

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF
DUKE ENERGY OHIO, INC., FOR APPROVAL
OF A WAIVER OF SPECIFIC SECTIONS OF THE
OHIO ADM.CODE.

CASE NO. 21-967-GE-WVR

FINDING AND ORDER

Entered in the Journal on June 29, 2022

I. SUMMARY

{¶ 1} The Commission approves the application of Duke Energy Ohio, Inc. for waiver of Ohio Adm.Code 4901:1-17-05(C) related to its implementation of a new customer information system, consistent with this Finding and Order.

II. DISCUSSION

A. *Procedural Background*

{¶ 2} Duke Energy Ohio, Inc. (Duke or the Company) is an electric distribution utility, as defined in R.C. 4928.01(A)(6), a natural gas company, as defined in R.C. 4905.03, and a public utility, as defined in R.C. 4905.02, and, as such, is subject to the jurisdiction of this Commission.

{¶ 3} On September 20, 2021, Duke filed an application for waiver of several Commission rules. The application for waiver stems from Duke's transition from its current customer information system (CIS) to its new CIS, Customer Connect, which Duke believes will improve customer experience. First, Duke requests waiver of Ohio Adm.Code 4901:1-10-24(E), Ohio Adm.Code 4901:1-10-24(E)(4)(b), and Ohio Adm.Code 4901:1-13-12(D) to implement digital delegation functionality to improve convenience for customers. Second, Duke requests waiver of Ohio Adm.Code 4901:1-17-05(C) to refund accrued deposit interest annually to residential customers. Third, Duke requests waiver of Ohio Adm.Code 4901:1-13-14(F) to permit Duke to provide the required notifications electronically to gas customers in the same manner permitted already for electric customers.

{¶ 4} On October 21, 2021, the Ohio Consumers' Counsel (OCC) filed a motion to intervene in this case. On March 21, 2022, Interstate Gas Supply, Inc. (IGS) filed a motion to intervene in this case. No memoranda contra these motions were filed. Accordingly, we find OCC's and IGS's motions reasonable and, therefore, grant their motions for intervention.

{¶ 5} On January 18, 2022, Commission Staff filed comments regarding the waiver application.

{¶ 6} On March 3, 2022, Duke filed a motion for leave to file reply comments in response to Staff's comments. In support of its motion for leave, Duke asserts that its reply comments will streamline and aid the Commission's review of this case since Duke withdraws two of its three waiver requests from consideration. No memoranda contra were filed regarding the motion for leave. The Commission finds Duke's motion reasonable and, therefore, grants it.

{¶ 7} On the same date, Duke filed its reply comments within which it withdrew its request for waivers regarding items one and three above, specifically waiver requests for Ohio Adm.Code 4901:1-10-24(E), Ohio Adm.Code 4901:1-10-24(E)(4)(b), Ohio Adm.Code 4901:1-13-12(D)¹, and Ohio Adm.Code 4901:1-13-14(F). Duke maintains its request for waiver of Ohio Adm.Code 4901:1-17-05(C).

{¶ 8} On March 8, 2022, the attorney examiner issued an Entry setting forth a procedural schedule whereby motions to intervene would be due by March 22, 2022, and reply comments would be due by March 29, 2022. No further comments were filed in the docket.

¹ Duke's proposed reply comments do not specifically withdraw its waiver request from Ohio Adm.Code 4901:1-13-12(D). In the March 8, 2022 Entry, the attorney examiner noted that, considering the explanation provided by Duke in the proposed reply comments regarding the digital delegation functionality, it appeared Duke inadvertently omitted this reference when withdrawing its requests. The attorney examiner advised Duke to file correspondence in the docket if this conclusion was incorrect. No filings have been made by Duke since that time.

B. Summary of the Application and Comments

{¶ 9} As noted above, Duke has withdrawn a substantial portion of its initial waiver requests. Consequently, we will only be addressing the pending waiver request of Ohio Adm.Code 4901:1-17-05(C).

{¶ 10} Duke requests waiver of Ohio Adm.Code 4901:1-17-05(C) regarding residential customers' deposits, which states, in part, "[i]nterest shall be paid to the customer when the deposit is refunded or deducted from the customer's final bill." Duke states that it interprets this rule to mean that it does not have the discretion to refund interest at times earlier than that mentioned in the rule. Duke requests waiver of this rule to be permitted to refund accumulated deposit interest annually, even while Duke continues to hold the deposit principal. According to Duke, under its new CIS, it will automatically release accumulated interest on customer deposits each year on the customer's service anniversary date as a credit on the account, and the credit will be visible to the customer on the next bill rendered after the credit is applied to the account. Duke argues that this waiver will benefit customers and help reduce arrearages.

{¶ 11} In its comments, Staff highlights Ohio Adm.Code 4901:1-17-07(C), which requires Duke to maintain a record of a refunded deposit for three years after each transaction concerning the deposit. Staff states that it does not oppose Duke's waiver request with the understanding that Duke keeps record of the interest that has been credited to the customer while the deposit is held and for three years thereafter. Further, Staff does not oppose the waiver with the understanding that the waiver is not in opposition of R.C. 4933.17.

{¶ 12} In its reply comments, Duke responds to Staff's recommendation by noting that it is able and willing to keep records of interest that has been credited to the customer for the entire duration while the deposit is held and for three years thereafter. Also, Duke contends that the waiver does not conflict with R.C. 4933.17, which permits utilities to require a deposit under certain circumstances but does not mandate that utilities must

require a deposit. While R.C. 4933.17 requires that interest of at least 3 percent per annum shall be allowed and paid to the consumer, Duke asserts that the statute does not speak to the timing of the disbursement of interest payments, meaning it does not conflict with Duke's request for waiver to credit interest to customers annually.

C. Commission Conclusion

{¶ 13} Upon consideration of Duke's waiver application, as well as Staff's comments and Duke's reply comments, the Commission finds that the application should be approved, as clarified in the Company's reply comments, and consistent with this Finding and Order. Specifically, we agree that Duke's plan to disburse interest payments from deposits annually does not conflict with R.C. 4933.17, which is silent as to the timing of the disbursements of interest payments. Also, as pledged in its reply comments, Duke should maintain records of interest that has been credited to customers for the entire period of time the deposit is held and for three years thereafter.

III. ORDER

{¶ 14} It is, therefore,

{¶ 15} ORDERED, That the motions for intervention filed by OCC and IGS be granted. It is, further,

{¶ 16} ORDERED, That Duke's motion for leave to file reply comments be granted. It is, further,

{¶ 17} ORDERED, That Duke's application for waiver be approved, consistent with this Finding and Order. It is, further,

{¶ 18} ORDERED, That a copy of this Finding and Order be served upon all interested persons and parties of record in this matter.

COMMISSIONERS:

Approving:

Jenifer French, Chair
M. Beth Trombold
Lawrence K. Friedeman
Daniel R. Conway
Dennis P. Deters

MJS/ hac

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Case No(s). 21-0967-GE-WVR

Summary: Finding & Order approving the application of Duke Energy Ohio, Inc. for waiver of Ohio Adm.Code 4901:1-17-05(C) related to its implementation of a new customer information system, consistent with this Finding and Order electronically filed by Heather A. Chilcote on behalf of Public Utilities Commission of Ohio