

## THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE ANNUAL  
APPLICATION OF DUKE ENERGY OHIO, INC.  
FOR AN ADJUSTMENT TO THE CAPITAL  
EXPENDITURE PROGRAM RIDER RATE.

CASE NO. 21-618-GA-RDR

### ENTRY

Entered in the Journal on December 16, 2021

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

{¶ 2} R.C. 4929.111 provides that a natural gas company may file an application to implement a capital expenditure program (CEP) for any infrastructure expansion, improvement, or replacement program; any program to install, upgrade, or replace information technology systems; or any program reasonably necessary to comply with any rules, regulations, or orders of the Commission or other governmental entity having jurisdiction. If the Commission finds that the CEP is consistent with the applicant's statutory obligation to furnish necessary and adequate facilities, which are also found to be just and reasonable, the Commission is tasked with approving the application and authorizing the deferral or recovery of both a regulatory asset for post in-service carrying costs (PISCC) on that portion of assets of the CEP placed in service but not reflected in rates as plant in service and a regulatory asset for the incremental depreciation directly attributable to the CEP and the property tax expense directly attributable to the CEP but not reflected in rates.

{¶ 3} In Case No. 13-2417-GA-UNC, et al., the Commission modified and approved Duke's application to implement a CEP in 2013 and succeeding years, pursuant to R.C. 4909.18 and 4929.111. The Commission also approved Duke's request for accounting authority to capitalize PISCC on program investments for assets placed in service but not yet reflected in rates; defer depreciation expense and property tax expense directly attributable to the CEP; and establish a regulatory asset to which PISCC, depreciation

expense, and property tax expense are deferred for future recovery in a subsequent proceeding. Duke was authorized to accrue deferrals under the CEP until the accrued deferrals, if included in the Company's residential service rates, would cause the rates charged to residential customers to increase by more than \$1.50 per month. Additionally, the Commission noted that the prudence and reasonableness of Duke's CEP-related regulatory assets and associated capital spending would be considered in any future proceedings seeking cost recovery, at which time the Company would be expected to provide detailed information regarding the expenditures for the Commission's review. *In re Duke Energy Ohio, Inc.*, Case No. 13-2417-GA-UNC, et al., Finding and Order (Oct. 1, 2014).

{¶ 4} On April 21, 2021, the Commission modified and approved a stipulation and recommendation (Stipulation) that resolved all of the issues related to Duke's application for an alternative rate plan to establish Rider CEP for recovery of its CEP deferrals and investments from January 1, 2013, through December 31, 2018. *In re Duke Energy Ohio, Inc.*, Case No. 19-791-GA-ALT (*Duke's CEP Case*), Opinion and Order (Apr. 21, 2021). The Stipulation also provides that Duke will file annual applications to update the Rider CEP rates no later than March 31 of each year and that the first such application to be filed in 2021 will cover the CEP assets placed in service and the related CEP regulatory asset as of December 31, 2020. Further, the Stipulation requires that Staff or its designee conduct a review of Duke's annual application to update the Rider CEP rates to determine the lawfulness, used and usefulness, prudence, and reasonableness of the CEP assets placed in service and the related calculation of the CEP regulatory asset included in the proposed Rider CEP revenue requirement.

{¶ 5} On April 23, 2021, Duke filed an application to adjust Rider CEP for recovery of 2019 and 2020 CEP deferrals in accordance with the Commission's Opinion and Order. *Duke's CEP Case* at ¶ 83.

{¶ 6} On May 5, 2021, the Commission issued an Entry directing Staff to issue a request for proposal (RFP) for the audit services necessary to assist the Commission with

the audit of Duke's CEP for the period of January 1, 2019, through December 31, 2020. Prospective bidders were directed to submit proposals to Staff by May 17, 2021. Interested bidders were also directed to demonstrate their understanding of the project and the work required by showing a clear understanding of the tasks to be completed, the experience and qualifications of the personnel who will perform the work, and the anticipated breakdown of costs and timing.

{¶ 7} On May 26, 2021, the Ohio Consumers' Counsel (OCC) filed a motion to intervene. On July 9, 2021, Interstate Gas Supply, Inc. (IGS) filed a motion to intervene. No memoranda contra were filed. By Entry issued September 13, 2021, the attorney examiner granted the motions for intervention filed by OCC and IGS.

{¶ 8} On June 2, 2021, the Commission issued an Entry selecting Blue Ridge Consulting Services, Inc. (Blue Ridge) to conduct the audit services necessary to assist the Commission with the review of Duke's CEP for the period of January 1, 2019, through December 31, 2020. Also, the Commission directed Duke to enter into a contract with Blue Ridge by June 16, 2021, for the purpose of providing payment for its auditing services and ordered that the contract shall incorporate the terms and conditions of the RFP, the auditor's proposal, and relevant Commission entries in this case.

{¶ 9} On September 10, 2021, Staff filed a motion for extension of time to file draft and final audit reports. In support of its motion, Staff noted that the filing deadlines for Blue Ridge's draft audit report and final audit report were September 17, 2021, and September 23, 2021, respectively. According to Staff, Blue Ridge informed Staff that it would not be able to complete either report by the current deadlines. Staff requested that the filing deadlines for the draft and final audit reports be extended to September 30, 2021, and October 14, 2021, respectively.

