**BEFORE**
**THE PUBLIC UTILITIES COMMISSION OF OHIO**

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| In the Matter of the Application of Duke Energy Ohio, Inc., for Authority to Abandon Certain Propane-Air Facilities. | ) ) ) | Case No. 21-986-GA-ABN |
| In the Matter of the Application of Duke Energy Ohio, Inc., for Authority to Change Accounting Methods. | ) ) ) | Case No. 21-1035-GA-AAM |

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**COMMENTS OF DUKE ENERGY OHIO, INC.**
**REGARDING STAFF'S REVIEW AND RECOMMENDATIONS**

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## I. INTRODUCTION

This case concerns the Application, filed by Duke Energy Ohio, Inc. (Duke Energy Ohio or Company), for authority to abandon certain propane-air facilities and to change accounting methods related thereto. Staff of the Public Utilities Commission of Ohio (Staff) filed its Review and Recommendations on January 6, 2022 (Staff Review).[1]

It is important to understand the uniqueness of the present issue regarding the retirement of the propane caverns as it relates to utility retirement accounting. Under normal group accounting processes, as an asset is retired, any remaining net book value of that asset remains in the class of assets in the group account. What is unique here is that, with the propane cavern retirement, the entire class of assets will eventually be taken out of service. Therefore, absent approval of this application to defer the remaining NBV of the propane assets , there is no place for the remaining, undepreciated, net book value to go on the Company's balance sheet. Absent

[1] Staff's Review and Recommendations (December 17, 2021) (Staff Report).

the deferral authority allowing the Company to account for this dying asset, the remaining plant in service must be taken as an expense. In this situation, the magnitude of this expense, as recognized by the Commission Staff, is material and significant. To put it in perspective, the write-off that results from Staff's recommendation, if ordered by the Commission, would equate to approximately "19.6% of 2020 operating income,"[2] as Staff states in the Staff Report. There should be no question that such a write-off is material. The Commission should allow the Company to properly account for this retirement through a deferral and dying asset treatment, as the Commission has previously allowed.

The following are the Company's comments in response to the Staff Review.

## II. METHODOLOGY

The Company's Application described a single proposed action: the abandonment of the propane caverns and associated facilities. That abandonment has a variety of impacts, three of which are discussed in the Application. It is important to recognize that the three impacts addressed in these proceedings would not and could not occur independently.

Nevertheless, Staff chose to evaluate the three impacts of the abandonment independently. It is certainly true that Staff could—and does—take a different view of the requested deferral as it relates to one of the impacts, but Staff need not have evaluated the three impacts separately in order to object to one aspect of the overall proposed project.

Indeed, separating the evaluation into three parts had a dramatic effect on the outcome. Of the six criteria that Staff applied to its analysis, three are related to financial issues:

- Whether the utility's current rates or revenues are sufficient to cover the costs associated with the requested deferral.

[2] Staff Report, fourth unnumbered page.

- Whether the costs request[ed] to be deferred are material in nature.
- Whether the costs would result in financial harm to the Company.

By taking the approach it did, Staff entirely ignored the total magnitude of the issues.

## III. DISCUSSION RELATED TO THE NET BOOK VALUE OF REMAINING ASSETS

Duke Energy Ohio seeks approval, in part, to defer the remaining net book value (NBV) of the propane-related assets, the value of which was estimated to be $24.6 million as of March 31, 2022 in the Company's application. Staff recommends denial of deferral authority for the NBV of the remaining assets, primarily on two bases: (1) that approval would amount to deferral for assets that are no longer used and useful and (2) that a large portion of the remaining NBV is the result of unaudited investments made since the last rate case, which investments were within the Company's control. Both of these concerns are incorrect.

### A. Deferral Authority Should Not be Denied based on Whether the Asset Would be Used and Useful at the Time of the Next Rate Case.

The issue of whether the asset is used and useful as of the date certain in a future base rate case should not weigh into a determination of whether retirement of those assets, which are presently used and useful, should be eligible for deferral. Indeed, the six criteria relied upon by Staff to evaluate utility deferral requests does not contain a "used and useful" component.

A primary reason that Staff recommends denial of deferral authority for the NBV of the remaining assets is based on Staff's concern that the assets would no longer be used and useful. Staff fails to explain why the question of whether the assets would be used and useful at the time of the next rate case is a matter for consideration here. Why is that rate-case issue a determining factor in whether deferral authority is granted? Deferral authority is only permission to defer, not permission to recover. The possibility of recovery would be decided in the rate case when the

Commission would know for a fact whether these assets are still used and useful as of the date certain. The question is irrelevant in these proceedings.

It is also incorrect to assume that prior investments in assets that are no longer used and useful at the time of a rate case are unrecoverable. In fact, this Commission has previously granted such deferral treatment for retired assets to avoid ending up with a write-off. The Commission, in that case, allowed the remaining net plant in service to be placed in one or more dedicated accounts and treated as dying assets, with full recovery to be had through the next base rate case.[3]

The same principle should apply here.

### B. Investments Made Since the Last Rate Case Should Not Impact Deferral Authority.

#### 1. There Is No Evidence that the Amount of Capital Investment since the Last Rate Case Was within the Company's Control.

