

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

REPLY COMMENTS OF DUKE ENERGY OHIO, INC.

I. Introduction

Pursuant to the Public Utilities Commission of Ohio (Commission) Entry of November 7, 2012, the Commission initiated this docket to consider changes to rules contained in Chapter 4901:1-10 of the Ohio Administrative Code, (O.A.C.). The Commission's Entry invited comments and reply comments from interested parties on proposed changes to the rules. Duke Energy Ohio, Inc. (Duke Energy Ohio or Company) respectfully submits reply comments to comments filed in these proceedings addressing proposed changes to the rules. For the reasons set forth below, the Company respectfully request the Commission consider the responses and comments submitted and modify the rules accordingly.

II. Comments

Rule 4901:1-10-05 Metering

The Office of the Ohio Consumers' Counsel (OCC) comments that the utility should be required to provide a cash refund to a customer when a customer has overpaid a bill and that the customer should be informed of this option so that the customer can choose a cash refund or credit. OCC's recommendation overlooks the costs associated with such a mandate and the unreasonableness that could result if a customer requires the utility to refund cash for a minimal overpayment. The regulatory burden in complying with such a mandate far outweighs any

potential benefit to customers. The customer is given a credit on the bill and is able to see the credit in the bill calculation. Requiring a refund to be remitted invokes the use of back office systems and mailings that are costly and time consuming. The credit on the customer's bill has sufficed for many years and has not resulted in any complaints or problems. This is a solution looking for a problem. OCC's suggestion to make this change to billing process should be rejected.

Rule 4901:1-10-07 Outage Reporting

The Commission's Entry initiating this proceeding notes that the governor of the state of Ohio issued an Executive Order establishing the Common Sense Initiative. Among the stated goals in this executive order is the directive to the Commission to determine the impact of the rule on small businesses, to balance critical objectives of the regulation and the cost of compliance, and to amend or rescind rules that are unnecessary, ineffective, contradictory, redundant, inefficient or needlessly burdensome, or that have had negative unintended consequences. Despite the recognition of this factor in reviewing the rules contained in this Chapter, OCC has submitted several comments that seek to impose additional regulatory burden on electric distribution utilities. These additional requirements are unnecessary, redundant, inefficient and needlessly burdensome. In particular, to the extent the OCC seeks to require the utility to report certain information to the Commission and to the OCC, the Commission should consider closely the governor's charge. With respect to outage reporting, OCC seeks to change definitions and applications of outage reports to require that the utility notify the Commission under circumstances that are simply not warranted. Also, OCC seeks to require utilities to report to OCC as well as the Commission when reporting such outages. There is simply no need to impose such requirements and doing so imposes additional significant burden on the utility

particularly at times (such as emergencies as set forth in Rule 4901:1-10-08) when such an additional layer of reporting is particularly duplicative and unwarranted. The Commission should not seek to impose such additional requirement on the utility when such additional reporting does not facilitate the efficient provision of service or safety.

Rule 4901:1-10-09 Minimum Customer Service Levels

The OCC comments that utilities should be required to undertake annually conducted customer satisfaction surveys funded at shareholder expense and developed in conjunction with Staff of the Public Utilities Commission of Ohio (Staff) and the OCC. Such a requirement is unreasonable and unlikely to result in data that is usable and reliable. A survey that is formulated based upon questions developed by Staff and OCC is likely to be unreliable in that a survey “by committee” does not lead to a survey instrument that would yield reliable information. Staff’s existing suggested revision to remove questions related to economic impact is a good revision and no further revision to this requirement is necessary.

Rule 4901:1-10-10 Distribution System Reliability

OCC argues that the utility’s reliability reporting indices should include all outages including major events and momentary outages. OCC’s suggested changes fail to recognize that major events are excluded because they are not typical of the utilities’ systems and services, rather they are atypical and unrelated to the utility’s management of its distribution system reliability. For example, the outage cited by OCC that occurred last June was as a result of extreme weather conditions that were beyond the control of any utility company. No amount of reporting or system maintenance is likely to impact such a weather occurrence. This is precisely why such information is removed from currently required reporting. Such information should be excluded as aberration and of no informational value.

