

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

|  |   |                                |
|--|---|--------------------------------|
| <b>In the Matter of the Commission’s</b> | ) |                                |
| <b>Review of Chapter 4901:1-10, Ohio</b> | ) | <b>Case No. 12-2050-EL-ORD</b> |
| <b>Administrative Code, Regarding</b>    | ) |                                |
| <b>Electric Companies.</b>               | ) |                                |

---

**REPLY COMMENTS  
BY  
ADVANCED ENERGY ECONOMY OHIO**

---

**I. Introduction**

On November 7, 2012 the Public Utilities Commission (“Commission” or “PUCO”) filed Case No. 12-2050-EL-ORD. In the Entry, the Commission requested stakeholder comments on a series of rule proposals and revisions conducted under Section 119.032 of the Revised Code. The set of rules reviewed, and the Staff proposed amendments to those rules, pertain to electric consumer data privacy, disclosure of generation sources to customers, net and advanced metering, and compliance with the federal Public Utility Regulatory Policies Act of 1978, as amended by the Energy Policy Act of 2005.

Advanced Energy Economy - Ohio (“AEEO”) is a trade association with an expanding membership of companies operating in Ohio and focusing on the growing clean energy development and energy efficiency fields. AEEO, along with several other interested parties, filed Initial Comments to the proposed rule amendments and modifications on January 7, 2013.

AEEO now respectfully submits these Reply Comments in response to certain issues raised by other parties, as detailed below, to the rule amendments proposed by Staff. AEEO also

respectfully submits Reply Comments on some of the other interested parties' proposed amendments.

## **II. Virtual Net Metering and Aggregate Metering Should be Implemented by the Commission to Further State Policy as Presented in 4928.02.**

In its Initial Comments, AEEO noted that virtual net metering (“VNM”) and meter aggregation (“MA”) are “entirely consistent with the language and purpose of Ohio Revised Code Sections 4928.67 and 4928.01.”<sup>1</sup> AEEO noted that VNM and MA allowed utility customers with multiple facilities within a service territory to design and operate systems that “corresponds directly to the needs of the [customer’s] operation;”<sup>2</sup> reduces the barriers of unnecessary and significant and additional expense of wiring together separate facilities, and notes that the language of the statute does not prohibit the tracking of overproduction at one property and applying credits to other facilities owned by the same customer.<sup>3</sup> Finally, AEEO presented proposed rules and definitions for VNM and MA.<sup>4</sup> The arguments contrary to the institution of VNM and MA from the various utilities are at odds with Ohio statutory policy and should be rejected.

FirstEnergy’s objections were without merit and chiefly rely on the misapplication of Ohio law irrelevant to the Commission’s query in this case. FirstEnergy presents the mistaken conclusion “that virtual net metering and aggregate net metering would violate the Revised Code

---

<sup>1</sup> AEE-Ohio Comments at 8 (January 7, 2013).

<sup>2</sup> Id. at 9.

<sup>3</sup> Id. at 11.

<sup>4</sup> Id. at 12.

and other regulatory principles.”<sup>5</sup> FirstEnergy attempts to justify this position by stating that the definition of “electric load center” (Ohio Revised Code Section 4933.81(E)) which describes a facility as a “single location” would prohibit VNM and MA.<sup>6</sup> But a review of that statute reveals that this definition has limited application. Ohio Revised Code 4933.81 states that these definitions are *only applicable* for Ohio Revised Code Sections 4933.81 to 4933.90. Therefore, it is not relevant to customer generation and does not pertain to the Commission’s question in this case regarding statutory conflict with 4928.01 or 4928.67.