One of the criteria considered by Staff in making its recommendation is "whether the problem was outside of the Company's control." With regard to the remaining NBV, Staff determined that building the Central Corridor Pipeline to replace the need for the caverns was within the Company's control. That is a reasonable conclusion. However, Staff went on to assert that Duke Energy Ohio controlled "the amount of capital investment made to the propane caverns after its previous rate case, and the Company also controlled the amount of capital investment to make during the planning, design, and construction phases of the Central Corridor Pipeline project . . .."[4] That conclusion is baseless. The propane caverns and associated facilities were a vital part of the Company's natural gas distribution system during the period since the last rate case. During that decade, propane was used many times to keep the system running and to provide

[3] *In the Matter of the Application of Duke Energy Ohio, Inc. to Adjust Rider AU for 2018 Grid Modernization Costs*, Case No. 19-664-GA-RDR, Opinion and Order (Feb. 10, 2021). *Accord* Case No. 17-32-EL-AIR, *et al.*, Opinion and Order, pp. 77-78 (Dec. 19, 2018).
[4] Staff Report, fourth unnumbered page.

safe, reliable service to customers. Although the caverns themselves cannot be repaired, all of the facilities that make the caverns work and that process the propane and feed it into the system can be repaired. It is imperative that the Company be able to provide safe, reliable service to its customers and old equipment is prone to failure and must be maintained and upgraded if safe, reliable service is to be continued.

Without auditing the capital investments made to the propane facilities, Staff cannot possibly conclude that the Company "controlled" how much it spent to keep the facilities operable. As will be discussed in more detail below, such an audit might be a reasonable step to take, but it would not occur during a consideration of deferral authority. Rather, the rate case that considers the recoverability of such deferred amounts is the trigger for auditing those expenditures.

Staff's conclusion that these capital expenditures were within the Company's control is wrong.

### 2. Investments Made Since the Last Rate Case Do Not Have to Be Audited for Deferral Authority to Be Granted

Staff discusses, at some length, the fact that the Company made substantial capital investments in the propane facilities since the last rate case and concurrent with the design, planning, and construction stages of the Central Corridor Pipeline. Although Staff does not go so far as to claim that unaudited investments can never be the subject of a deferral, Staff does use this fact to claim that the materiality of the financial harm caused by denial of deferral authority is lessened by the lack of an audit.

This is not an inconsequential change to the criteria staff considers in deferral authority requests. If Staff can lessen the supposed impact of denial by hypothesizing that recovery might be denied for some reason, then the test it applies becomes much more subjective than it was ever

meant to be. If there is to be a six-factor test that Staff always applies, then it must be as objective as possible.

Although Staff's words claim that it is applying the criteria objectively, its reliance on unproven possibilities demonstrates the subjectivity—and therefore unreliability—of Staff's recommendation.

### C. The Write-off of the Remaining NBV of the Propane Assets DID Have a Material Negative Impact to the Company's Financial Results.

Staff argues that the remaining NBV of the propane assets is not material when compared to the Company's net plant balance. That comparison is moot. The impact to the Company's financial results is an impact on the income statement. And Staff acknowledges in their Staff Report that "when compared to 2020 operating expenses, the NBV would be material." Staff further states that "Staff's revised net book value of $17,622,603 represents 19.6% of 2020 operating income." That is material to Duke Energy Ohio. In fact, the Company did take a charge in December 2021 that was material enough that it required disclosure in Duke Energy Corporation's Form 10-K filing with the Securities and Exchange Commission (SEC). In that filing the Company stated:

> Duke Energy Ohio uses propane stored in caverns to meet peak demand during winter. Once the Central Corridor Project is complete, the propane peaking facilities will no longer be necessary and will be retired. On October 7, 2021, Duke Energy Ohio requested deferral treatment of the property, plant and equipment as well as costs related to propane inventory and decommissioning costs. On January 6, 2022, the Staff issued a report recommending deferral authority for costs related to propane inventory and decommissioning but not for the net book value of the remaining assets. As a result of the Staff's report, Duke Energy Ohio recorded a $19 million charge to Impairment of assets and other charges on the Consolidated Statements of Operations and Comprehensive Income in the fourth quarter of 2021. There is approximately $6 million and $27 million in Net, property, plant and equipment on the Consolidated Balance Sheets as of December 31, 2021, and December 31, 2020, respectively, related to the propane caverns. The PUCO established a procedural schedule for the submission of comments by March 7, 2022. Duke Energy Ohio cannot predict the outcome of this matter.

Indisputably, the possible denial of deferral authority for the remaining NBV of the propane assets had a material negative impact to the Company's financial results.

### D. The Commission Should See this Situation as an Opportunity to Encourage Safe Operation of Assets that Are Nearing the End of their Useful Lives.

Staff also asserted that there is no need for the Commission to grant deferral authority in order to encourage any utility action, on the ground that the Company had already decided to abandon the propane assets. However, denial of that authority would send a clear message to all utilities that any capital investment made in an asset that might soon be retired would be at risk of having to be written off. The better message is to encourage safety and reliability.

This is not a situation in which Duke Energy Ohio had control over whether the Central Corridor Pipeline would be constructed or, if so, when it would be in operation. Factors outside the Company's control impacted timing. And no applicant to the Ohio Power Siting Board can say with absolute assurance that a project will be permitted.

Duke Energy Ohio had to make investments to keep the propane-air peaking facilities in working condition, in order to provide its customers with safe and reliable service. This is precisely what the Commission expects. Authorizing the requested deferral authority is a way to encourage all regulated utilities to take that course of action.

## IV. CONCLUSION

Staff's recommendation that deferral authority should be denied with regard to the remaining NBV of the propane assets is incorrect and should not be relied upon. Duke Energy Ohio respectfully asks that the Commission approve the Application in full.

Respectfully submitted,

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## CERTIFICATE OF SERVICE

The Public Utilities Commission of Ohio's e-filing system will electronically serve notice of the filing of this document on the parties referenced on the service list of the docket card who have electronically subscribed to the case. In addition, the undersigned hereby certifies that a copy of the foregoing document is also being served via electronic mail on the 7th day of March, 2022, upon the persons listed below.

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