Likewise, OCC recommends that the Commission require utilities to report momentary outages. This requirement is somewhat short-sighted in that there is no real definition of a momentary outage and presently no consensus about what indices for a momentary interruption average frequency index (MAIFI) would measure. Also, there is significant cost associated with measuring and retaining data related to momentary outages. Such costs must be considered and balanced against any potential benefit such data might provide. Momentary outages occur in some instances as a result of squirrels or birds sitting on power lines. To the extent such information can be determined and reported, the Commission should consider the resulting value derived. At present, the wealth of other data that is currently reported provides good insight into system adequacy and reliability. The burden of requiring additional data should not be lightly undertaken and the Commission should continue to be cognizant of the concomitant costs associated with mandates such as these.

Rule 4901:1-10-11 Distribution Circuit Performance

Duke Energy Ohio agrees with OCC in one respect with regard to the comments submitted on circuit performance. Duke Energy Ohio agrees with Dayton Power & Light Company (DP&L) and with OCC that it would be beneficial to take into consideration what has caused a particular circuit to be on a worst performing circuit report. Such an explanation would assist in the examination in particular with respect to circuits that are very long and as a result will appear on a list more readily. Duke Energy Ohio does not agree with any of OCC's additional comments related to this rule. Decreasing the time for reporting worst performing circuits from three years to two years would present significant difficulties for the utility, particularly given the time needed to budget, engineer and complete remedial work.

Also, OCC's request to receive their own copy of each report that is already submitted to the Commission is duplicative, burdensome and unnecessary.

Rule 4901:1-10-12 Provision of Customer Rights and Responsibilities

With regard to this rule, OCC recommends to the Commission that customer rights and obligations be provided in written form to all customers when they initially apply for service and annually thereafter. This recommendation fails to recognize the costs associated with such a requirement and does not consider alternative options, such as allowing a utility to place such information on a website for customers to view, thereby saving the mailing and printing costs and reducing environmental impact.

OCC proposes that a utility be required to credit customers to reduce alleged financial impact from "preventable outages." OCC supports the proposal with a cite to a National Regulatory Research Institute (NRRI) study. However, OCC did not provide the complete results of the study, and failed to note that the paper acknowledges that most commissions do not require or even condone compensation, and that customers themselves or their insurance companies should assume responsibility for damages. The paper, in summary advises the following: commissions should review current policy to ensure that (1) the public knows that utilities will be held accountable for inferior performance; (2) regulatory incentives for utility service align customer reliability with utility economic interest; (3) efficient outcomes occur; and (4) utility customers and shareholders receive fair treatment.¹ OCC fails to explain how the Commission would determine in any particular case, whether a particular outage is "preventable" and how the Commission would determine proper damages in the myriad of complaint cases that would deluge the Commission if it were to include such a requirement. This Commission's

¹ NRRI: Should Public Utilities Commissions Compensate Customers for Service Interruptions?, Report No. 12-08, July 2012, at p.vi.

policies are already in complete alignment with the NRRI recommendations and OCC's recommendation should not be adopted.

With regard to section 4901:1-10-12 (D)(2) of this rule, OCC recommends that the rule be amended so that customers need not inquire about alternative rates but rather be pro-actively informed about alternative rates, plans and programs. OCC's proposed amendment places an unfair burden on the utility to inform the universe of customers about alternatives that are myriad and not necessarily helpful to some customers. It makes greater sense to allow the utility to provide such information when it is deemed appropriate and otherwise to have the information available when asked. There is no need to amend the rule at this time.

