

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE REVIEW OF THE
RECONCILIATION RIDER OF DUKE
ENERGY OHIO, INC.

CASE NO. 20-167-EL-RDR

ENTRY

Entered in the Journal on November 4, 2021

{¶ 1} Duke Energy Ohio, Inc. (Duke or the Company) is an electric distribution utility and a public utility as defined in R.C. 4928.01(A)(6) and R.C. 4905.02, respectively. As such, Duke is subject to the jurisdiction of this Commission.

{¶ 2} R.C. 4928.141 provides that an electric distribution utility shall provide consumers within its certified territory a standard service offer (SSO) of all competitive retail electric services necessary to maintain essential electric services to customers, including a firm supply of electric generation services. The SSO may be either a market rate offer in accordance with R.C. 4928.142 or an electric security plan (ESP) in accordance with R.C. 4928.143.

{¶ 3} On May 29, 2014, Duke filed its third ESP application (ESP III). On April 2, 2015, the Commission issued an Opinion and Order modifying and approving Duke's ESP III application for the period of June 1, 2015, through May 31, 2018. *In re Duke Energy Ohio, Inc.*, Case No. 14-841-EL-SSO, et al., Opinion and Order (Apr. 2, 2015). As part of the approved ESP III, the Commission authorized the establishment of the Price Stabilization Rider (PSR) as a non-bypassable and zero-placeholder rider for the term of ESP III. Under the PSR, Duke was authorized to provide to customers the net benefit of all revenues accruing to the Company as a result of its ownership interest and contractual entitlement in the Ohio Valley Electric Corporation (OVEC), excluding all costs associated with said entitlement. The Commission stated that implementation details for the PSR would be determined in a future proceeding.

{¶ 4} On March 31, 2017, Duke filed an application in Case No. 17-872-EL-RDR, et al. (*PSR Case*) to modify and amend the PSR and for approval to change its accounting methods.

{¶ 5} On June 1, 2017, Duke filed its fourth and current ESP application (ESP IV) that, among other things, proposed an extension of the PSR beyond May 31, 2018. On December 19, 2018, the Commission issued an Opinion and Order modifying and approving an amended stipulation resolving, among other things, both ESP IV and the *PSR Case*. *In re Duke Energy Ohio, Inc.*, Case No. 17-1263-EL-SSO, et al., Opinion and Order (Dec. 19, 2018) (*ESP IV Order*). In the Opinion and Order, the Commission authorized Duke to recover or credit the net proceeds of selling OVEC energy and capacity into the PJM Interconnection, LLC marketplace and OVEC costs through the PSR. *ESP IV Order* at ¶ 136-140.

{¶ 6} The PSR is subject to quarterly filings starting with the first billing cycle of April 2019. *ESP IV Order* at ¶ 140. Additionally, the Commission provided for an annual audit to establish the prudence of all costs and sales flowing through the PSR and to demonstrate that the Company made reasonable efforts to transfer its contractual entitlement under the Inter-Company Power Agreement.

{¶ 7} By Entry dated February 13, 2020, the Commission directed Staff to issue a request for proposal for audit services necessary to assist the Commission with the audit of Duke's PSR for the period of January 1, 2019, through December 31, 2019. On April 8, 2020, the Commission selected London Economics International LLC (LEI) to complete the audit.

{¶ 8} On October 21, 2020, LEI's audit report was filed in the docket.

{¶ 9} Thereafter, motions to intervene were granted for the Ohio Consumers' Counsel (OCC), The Kroger Co. (Kroger), and the Ohio Manufacturers' Association Energy Group (OMAEG).

{¶ 10} In accordance with the procedural schedule issued by the attorney examiner, initial comments regarding the audit report were submitted OCC on December 18, 2020. Reply comments were filed on January 8, 2021, by Duke and, jointly, Kroger and OMAEG. Additional correspondence was filed by OCC on January 19, 2021.

{¶ 11} By Entry issued August 25, 2021, this matter was set for hearing to begin on November 9, 2021. Testimony on behalf of Duke was due by October 19, 2021. Intervenor testimony was due October 26, 2021.

{¶ 12} Timely testimony was submitted by Duke, OCC, and Staff. OMAEG filed testimony on October 27, 2021, and filed a motion for leave to file testimony out-of-time on October 26, 2021. In its memorandum in support, OMAEG asserts that it attempted to timely file the testimony and associated documents but the documents appeared unreadable on the Commission's docketing systems. According to OMAEG, it served all parties with the testimony via e-mail in a timely manner. OMAEG maintains that no undue delay will be caused by the late filing and no party will be prejudiced. The attorney examiner finds good cause exists to grant the motion to file testimony out-of-time.

{¶ 13} On October 27, 2021, OCC filed a motion seeking a subpoena for three persons associated with the audit report to appear at the evidentiary hearing. OCC asserts that, pursuant to Ohio Adm.Code 4901-1-28(E), "any person making or contributing to the report may be subpoenaed to testify at the hearing." Memoranda contra the motion were filed by Duke and Staff on November 3, 2021.

{¶ 14} On November 3, 2021, Duke filed a motion to continue the hearing. Duke asserts additional time is needed to resolve OCC's October 27, 2021 motion for subpoena. Duke avers that no parties object to the request and that parties additionally request that, due to the ongoing COVID-19 pandemic, the hearing be converted to a remote hearing.

{¶ 15} The attorney examiner finds good cause exists to grant the unopposed motion to continue the hearing. Accordingly, the November 9, 2021 hearing will be rescheduled to a date to be determined by a future entry.

{¶ 16} It is, therefore,

{¶ 17} ORDERED, That OMAEG's motion for leave to file testimony out-of-time be granted. It is, further,

{¶ 18} ORDERED, That the November 9, 2021 hearing be rescheduled to a future date in accordance with Paragraph 15. It is, further,

{¶ 19} ORDERED, That a copy of this Entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/Nicholas J. Walstra

By: Nicholas J. Walstra
Attorney Examiner

SJP/hac

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11/4/2021 1:42:34 PM

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Case No(s). 20-0167-EL-RDR

Summary: Attorney Examiner Entry ordering that OMAEG's motion for leave to file testimony out-of-time be granted and that the November 9, 2021 hearing be rescheduled to a future date in accordance with Paragraph 15 electronically filed by Heather A. Chilcote on behalf of Nicholas Walstra, Attorney Examiner, Public Utilities Commission