In addition, FirstEnergy states that, because excess generation would “necessarily utilize the Companies’ distribution system; any excess generator would be using the system for free.”<sup>7</sup> Therefore, other customers would be paying for a net generator’s use of the distribution system. However, this complaint is without merit and in conflict with the plain language of Ohio statutory policy. Ohio Revised Code Sections 4928.02(F) and (K) clearly encourage customer generators to have access to utility wires:

“It is the policy of this state to do the following throughout this state: [...] Ensure that an electric utility’s transmission and distribution systems are available to a customer-generator or owner of distributed generation, so that the customer-generator or owner can market and deliver the electricity it produces;”<sup>8</sup>

and

“Encourage **implementation of distributed generation across** customer classes through regular review and updating of administrative rules governing critical issues such as, but not limited to, interconnection standards, standby charges, and net metering;”<sup>9</sup>

---

<sup>5</sup> The Ohio Edison Company, the Toledo Edison Company and the Cleveland Electric Illuminating Company (hereafter “FirstEnergy”) Comments at 16 (January 7, 2013).

<sup>6</sup> Id.

<sup>7</sup> Id. at 17.

<sup>8</sup> R.C. 4928.02(F).

<sup>9</sup> (Emphasis Added) R.C. 4928.02(K).

Thus, state policy provides that any utility's distribution system should be made available to customer-generators and encourages distributed generation for all customer classes. Ohio law also states that "rules under this division [requirements for non competitive service] shall include nondiscriminatory metering standards."<sup>10</sup> This may reasonably be interpreted as necessarily encouraging different sizes of distributed generation projects – including those that would require VNM and MA. If a larger customer employs multiple facilities for a business or process, and distributed generation is only feasible at some (i.e. less than all) of these facilities, that customer, according to state law, should be allowed to employ a utility's distribution and transmission systems as a part of a project to serve that customer's generation needs. To deny this customer the use of the distribution and transmission system through the misapplication of unrelated statutes would be discriminatory to that customer.

Ohio Power ("AEP") stated that it "strongly opposed" virtual net metering and aggregate net metering, but cited no statute or regulatory principal as supporting this position. AEP merely complained that virtual net metering and aggregate metering would be complicated and expensive.<sup>11</sup> AEP stated that these topics should have their own, separate forum.<sup>12</sup> It is AEEO's understanding that this docket provides a forum for administrative approval of these issues for inclusion in the Ohio Administrative Code. But AEEO would support a subsequent workshop – after virtual net metering and aggregate metering are included in the rules - to further discuss specific issues regarding the execution of VNM and MA within utility service territories. However, because these practices are not prohibited – and in fact encouraged - by Ohio law, they should be added to the administrative code as a part of this case docket.

---

<sup>10</sup> R.C. 4928.11(A).

<sup>11</sup> Ohio Power Comments at 23 (January 7, 2013).

<sup>12</sup> Id.

Dayton Power and Light (“DP&L”) stated that a customer generating electricity that may be applied to different accounts “blurs the line between net metering customer and small power producer.”<sup>13</sup> DP&L further declares this kind of arrangement a violation of 4928.67 because it is not a “normal metering practice.”<sup>14</sup> But “normal metering practices” are not defined by the statute and may be determined by the Commission. In this case, state policy clearly encourages distributed generation. VNM and MA offer new possibilities to encourage distributed generation. These new opportunities, which represent significant potential economic development, should not be discouraged by a contrary and narrow interpretation of “normal metering practices.” In fact, AEEO recommends that if the Commission is going to define this term that it does so in a manner clearly inclusive of and encouraging VNM and MA.

The arguments contrary to instituting virtual net metering and meter aggregation are without merit and should not discourage the Commission from enacting rules that “encourage the development of distributed and small generation systems,”<sup>15</sup> and “ensure that an electric utility’s transmission and distribution systems are available to a customer-generator.”<sup>16</sup> Finally, AEEO urges the Commission to update the rules regarding net metering by adopting the proposed rule amendments and definitions of virtual net metering and meter aggregation presented in AEEO’s Initial Comments in order to “encourage implementation of distributed generation across customer classes.”<sup>17</sup>

### **III. The Definition of Customer Premises Should be Expanded as Recommended by Commission Staff.**

---

<sup>13</sup> Dayton Power and Light Comments at 14 (January 7, 2013).