{¶ 10} By Entry issued September 13, 2021, the attorney examiner granted Staff's unopposed motion for extension of time to file draft and final audit reports. The attorney

examiner directed Blue Ridge to file the draft audit report by September 30, 2021, and file the final audit report by October 14, 2021.

{¶ 11} On October 14, 2021, Blue Ridge filed its audit report of Duke's Rider CEP.

{¶ 12} On October 22, 2021, Staff filed its review and recommendation (Staff Report) regarding Duke's Rider CEP. In summary, Staff agrees with the recommendations made by Blue Ridge and highlights that Duke should adjust the following in accordance with the audit report: PISCC costs, property tax, Allowance for Funds Used During Construction, understated retirements, the rate case depreciation offset, and Accumulated Deferred Income Taxes on liberalized depreciation. Staff also highlights that Duke should restore CEP assets removed due to the rate cap and should remove the following in accordance with the audit report: non-CEP plant and plant not-in-service and the premium on land acquisition. Further, the Commission previously directed Staff to monitor measures of profitability as part of Duke's annual filings. In compliance with that directive, Staff reviewed Duke's financials and found that Duke has not significantly over-earned or under-earned.

{¶ 13} By Entry issued October 25, 2021, the attorney examiner established the following procedural schedule: the deadline to file motions to intervene was November 8, 2021; the deadline for any intervening party to file comments on either Duke's application or the Staff Report was November 8, 2021; and the deadline to file a statement notifying the Commission as to the existence of any unresolved issues or objections and the need for an expedited hearing process was November 22, 2021.

{¶ 14} On November 8, 2021, Blue Ridge filed a supplement to its audit report, and Staff filed a supplement to its Staff Report, adopting Blue Ridge's supplement.

{¶ 15} On the same date, IGS and OCC filed comments. On November 18, 2021, OCC filed comments in response to the above supplements.

{¶ 16} On November 19, 2021, Duke filed an unopposed motion to modify the procedural schedule and a request for expedited ruling. In support of its motion, Duke asserted that the parties have been engaged in active settlement discussions and that, despite efforts otherwise, the parties have not yet been able to finalize the unresolved issues. To allow the parties more time to engage in settlement discussions, Duke requested that the deadline to file a statement notifying the Commission as to the existence of any unresolved issues or objections and the need for an expedited hearing process be extended to December 10, 2021.

{¶ 17} By Entry issued November 22, 2021, the attorney examiner granted Duke's motion and directed Duke to file a statement notifying the Commission as to the existence of any unresolved issues or objections and the need for an expedited hearing process by December 10, 2021.

{¶ 18} On December 10, 2021, Duke filed a statement asserting that no issues stemming from the Staff Report and intervenor comments have been resolved, and no stipulation has been reached; therefore, Duke believes a hearing is necessary under the instructions of the prior Entry. Duke further asserts that there is no need to expedite the hearing process.

{¶ 19} Upon review of Duke's filing, the attorney examiner finds it appropriate to establish the following procedural schedule:

- (a) January 18, 2022 – Deadline for filing of any direct supplemental testimony on behalf of Duke.
- (b) January 25, 2022 – Deadline for the filing of direct testimony on behalf of Staff and intervenors.
- (c) An evidentiary hearing shall commence on February 8, 2022, to be held remotely, via Webex, at 10:00 a.m. Instructions for participation in the evidentiary hearing will be sent by electronic mail to counsel for the parties. Anyone interested in observing

the evidentiary hearing as a non-party can access the hearing using the link <https://bit.ly/21-618-EVH>, and entering the password PUCO, or by calling 1-408-418-9388, and entering access code 2345 303 2473.

{¶ 20} All exhibits intended to be used on direct-examination and cross-examination, with the exception of exhibits that have already been filed in the docket, shall be provided to the parties and the attorney examiner by electronic mail no later than 10:00 a.m., on February 7, 2022. Counsel for the parties should ensure that their witnesses have access to all of the exhibits that have been filed in the docket or exchanged among the parties.

{¶ 21} Counsel and witnesses that will speak during the hearing should join the Webex event through internet access and must have a computer or smart device with a camera, microphone, and speakers; an electronic mail address; and reliable internet service.

{¶ 22} It is, therefore,

{¶ 23} ORDERED, That the procedural schedule set forth in Paragraph 19 be adopted. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/ Matthew J. Sandor

By: Matthew J. Sandor  
Attorney Examiner

SJP/mef

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**Case No(s). 21-0618-GA-RDR**

Summary: Attorney Examiner Entry setting the procedural schedule: Supplemental Testimony on behalf of Duke Energy due January 18, 2022; Direct Testimony on behalf of Staff and Interveners due January 25, 2022; and Evidentiary hearing set for February 8, 2022 at 10:00 am via Webex. electronically filed by Ms. Mary E. Fischer on behalf of Matthew Sandor, Attorney Examiner, Public Utilities Commission