Rule 4901:1-10- 14 Establishment of Credit for Applicants and Customers

OCC has offered comments with respect to Staff's proposals around the use of social security numbers and the use of such numbers to establish credit. As noted by OCC, there are several alternatives for a customer to demonstrate financial responsibility as a condition for obtaining service. The provision of a social security number is the most timely and cost effective means by which to verify creditworthiness. Affirmatively stating that the customer is not required to provide a social security number is unproductive and will only serve to cause undue concern on the customer's part. The rule as written, with the Staff's changes are more than sufficient to ensure that a customer is not denied service when a customer prefers to use a credit reference other than the social security number.

However, Duke Energy Ohio agrees with DP&L that the use of the applicant's employer, length of service, reference letters and substantive credit cards as a means for establishing credit worthiness is problematic from several respects. As noted by DP&L, and as experienced also by Duke Energy Ohio, without a customer's social security number, it is difficult to ascertain an

accurate identification of a customer. Using length of employment requires a utility to increase personnel to verify information provided by the customer and would unduly delay initiation of service. The regulatory burden imposed by requiring use of employer and length of service, etc. is significant and unnecessary.

In respect to Staff's proposed change to 4901:1-10-14 (C)(2), as noted previously, Duke Energy Ohio recommends that this provision not be amended. Duke Energy Ohio concurs with comments submitted by Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company (collectively Companies) that this proposed change to the existing rule should be rejected. Duke Energy Ohio is unable to assess an applicant's creditworthiness with any other electric utility across the United States or beyond. Moreover, if it were possible to do so, the burden imposed in chasing down such information would be onerous and time consuming.

If the Commission should elect to impose the Staff's recommended changes Duke Energy Ohio also agrees with DP&L's comment that the language be included to put the burden on the customer for presenting prior utility documents to verify that the customer had an open, non-delinquent account with a utility. The Company should also retain the option to require additional information to establish credit.

With respect to section 4901:1-10-14 (C)(3), Duke Energy Ohio also agrees with DP&L's comments suggestion that a Percentage of Income Payment Plan (PIPP) customer should be ineligible as a credit guarantor.

With respect to section 4901:1-10-14 (E)(1), Duke Energy Ohio concurs with DP&L's comment that the deposit amount should be raised to 200% of the average monthly customer

billing to maintain consistency with the guarantor's obligation to pay for a sixty day supply of service.

In section 4901:1-10-14 (G)(2)(a), Staff proposes to amend the rule to allow for an increase in deposit under specified circumstances. However, Staff's proposed amendment is too subjective. Instead, Duke Energy Ohio recommends this section be amended as follows:

(a) ~~The customer has not made full payment or payment arrangements by the due date for two consecutive bills during the preceding twelve months~~ After considering the totality of the customer's circumstances, a utility company may require a deposit if WHEN the customer has not made full payment or payment arrangements for any given bill containing a previous balance for regulated service provided by that utility company.

Rule 4901:1-10-17 Payment Schedule and Disconnection Procedures for Nonpayment by Nonresidential Customers

Duke Energy Ohio agrees with the comments offered by Ohio Power Company (dba AEP Ohio) in that residential and non-residential customers should not be treated the same with respect to disconnection protection procedures. As stated by AEP Ohio, nonresidential customers have greater access to make payments electronically to prevent disconnection and should not be allotted the same time and consideration as residential customers. Duke Energy Ohio agrees with AEP Ohio's proposed amendment to the rule.

Rule 4901:1-10-18 Reconnection of Nonresidential Service

Duke Energy Ohio concurs with comments offered by the Companies with respect to this rule but offers an alternative amendment to the rule as follows:

- (A) Unless a nonresidential customer requests otherwise, an electric utility shall reconnect service by the close of the following regular business day after either of the following:
- (1) The electric utility receives both of the following
 - (a) The full amount in arrears at the time of reconnection and any amounts for which service was not disconnected, or the amount in default on an agreed upon deferred payment plan.