<sup>14</sup> Id.

<sup>15</sup> R.C. 4928.02(C).

<sup>16</sup> R.C. 4928.02(F).

<sup>17</sup> R.C. 4928.02(K).

AEEO supported the proposed definition of customer premises, which included areas “owned, operated, leased, or otherwise controlled by the customer-generator, including contiguous lots or areas that are owned, operated, leased or otherwise controlled by the customer-generator.” AEEO noted that this definition provides customers and developers “a clear understanding of the areas in which an energy investment can be made” and that the definition “does not preclude the eventual or immediate development of virtual metering provisions.”<sup>18</sup> AEP fully supports this definition.<sup>19</sup> AEEO once again urges the Commission to adopt this proposed definition.

FirstEnergy recommended the following limitation: “Non-contiguous areas are not eligible for inclusion under this definition of ‘premises.’”<sup>20</sup> The stated reason for this is connected to the reason given for opposing virtual and aggregate net metering. According to FirstEnergy, “allowing non-contiguous areas to be included within a customer-generator’s premises definition would allow customers to avoid paying distribution charges that the customer should be paying, leaving the Companies with stranded costs in violation of regulatory principles as discussed above [in the virtual and net metering sections].”<sup>21</sup>

DP&L suggested language that makes it clear that the generating facility and the meter are on the property owned by the customer and within close proximity to each other. According to DP&L, to do otherwise would be to create “customer owned distribution lines which is well beyond the net metering provisions of the Revised Code and would lead to a whole new body of PUCO regulations for customer-owned distribution systems.”<sup>22</sup>

---

<sup>18</sup> AEE-Ohio Comments at 7 (January 7, 2013).

<sup>19</sup> AEP Comments at 23.

<sup>20</sup> FirstEnergy Comments at 17.

<sup>21</sup> Id. at 18.

<sup>22</sup> DP&L comments at 13.

The intent of the changes recommended by FirstEnergy and DP&L are meant to discourage or prohibit any kind of virtual net metering or aggregate net metering. As noted, virtual net metering and aggregate metering are supported by Ohio policy. Ohio law requires the distribution lines to be made available to customers for distributed generation.

A customer should not be subjected to any rule limitation that prohibits that customer from designing, developing and employing an appropriately-sized system. In fact, a project may simply be too large to fit on the customers' existing site or an in area contiguous to the customer's property. In order to encourage distributed generation, a larger geographic area that is not contiguous to a customer's property – made available by the proposed definition - should be allowed for development consideration of a distributed generation resource. Therefore, AEEO urges the Commission to reject any discriminatory or limiting language and adopt Staff's recommendation.

#### **IV. The Commission Should Adopt the Staff's Proposed Revision of the "Generation Primarily Intended to Offset Customer Usage."**

AEEO noted its agreement with the Commission Staff that "a customer-generator that annually generates less than one hundred and twenty percent of its requirements for electricity is presumed to be primarily intending to offset part or all of its requirements for electricity." AEEO noted several reasons supporting such a change, including the intermittency of some distributed generation resources and that a customer's generation needs may fluctuate.<sup>23</sup>

FirstEnergy opposed this language, and in particular the 120%. FirstEnergy stated that this would require purchases from the customer by the utility of excess generation. In

---

<sup>23</sup> AEE-Ohio Comments at 4 (January 7, 2013)

FirstEnergy's case, it would violate the Companies' Electric Security Plan.<sup>24</sup> In addition, FirstEnergy stated that such an "arbitrary ceiling" is unnecessary and note that they have counseled several customers regarding the sizing of their facility and the option of selling power wholesale to PJM.<sup>25</sup>

AEP found the 120% to be excessive, noting they have counseled customers against oversizing systems with the specific intention of selling excess power onto the grid.<sup>26</sup> AEP recommends an adjustment of 110% for residential customers and 105% for non-residential customers. DP&L also proposed that the customer would not be considered an excessive generator if they delivered 110% or less of the electricity purchased from the utility in any given 12-month period.<sup>27</sup>

