

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 January 26, 2022

I. SUMMARY

{¶ 1} The Commission finds Blue Ridge Consulting Services, Inc.'s request for a change order with regard to the audit of Duke Energy Ohio, Inc.'s capital expenditure program for the period of January 1, 2019, through December 31, 2020, to be reasonable and grants the request.

II. DISCUSSION

{¶ 2} Duke Energy Ohio, Inc. (Duke or 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

{¶ 3} 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.

{¶ 4} 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).

{¶ 5} 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.

{¶ 6} 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.

{¶ 7} 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.

{¶ 8} 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.

{¶ 9} 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.

{¶ 10} On September 10, 2021, Staff filed a motion for extension of time to complete the draft and final audit reports. In support of its motion, Staff noted that the 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 deadlines for the draft and final audit reports be extended to September 30, 2021, and October 14, 2021, respectively.

{¶ 11} By Entry issued September 13, 2021, the attorney examiner granted Staff's unopposed motion for extension of time to complete the draft and final audit reports. The attorney examiner directed Blue Ridge to provide the draft audit report by September 30, 2021, and file the final audit report by October 14, 2021.

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

{¶ 13} 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.

{¶ 14} 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.

{¶ 15} 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.

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

{¶ 17} 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.

{¶ 18} 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.

{¶ 19} 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 asserted that there is no need to expedite the hearing process.

{¶ 20} By Entry issued December 16, 2021, the attorney examiner established the following procedural schedule: the Webex hearing would commence on February 8, 2022; the deadline for Duke to file any direct supplemental testimony was January 18, 2022; and,

the deadline for the filing of direct testimony on behalf of Staff and intervenors would be January 25, 2022.

{¶ 21} On January 21, 2022, Donna Mullinax, President of Blue Ridge, filed a letter noting that work on the audit in this case resulted in costs beyond the project budget, and, in order to cover the expected hearing costs and other professional services going forward, Blue Ridge requests a change order total of \$7,780 above the contract's specified total of \$119,795 for an adjusted not-to-exceed total of \$127,575. In support of its request, Blue Ridge states that the adjustment made in the November 8, 2021 audit report supplement resulted from corrective information provided to the auditor by Duke after the initial audit report was filed, and the work needed to reevaluate the adjustment and issue the supplement resulted in costs beyond the project budget.

{¶ 22} On January 21, 2022, Staff filed a review and recommendation regarding Blue Ridge's letter and recommends that the Commission accept the contract amount for the reasons outlined in the letter.

{¶ 23} Upon review of Blue Ridge's letter and Staff's recommendation, the Commissions finds the additional contract amount requested by Blue Ridge reasonable and, therefore, grants Blue Ridge's request. To the extent necessary, Duke should amend its contract with Blue Ridge to incorporate the revised amount of \$127,575.

III. ORDER

{¶ 24} It is, therefore,

{¶ 25} ORDERED, That Blue Ridge's request for a change order be granted and that, to the extent necessary, Duke revise its contract with Blue Ridge, as stated in Paragraph 23. It is, further,

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

COMMISSIONERS:

Approving:

Jenifer French, Chair

M. Beth Trombold

Lawrence K. Friedeman

Daniel R. Conway

Dennis P. Deters

MJS/kck

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in

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

Summary: Entry finding Blue Ridge Consulting Services, Inc.'s request for a change order with regard to the audit of Duke Energy Ohio, Inc.'s capital expenditure program for the period of January 1, 2019, through December 31, 2020, to be reasonable and grants the request electronically filed by Heather A. Chilcote on behalf of Public Utilities Commission of Ohio