Rule 4901:1-10-22 Electric Utility Customer Billing and Payments

OCC recommends that the Commission require utilities to include total electric costs for the preceding twelve months on a customer bill along with already existing consumption data. Such a requirement should be evaluated closely to determine if the value of such information is worth the cost of changing current billing programs to include such information. It would be extremely costly to do so and it is not clear that customers would make use of such information. To the extent a customer wishes to know about total cost for a preceding twelve months, customers are entitled to receive previous billing statements and they could gather such information independently. Requiring the utility to include this information on the bill is costly, somewhat redundant and unnecessary.

The OCC also recommends that electric utilities offer customers the option to have their billing due date adjusted to meet their budgetary needs. This recommendation overlooks some significant problems in requiring such a change in budget billing process. Proactively offering a customer selected due dates would likely artificially bias the dates to fall during certain times of the month, such as the 15th and the last working day of each month. The current schedule has been optimized to spread billing work out across the month and a mandated change such as OCC requests could cluster work and cause uneven staffing and customer response. A customer is given at least 21 days after the billing date to make a payment which effectively allows that customer to choose a variety of dates within the month. Duke Energy Ohio would support the modification of a due date when a customer expresses a hardship. Otherwise, this recommendation should not be adopted.

Rule 4901:1-10-19 (A)

Direct Energy Services, LLC and Direct Energy Business, LLC, (Direct Energy) suggests on page 3 of its comments that disconnection of unpaid supplier receivables be permitted in a

purchase of accounts receivable scenario. Duke Energy Ohio agrees with this suggestion, as it has previously received authorization from the Commission to disconnect for unpaid purchased receivables both for gas and electric. However, Duke Energy Ohio does not agree with Direct Energy's suggestion to apply this concept to Supplier Consolidated Billing. This form of billing does not exist in Ohio for competitive retail energy suppliers (CRES) providers. This idea should be tabled until such time that a Commission proceeding is held to determine if Supplier Consolidated Billing is necessary, and if so, working groups will need to be established to develop the business and technical electronic data interface (EDI) details for this form of billing. Until all of this happens, there should be no mention of Supplier Consolidated Billing in the Commission Rules.

Rule 4901:1-10-28 (Net Metering)

On page 3 of its comments, Direct Energy addresses the measurement of net energy via net metering. It is important to bear in mind that any benefits derived by knowing the incoming energy, the outgoing energy, and the net energy on an hourly basis is heavily outweighed, for many net metering customer installations, by the cost of installing the necessary bi-directional hourly metering and the necessary storage and maintenance of such data.

Small net metering installations for net metering customers (especially residential customers) can remain as is with Duke Energy Ohio paying the net metering benefits to these customers without CRES providers being involved and without meters being replaced with bi-directional hourly metering. Today, the typical residential meter for a net metering residential customer spins forward when the customer takes power from the Duke Energy Ohio distribution system and spins backwards when power is generated back into the distribution system. This

results in the monthly meter reading showing the net for the month. The customer only pays for the net electricity they consume.

To keep the cost and benefits of net metering in line, Duke Energy Ohio believes that a customer load threshold be established where CRES Providers become involved in paying net metering benefits. Further discussion is needed to determine this threshold, but a suggestion would be that 200 kW of load or greater should be the threshold, as this is the threshold where interval metering is required for electric customer choice. It would make sense to install the appropriate net metering at the customer's expense at this level of load, as the metering must be upgraded if it is not already interval metering.

Rule 4901:1-10-28(B)(10)

On page 4 of its comments, Direct Energy addresses the involvement of CRES Providers in the billing and credits associated with net metering. Duke Energy Ohio believes that if CRES providers are going to become involved in the issuance of credits for net metering, then a threshold for their involvement be established as discussed in Duke Energy Ohio's reply comments above. Any involvement of CRES providers in billing net metering should be provided under dual billing or bill-ready billing. Due to the administrative burdens involved with supplier credits for net metering, utilities should not be required to provide rate-ready billing for this purpose.