While AEEO agrees that customers should not oversize a system with the sole intent of selling power back to the grid, AEEO encourages the adoption of the Staff's proposal for the reasons stated in its Initial Comments. In addition to the fact that generation and usage may vary, discouraging a customer from additional capacity discourages possible future expansion of that customer's facilities. If a customer plans to use a greater amount of electricity in the planned expansion of a business, sizing in anticipation of increased usage to facilitate this expansion should be encouraged. Therefore, AEEO encourages the Commission to adopt the Staff's revision of 120%.

## **V. The Commission Should Adopt Both the Staff's Revision and AEE-Ohio's Addition to the Definition of "Microturbine."**

---

<sup>24</sup> FirstEnergy comments at 19.

<sup>25</sup> Id. at 19-20.

<sup>26</sup> AEP Comments at 15.

<sup>27</sup> DP&L Comments at 17-18.



AEEO recommended an addition to the proposed new rule definition of microturbine by adding the phrase “reciprocating engine.”<sup>28</sup> FirstEnergy states that this definition’s inclusion of “combustion engine” is improper and violates Ohio law.<sup>29</sup> FirstEnergy further stated that this should not be expanded without an “appropriate upper limit on size.” FirstEnergy recommends a size limit of 500kw.<sup>30</sup> Similar to FirstEnergy, DP&L recommended that the definition include the language “small combustion turbines with outputs of 25-500kW” citing to a US DOE source.<sup>31</sup>

AEP stated that the definition as proposed was appropriate because “a definition for microturbine technology regarding parameters could help avoid future issues as this segment grows in population.”<sup>32</sup>

AEEO encourages the Commission to adopt Staff’s proposed definition, along with the addition of “or reciprocating engine” as a part of this definition. No size limit should be placed on this technology, which will likely be employed in several distributed generation projects in the next few years.

## **VI. Conclusion**

For the reasons stated above, Advanced Energy Economy requests the Public Utilities Commission of Ohio to adopt its Reply Comments above along with the recommendations contained in its initial comments.

---

<sup>28</sup> AEE-Ohio Comments at 7.

<sup>29</sup> FirstEnergy Comments at 17.

<sup>30</sup> FirstEnergy Comments at 18.

<sup>31</sup> DP&L Comments at 14.

<sup>32</sup> AEP Comments at 23.

Respectfully submitted,

/s/ Christopher Allwein  
Christopher J. Allwein  
Williams Allwein & Moser, LLC  
1373 Grandview Ave., Suite 212  
Columbus, OH 43212  
[callwein@wamenergylaw.com](mailto:callwein@wamenergylaw.com)

**Attorney for Advanced Energy Economy - Ohio**

## **CERTIFICATE OF SERVICE**

I hereby certify that a true and accurate copy of the foregoing *Reply Comments by Advanced Energy Economy – Ohio*, has been served upon the following parties via electronic mail on February 6, 2013.

/s/ Christopher Allwein  
Christopher J. Allwein

Bill Wright  
**Attorney General's Office**  
Public Utilities Commission of Ohio  
180 East Broad St., 6<sup>th</sup> Fl.  
Columbus, OH 43215  
[william.wright@puc.state.oh.us](mailto:william.wright@puc.state.oh.us)

David R. Blair,  
Senior Vice President  
**GEM Energy**  
5505 Valley Belt Road, Suite F  
Independence, OH 44131  
[dblair@rlcos.com](mailto:dblair@rlcos.com)

Joseph M. Clark  
Jennifer L. Lause  
**Direct Energy**  
21 East State Street, 19<sup>th</sup> Fl  
Columbus, Ohio 43215  
(614) 220-4369 (office)  
(614) 220-4674 (fax)  
[joseph.clark@directenergy.com](mailto:joseph.clark@directenergy.com)  
[jennifer.lause@directenergy.com](mailto:jennifer.lause@directenergy.com)

