BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke Energy Ohio, Inc., for an Adjustment to the Capital Expenditure Program Rider Rate, Case No. 21-618-GA-RDR	))))	Case No. 21-618-GA-RDR

REPLY BRIEF
SUBMITTED ON BEHALF OF THE STAFF OF THE PUBLIC UTILITIES COMMISSION OF OHIO

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On March 10, 2022, Staff and the parties filed initial briefs. In the parties' briefs, the various parties raise arguments in objection to some of the Staff's adjustments and recommendations. Below is Staff's reply to those arguments.

I. Staff Response to Duke's Initial Brief

A. Adjustment #3

The objection Duke Energy Ohio, Inc., (Duke or the Company) raises is wrong; the depreciation offset methodology adopted in Case No. 19-791-GA-ALT should continue in Case No. 21-618-GA-RDR. Larkin found the depreciation offset methodology reasonable,[1] and the depreciation offset was not mentioned specifically in the Stipulation. However, rates agreed to in the Stipulation were established using a depreciation offset ending balance as of 12/31/2018 of $225,989,904.[2] In the Stipulation,

[1] In the Matter of the Application of Duke Energy Ohio, Inc. for Approval of an Alternative Form of Regulation to Establish a Capital Expenditure Program Rider Mechanism, Case No. 19-791-GA-ALT (hereinafter, Case No. 19-791-GA-ALT), Larkin Report, pp. 2-10–2-11.

[2] *Id.*

Duke agreed, except as otherwise delineated in the Stipulation, to all other terms.[3] By default, Duke accepted the depreciation offset methodology in Case No. 19-791-GA-ALT. However, without disclosing or explaining its position, Duke modified the beginning balance to $201,816,115 (a reduction of $24,173,789). Blue Ridge found the modified formula to be non-compliant with the Stipulation. The depreciation offset ending balance as of December 31, 2018, and reflected in the rates agreed to in Case No. 19-791-GA-ALT, should have been the beginning balance as of January 1, 2019, in Case No. 21-618-GA-RDR.

B. Adjustment #6 (COR)

Duke objects only to Adjustment #6 as it pertains to the Cost of Removal (COR). However, as stated in Staff's Brief, the Company provided the COR amount for the work order with no indication that the COR was not within the Rider CEP. The Company should definitively have to prove that COR was not reflected in the CEP.

C. Adjustment #8

As stated in Staff's Brief, ratepayers did not benefit from the Company paying a premium on property to avoid condemnation proceedings. A condemnation proceeding would have been a better path forward. By including the premium in the cost, ratepayers will pay a return on the land acquisition cost in perpetuity.

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[3] Case No.19-791-GA-ALT, Staff Report (Joint Ex. 1 at 7; p. 30; paragraph 12) (May 22, 2020).

D. Adjustment #9

Allowance for funds used during construction (AFUDC) should be disallowed during the ten months that no work was being performed. Duke's argument that "work was being done" is not supported by the information provided by the Company. As stated in Staff's brief, the cost detail provided by the Company for the ten-month period shows that 80% of the charges were for AFUDC. The other charges ($13,000) were for materials and inventories. No labor was charged during the ten-month period; thus, AFUDC should be disallowed.

E. Adjustment #11

As stated in Staff's brief, and to the extent argued in Duke's Brief, the final value of the plant that should be removed to stay below the cap is predicated on the Commission's decision on the other contested issues.

F. Recommendation #5

Duke has misstated Blue Ridge's recommendation by arguing that "tracking every change of in-service dates" would not be useful. Blue Ridge's recommendation was to "establish a procedure that requires major non-blanket project changes in estimated in-service dates to be documented." As stated in Staff's brief, Staff recommends modifying the recommendation: "major non-blanket projects" should be defined as non-blanket projects over $500,000. The $10 million proposed by Duke fails to address the auditor's concern that Duke was unable to explain why estimated in-service dates slipped. This information is needed for effective monitoring.

G. Recommendations #6

Duke agrees with recommendation #6 if the monitoring of stock-based and earnings-related incentive compensation is part of standard annual audit scope and does not mean separate monitoring by Duke. As stated in Staff's Brief, Staff concurs with the Company. The capitalization and recovery of stock-based and earnings-related incentive compensation should be part of the annual audit and separate monitoring is not needed.

II. Staff's Response to OCC's Initial Brief

A. Rate of Return (ROR)

Both Larkin and Blue Ridge verified Rate of Return (ROR) included in the Capital Expenditure Program (CEP) to those established in the last base rate case (Case No. 12-1685-GA-AIR) and adjusted to reflect a reduction in the corporate tax rate from 35% to 21%. No other approved ROR existed for the auditors to use. So, contrary to OCC's mischaracterization, the ROR used in this case is the most recent Commission-authorized ROR for Duke Ohio. Further, the Company agreed to file a base rate case no later than June of 2023.[4] The ROR will be updated again when Duke files its next base rate case.

B. Maximum Cap for Duke's 2020 CEP Rider

OCC argues for a maximum cap of $8.93 per month for Duke's 2020 CEP Rider in order to comply with Case No. 19-791-GA-ALT. For the reasons stated in OCC's Brief, Staff agrees.

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[4] Case No. 19-791-GA-ALT Order, pp. 18–19, paragraph 6 (April 21, 2021) – "Duke agrees to file an application for a natural gas base rate case by June 30, 2022, provided that Duke's Central Corridor Pipeline goes into service by March 31, 2022. If the pipeline does not go into service by this date, Duke agrees to file a natural gas base rate case within six months after the pipeline is placed in service but no later than June 30, 2023."

C. Financial Performance Incentives

In accordance with the approved stipulation in Case No. 19-791-GA-ALT, in Blue Ridge's Recommendation #6, the auditor recommended that stock-based and earnings-related incentive compensation should continue to be allowed for Duke. In the Stipulation in Case No. 19-791-GA-ALT, the parties agreed,[5] and the Commission approved[6], that incentive pay will continue to be capitalized in accordance with Duke's existing accounting policies and procedures that follow generally accepted accounting principles.

The amount of stock-based and earnings-related incentive compensation that is capitalized and included in the CEP does appear to be increasing.[7] Accordingly, Blue Ridge recommends that the capitalization and recovery of stock-based and earnings-related incentive compensation should be monitored to ensure the amount recovered does not significantly increase.[8]

The capitalization of financial performance initiatives that benefit stockholders should be addressed in the next base rate case.

III. Staff's Reply to Interstate Gas Supply's Brief

A. Financial Performance Incentives

Interstate Gas Supply objects to the inclusion of financial performance incentives in rates, as did OCC. Refer to Section II. C. for Staff reply to IGS.

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[5] Case No. 19-791-GA-ALT, Stipulation at p. 7.
[6] Case No. 19-791-GA-ALT, Order, p. 3, paragraph 1 (April 21, 2021).
[7] Blue Ridge Report, pp. 74–76 - detailed discussion noted increase from prior audit, but 2019–2020 average in line with prior years.
[8] Blue Ridge Report at p. 36.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the **Staff's Reply Brief** has been served upon the below-named counsel via electronic mail, this 31st day of March 2022.

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