Rule 4901:1-10-28(C)(4) and Rule 4901:1-10-28(C)(6)

The proposed rule states in paragraph (C)(4), "One meter or register shall be capable of measuring the electricity generated by the hospital at the time it is generated." Hospitals do not generate electricity – the electric generation plant located within the hospital facility generates the electricity. This sentence should be changed to read, "One meter or register shall be capable

of measuring the electricity generated by the hospital, net of the hospital's load behind the meter, at the time it is generated." Alternatively, depending upon the intent of the rule, this sentence should be modified to say, "One meter or register shall be capable of measuring the electricity generated at the output of the generation plant at the time it is generated."

If the meter is located at the output of the generation plant and not at the service entry point from the EDU, paragraph (C)(6)(a) should read, "All electricity flowing from the electric utility to the hospital shall be charged as it would have been if the hospital were not taking service under this rule, except that the readings from the meter located at the output of the generation plant shall be added to the utility billing meter readings for purposes of calculating the bill." Without this language, the hospital would be compensated twice for the electricity it generates: once from offsetting energy purchases from the utility to serve normal hospital load, and again from receiving compensation for the generated electricity at the market value.

Rule 4901:1-10-33(I) Consolidated Billing Requirements

Duke Energy Ohio disagrees with First Energy Solutions comments regarding the retention of non-purchase of receivable supplier arrears on the EDU bill when the supplier is no longer serving the customer. The industry standard for this situation is for a write-off (EDI 248) to be issued to a supplier at either 60 days or 90 days following the drop effective date for the supplier if an arrears for such a supplier remains on the EDU's bill. After all, these are receivables that belong to the CRES provider, and the CRES provider is ultimately responsible for their collection.

4901:1-10-33(K) Consolidated Billing Requirements

Both Retail Energy Supply Association (RESA) and Direct Energy have suggested in their comments that a new or revised EDI transaction is needed to inform CRES providers of

customer payments on accounts that contain non-purchase of receivable supplier charges. If the Commission decides to adopt this suggestion, Duke Energy Ohio suggests that the requirement be waived for electric distribution utilities that have purchase of accounts receivable programs. In the case of Duke Energy Ohio, the cost to develop and implement such an EDI transaction would far outweigh any benefit to CRES providers. Since every CRES provider involved in utility consolidated billing in the Duke Energy Ohio service area participates in the purchase of receivables program, this new EDI transaction would not be applicable, as supplier receivables become utility receivables at the time they are purchased, so there would be no supplier arrears to report on this new EDI transaction.

III. Conclusion

Duke Energy Ohio appreciates the opportunity to comment on the proposed rules in Chapter 4901:1-10, O.A.C., and respectfully requests that the Commission adopt the changes recommended herein.

Respectfully submitted,



Amy B. Spiller (0047277)

Deputy General Counsel

Elizabeth H. Watts (0031092)

Associate General Counsel

Duke Energy Business Services LLC

139 East Fourth Street, 1303-Main

P.O. Box 960

Cincinnati, Ohio 45201-0960

(513) 287-4359 (ABS telephone)

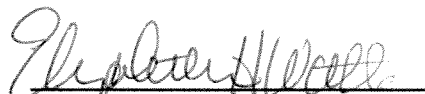
(614) 222-1331 (EHW telephone)

amy.spiller@duke-energy.com

elizabeth.watts@duke-energy.com

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was delivered via U.S. mail (postage prepaid), personal, or electronic mail delivery on this the 6th day of February, 2013, to the following:


Elizabeth H. Watts

Jason B. Keyes
Keyes, Fox & Wiedman LLP
436 14th Street, Suite 1305
Oakland, CA 94612
jkeyes@kfwlaw.com

Bill Wright
Attorney General's Office
Public Utilities Commission of Ohio
180 East Broad St., 6th Fl.
Columbus, OH 43215
william.wright@puc.state.oh.us