Emma Berndt  
Manager, Market Development and  
Regulatory Affairs – Midwest  
**Opower, Inc.**  
1515 N. Courthouse Rd.  
Arlington, VA 22201

617-872-9368  
[emma.berndt@opower.com](mailto:emma.berndt@opower.com)

Matthew White (0082859)  
**Interstate Gas Supply, Inc.**  
6100 Emerald Parkway  
Dublin, Ohio 43016  
Telephone: (614) 659-5000  
Facsimile: (614) 659-5073  
[mswhite@igsenergy.com](mailto:mswhite@igsenergy.com)  
[sgiles@hullinc.com](mailto:sgiles@hullinc.com)

James W. Burk (0043808)  
Counsel of Record  
Carrie M. Dunn (0076952)  
**FIRSTENERGY CORP.**  
76 South Main Street  
Akron, OH 44308  
Tel: (330) 384-5861  
Fax: (330) 384-3875  
[burkj@firstenergycorp.com](mailto:burkj@firstenergycorp.com)  
[cdunn@firstenergycorp.com](mailto:cdunn@firstenergycorp.com)

M. Howard Petricoff  
Stephen M. Howard  
Vorys, Sater, Seymour and Pease LLP  
**RESA**  
52 East Gay Street  
P. O. Box 1008  
Columbus, Ohio 43216-1008  
(614) 464-5414  
[mhpetricoff@vorys.com](mailto:mhpetricoff@vorys.com)

[smhoward@vorys.com](mailto:smhoward@vorys.com)

Richard L. Sites  
155 East Broad Street, 15<sup>th</sup> Fl  
Columbus, OH 43215-3620  
Telephone: (614) 221-7614  
[ricks@OHANET.org](mailto:ricks@OHANET.org)

Thomas J. O'Brien  
BRICKER & ECKLER LLP  
100 South Third Street  
Columbus, OH 43215-4291  
Telephone: (614) 227-2335  
Facsimile: (614) 227-2390  
[tobrien@bricker.com](mailto:tobrien@bricker.com)  
**OHIO HOSPITALS ASSOCIATION**

Matthew J. Satterwhite  
Steven T. Nourse  
**AMERICAN ELECTRIC POWER CORPORATION**  
1 Riverside Plaza, 29<sup>th</sup> Fl  
Columbus, Ohio 43215  
Telephone: 614-716-1915  
Fax: 614-716-2950  
[mjstatterwhite@aep.com](mailto:mjstatterwhite@aep.com)  
[stnourse@aep.com](mailto:stnourse@aep.com)

J. Thomas Siwo  
Matthew W. Warnock  
**Ohio Manufacturers Association**  
BRICKER & ECKLER LLP  
100 South Third Street  
Columbus, OH 43215-4291  
Telephone: (614) 227-2389  
Facsimile: (614) 227-2390  
[tsiwo@bricker.com](mailto:tsiwo@bricker.com)  
[mwarnock@bricker.com](mailto:mwarnock@bricker.com)

Melissa R. Yost  
*Assistant Consumers' Counsel*  
**Office of the Ohio Consumers' Counsel**  
10 West Broad Street, Suite 1800  
Columbus, Ohio 43215-3485  
(614) 466-1291 – Telephone  
[yost@occ.state.oh.us](mailto:yost@occ.state.oh.us)

Jason B. Keyes  
Keyes, Fox & Wiedman LLP  
**Interstate Renewable Energy Council, Inc.**  
436 14<sup>th</sup> Street, Suite 1305  
Oakland, CA 94612  
510-314-8203  
[jkeyes@kfwlaw.com](mailto:jkeyes@kfwlaw.com)

Nicholas McDaniel  
**Environmental Law & Policy Center**  
1207 Grandview Avenue, Suite 201  
Columbus, OH 43212  
P: 614-488-3301  
F: 614-487-7510  
[NMcDaniel@elpc.org](mailto:NMcDaniel@elpc.org)

