15, 2021, Duke filed correspondence addressing pending proceedings before the Federal Energy Regulatory Commission (FERC) in which TCO's rates for storage and related transportation are being adjusted. Duke notes that TCO has

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<sup>1</sup> "Mcf" is an abbreviation for one thousand cubic feet.

been charging the Company under those new rates since February 1, 2021, although the final outcome in the FERC proceedings is still uncertain. Duke further notes that it has not yet implemented the new rates proposed in the FERC proceedings, pending approval by the Commission. Finally, Duke states that, after such approval, and in the event that FERC determines that the TCO rates should be set at a level that is different than what is currently being charged by TCO, the Company will promptly file a new application to adjust Rider FBS, Rider EFBS, and Rate IMBS.

{¶ 12} By Entry dated June 30, 2021, the attorney examiner established a procedural schedule and granted the motions for intervention filed by IGS, RESA, and OCC.

{¶ 13} On July 8, 2021, Duke filed correspondence stating that, as part of a recently filed partial settlement in TCO's rate proceedings before FERC, TCO agreed to withdraw the new gas confiscation provisions for storage service from its tariff changes within 15 days of an order from FERC that accepts the partial settlement. Duke adds that, assuming that TCO does withdraw the confiscation provisions, the Company would similarly revise its tariffs to eliminate the provisions within 15 days of receiving notice of the TCO change. Accordingly, Duke requests that the Commission grant approval for such a change in its order in these proceedings.

{¶ 14} Consistent with the established procedural schedule, initial comments were filed by RESA on July 23, 2021. RESA states that it does not oppose Duke's proposed rates for Rider EFBS, Rider FBS, and Rate IMBS as long as the Company is required to promptly file a new application with the Commission to adjust the rates if FERC approves TCO's rates at less than what would be included in the Company's proposed rates. Specifically, RESA argues that Duke should be required to file a new application within 15 days of FERC's decision in TCO's pending proceedings, in the event that TCO's rates as set by FERC are lower than those in the Company's current application. RESA asserts that such a requirement is important to ensure that suppliers are not harmed by Duke's adjustment of

its rates based, in part, on TCO rates that are not yet final. RESA further asserts that the Commission should reject Duke's unnecessary and ineffectual confiscation provisions, given that TCO has agreed to withdraw the provisions from its tariff proposal before FERC.

{¶ 15} Reply comments were filed by Duke and Staff on August 2, 2021. For its part, Staff states that, because TCO's proposal is still pending at FERC and may ultimately change, Staff adopts RESA's approach to reach an equitable result regarding the rates proposed by Duke. Staff, therefore, recommends that Duke's rate changes, as amended and clarified in these proceedings, be approved upon the condition that the Company be required to promptly file a new application in the event that TCO's rates, as ultimately set by FERC, are lower than those in the Company's present application.

{¶ 16} In its reply comments, Duke states that it does not object to RESA's recommended requirement that the Company file an application to reduce its rates as necessary, within 15 days after the completion of TCO's proceedings before FERC. Duke notes, however, that, since February 1, 2021, suppliers participating in the Company's transportation programs have received the benefit of paying less for the TCO portion of their charges than TCO has been billing to the Company. As to the confiscation provisions, Duke states that RESA appears to assume that it is certain that FERC will approve the partial stipulation and that TCO's confiscation provisions will not be adopted. Duke asserts that the outcome in the FERC proceedings is not certain and that the Commission should, therefore, approve the Company's proposed tariff changes, in order to avoid the risk of harm to the Company or its GCR customers. Duke adds that, if TCO's confiscation provisions have not been altered at the conclusion of the FERC proceedings, it would then be a simple matter for the Commission to revert to the current confiscation language in Rider EFBS.

{¶ 17} The Commission has reviewed Duke's application to adjust Rider FBS, Rider EFBS, and Rate IMBS, as amended by the Company. We have also considered Staff's review

and recommendation and the initial and reply comments filed in response to the amended application. As the Commission has stated in prior cases, the proposed rate adjustments are based on an increase in the underlying storage costs charged to Duke by TCO, which affords the Company the ability to offer its balancing services, and, therefore, it is appropriate to pass those costs on to the suppliers and aggregators that receive the benefit of those services, or, with respect to Rate IMBS, to the interruptible transportation customers receiving those benefits. We have also recognized that the revenues from Rider FBS and Rider EFBS flow through to the GCR customers that initially fund the storage services provided to Duke by TCO. *In re Duke Energy Ohio, Inc.*, Case No. 16-06-GA-RDR, Finding and Order (Mar. 31, 2016) at 2; *In re Duke Energy Ohio, Inc.*, Case No. 15-50-GA-RDR, Finding and Order (Mar. 25, 2015) at 4; *In re Duke Energy Ohio, Inc.*, Case No. 12-1474-GA-RDR, Finding and Order (May 30, 2012) at 3; *In re Duke Energy Ohio, Inc.*, Case No. 10-241-GA-RDR, Finding and Order (July 14, 2010) at 3. We again find that Duke's request to adjust Rider FBS, Rider EFBS, and Rate IMBS is based on a pass through of costs. Accordingly, the Commission finds that the amended application does not constitute an increase in rates, is not unjust or unreasonable, and should be approved, consistent with this Finding and Order. The adjusted rates should, therefore, take effect with Duke's filing of its final tariffs with the Commission. We note that, although Duke emphasizes that it has been assessed increased TCO demand charges since February 1, 2021, our approval of the Company's adjusted rates should not be construed as authority for Duke to collect from suppliers or GCR customers any increased TCO costs incurred by the Company before its final tariffs are filed.

{¶ 18} Additionally, as recommended by Staff and RESA, and with the agreement of Duke, we approve the revised rates on the condition that the Company is required to promptly file a new application in the event that TCO's rates, as ultimately set by FERC, are lower than the revised rates that we approve today. Any such application should be filed within 15 days of FERC's decision in TCO's pending rate proceedings.

{¶ 19} With respect to Duke's proposal to modify the confiscation provisions in its tariffs to align with TCO's provisions, we find that the proposal is premature and should not be adopted, given that TCO has agreed to withdraw the provisions from its tariff proposal before FERC. If changes are approved at some point by FERC with respect to TCO's confiscation provisions, Duke may file an application to modify its tariffs at that time, along with a request for expedited review of the application if necessary to protect the Company and its GCR customers. Finally, consistent with R.C. 4909.18, the Commission finds that no hearing is required in these cases.

### **III. ORDER**

{¶ 20} It is, therefore,

{¶ 21} ORDERED, That Duke's amended application to adjust Rider FBS, Rider EFBS, and Rate IMBS be approved to the extent set forth in this Finding and Order. It is, further,

{¶ 22} ORDERED, That Duke be authorized to file tariffs, in final form, consistent with this Finding and Order. Duke shall file one copy in these case dockets and one copy in its TRF docket. It is, further,

{¶ 23} ORDERED, That the effective date of the new tariffs shall be a date not earlier than the date upon which the final tariff pages are filed with the Commission. It is, further,

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

COMMISSIONERS:

*Approving:*

Jenifer French, Chair  
M. Beth Trombold  
Lawrence K. Friedeman  
Daniel R. Conway  
Dennis P. Deters

SJP/mef

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**Case No(s). 21-0180-GA-RDR, 21-0188-GA-ATA**

Summary: Finding & Order approving the application of Duke Energy Ohio, Inc., as amended, to adjust the rates of its firm balancing service rider, enhanced firm balancing service rider, and interruptible monthly balancing service tariffs to the extent set forth in this Finding and Order. electronically filed by Kelli C. King on behalf of The Public Utilities Commission of Ohio