Nicholas McDaniel
Environmental Law & Policy Center
1207 Grandview Avenue, Suite 201
Columbus, OH 43212
NMcDaniel@elpc.org

Annie C. Lappé
The Vote Solar Initiative
1120 Pearl Street, Suite 200
Boulder, Colorado 80302
annie@votesolar.org

Dan Sawmiller
Ohio and Kentucky Sierra Club
131 North High St, #605
Columbus, OH 43215
Daniel.sawmiller@sierraclub.org

Christopher J. Allwein
Williams Allwein & Moser, LLC
1373 Grandview Ave., Suite 212
Columbus, OH 43212
callwein@wamenergylaw.com

David R. Blair,
Senior Vice President
GEM Energy
5505 Valley Belt Road, Suite F
Independence, OH 44131
dblair@rlcos.com

Nolan Moser
Ohio Environmental Council
1207 Grandview Avenue, Suite 201
Columbus, OH 43212-3449
Nolan@theoec.org

Carrie Cullen Hitt
Solar Energy Industries Association
505 9th Street NW #800
Washington DC 20004
chitt@seia.org

Emma L Berndt
Opower
1515 N. Courthouse Rd. 8th Floor
Arlington VA 22201
emma.berndt@opower.com

Teresa Orahood
Bricker & Eckler LLP
100 South Third Street
Columbus OH 43215-4291
torahood@bricker.com

Joseph M Clark
Direct Energy
6641 North High Street, Suite 200
Worthington, OH 43085
joseph.clark@directenergy.com

Kimberly W. Bojko
Carpenter Lipps & Leland LLP
280 North High St, Ste 1300
Columbus, OH 43215
bojko@carpenterlipps.com

Elizabeth H. Watts
Duke Energy
155 East Broad St, 21st Floor
Columbus, OH 43215
Elizabeth.Watts@duke-energy.com

Trent A. Dougherty
Ohio Environmental Council
1207 Grandview Ave. Suite 201
Columbus, OH 43212
TDougherty@theOEC.org

Scotte Elliott
Metro CD Engineering, LLC
7003 Post Road, Suite 204
Dublin, Ohio 43016
selliott@metrocdengineering.com

Matthew White
IGS Energy
6100 Emerald Parkway
Dublin OH 43016
mswhite@igsenergy.com

Matthew J. Satterwhite
American Electric Power Service Corporation
1 Riverside Plaza, 29th Floor
Columbus, OH 43215-2373
mjsatterwhite@aep.com

Jeanne W. Kingery
Duke Energy
155 East Broad St, 21st Floor
Columbus, OH 43215
Jeanne.kingery@duke-energy.com

Judi L. Sobecki
Dayton Power and Light, Inc.
1065 Woodman Drive
Dayton, OH 45432
Judi.sobecki@dplinc.com

Nathan G. Johnson
1200 W. Fifth Ave., Ste 103
Columbus, OH 43212
nathan@buckeyeforestcouncil.org

Mark A. Hayden
Scott J. Casto
FirstEnergy Service Company
76 South Main St
Akron, OH 44308
haydenm@firstenergycorp.com
scasto@firstenergycorp.com

Melissa R. Yost
Assistant Consumers' Counsel
Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
yost@occ.state.oh.us

M. Howard Petricoff
Stephen M. Howard
Vorys, Sater, Seymour and Pease LLP
52 East Gay Street
P. O. Box 1008
Columbus, Ohio 43216-1008
mhpetricoff@vorys.com
smhoward@vorys.com

James W. Burk
Carrie M. Dunn
FirstEnergy Service Company
76 South Main Street
Akron, OH 44308
burkj@firstenergycorp.com
cdunn@firstenergycorp.com

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Summary: Comments Reply Comments of Duke Energy Ohio, Inc. electronically filed by Carys Cochern on behalf of Watts, Elizabeth H. Ms.