Annie C. Lappé  
Solar Policy Director  
**The Vote Solar Initiative**  
1120 Pearl Street, Suite 200  
Boulder, Colorado 80302  
phone: (720) 402-9102  
[annie@votesolar.org](mailto:annie@votesolar.org)

Nolan Moser  
Cathy Loucas  
**Ohio Environmental Council**  
1207 Grandview Avenue, Suite 201  
Columbus. OH 43212-3449  
[Nolan@theoec.org](mailto:Nolan@theoec.org)  
[Cathy@theoec.org](mailto:Cathy@theoec.org)

Carrie Cullen Hitt  
Vice President, State Affairs  
Solar Energy Industries Association  
505 9th Street NW #800  
Washington DC 20004  
[CHitt@seia.org](mailto:CHitt@seia.org)

[nathan@buckeyeforestcouncil.org](mailto:nathan@buckeyeforestcouncil.org)

Dan Sawmiller  
Senior Campaign Representative, Ohio and  
Kentucky  
**Sierra Club, Beyond Coal Campaign**  
614.461.0734 x305  
[daniel.sawmiller@sierraclub.org](mailto:daniel.sawmiller@sierraclub.org)

Kimberly W. Bojko  
Carpenter, Lipps and Leland, LLP  
280 North High Street - Suite 1300  
Columbus OH 43215  
[Bojko@CarpenterLipps.com](mailto:Bojko@CarpenterLipps.com)

Jeanne W. Kingery  
Associate General Council  
**DUKE ENERGY RETAIL SALES, INC.**  
155 E. Broad Street, 21<sup>st</sup> Fl.  
[Jeanne.Kingery@duke-energy.com](mailto:Jeanne.Kingery@duke-energy.com)

Amy B. Spiller  
Elizabeth H. Watts  
**DUKE ENERGY BUSINESS  
SERVICES, LLC**  
139 E. Fourth Streets, 1303 East Main  
Cincinnati OH 45202  
[Amy.Spiller@duke-energy.com](mailto:Amy.Spiller@duke-energy.com)  
[Elizabeth.Watts@duke-energy.com](mailto:Elizabeth.Watts@duke-energy.com)

Judi L. Sobecki  
**DAYTON Power and LIGHT  
COMPANY**  
1065 Woodman Drive  
Dayton, OH 45432  
[Judi.Sobecki@dplinc.com](mailto:Judi.Sobecki@dplinc.com)

Nathan G. Johnson  
Staff Attorney  
**Buckeye Forest Council**  
1200 W. Fifth Ave., STE 103  
Columbus, OH 43212  
Office: 614-487-9290

Trent A. Dougherty, Esq.  
Director of Legal Affairs  
**Ohio Environmental Council**  
1207 Grandview Ave. Suite 201  
Columbus, OH 43212  
614.487.7506 (T)  
614.487.7510 (F)  
[Trent@theOEC.org](mailto:Trent@theOEC.org)

Scotte Elliott, MSEE, CEM  
NABCEP Certified Solar PV  
Installer  
TM  
Metro CD Engineering, LLC  
7003 Post Road, Suite 204  
Dublin, Ohio 43016  
614-746-5830  
[selliott@metrocdengineering.com](mailto:selliott@metrocdengineering.com)

Mark A. Hayden  
Scott J. Casto  
**FIRSTENERGY SERVICE COMPANY**  
76 South Main Street  
Akron, OH 44308  
[haydenm@firstenergycorp.com](mailto:haydenm@firstenergycorp.com)  
[scasto@firstenergycorp.com](mailto:scasto@firstenergycorp.com)

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**2/6/2013 5:06:16 PM**

**in**

**Case No(s). 12-2050-EL-ORD**

Summary: Reply Comments electronically filed by Mr. Christopher J Allwein on behalf of  
Advanced Energy Economy - Ohio