

**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.     )

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**SUPPLEMENTAL REPLY COMMENTS  
BY  
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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**I. INTRODUCTION**

The Public Utilities Commission of Ohio ("PUCO" or "the Commission") has invited supplemental comments (including supplemental reply comments) on its Staff's proposal to allow electric customers to opt-out of having their electricity usage measured with a new advanced "smart" meter instead of the traditional meter.<sup>1</sup> The PUCO Staff's proposal includes that there should be a cost to consumers who continue the use of a traditional electric meter, with electric utilities proposing in future cases the amount they would charge customers for traditional meters.

Supplemental comments were filed on August 6, 2013 by several parties including the Office of the Ohio Consumers' Counsel ("OCC"). OCC welcomes the opportunity to file these supplemental reply comments on behalf of all residential electric consumers in the state of Ohio. In these supplemental reply comments, OCC will address some of the comments filed by other interested parties.<sup>2</sup> The PUCO should adopt the recommendations in OCC's supplemental comments and these reply supplemental

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<sup>1</sup> *In the Matter of the Commission's Review of Chapter 4901:1-10, Ohio Administrative Code, Regarding Electric Companies*, Case No. 12-2050-EL-ORD, Entry at para. 3 (July 10, 2013).

<sup>2</sup> OCC does not concede any issues in comments filed by other interested parties that are not specifically addressed in this Reply.

comments (in addition to OCC's earlier comments and reply comments on other issues affecting consumers) toward the result of better service quality, safety, and reliability for Ohio residential electric consumers.

## **II. GENERAL COMMENTS**

### **A. The PUCO Should Not Permit Utilities To Disclose De-identified Or Energy Usage Data Until The Appropriate Protections Are In Place To Ensure That The Customers' Privacy Is Protected.**

Consumer privacy is a paramount concern with regard to customer data on advanced meters. Direct Energy now requests access to additional energy usage data. The PUCO should reject Direct Energy's request.

In PUCO Case 11-277-GE-UNC, the PUCO recognized the need for additional review of privacy protections associated with the disclosure of usage information that is collected through advanced meters.<sup>3</sup> Accordingly, the PUCO should not permit utilities to disclose energy usage data until the appropriate protections are in place to ensure that the customers' privacy is protected.

Direct Energy proposes that the PUCO adopt a new rule that would require electric utilities (that have installed advanced meters) to provide competitive retail electric service ("CRES") providers, upon written request from a CRES provider, with de-identified energy usage data, including 15-minute interval data.<sup>4</sup> De-identified energy usage data is defined as aggregated information and data that is not identifiable to an individual retail customer or could not be used to reasonably ascertain a customer's

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<sup>3</sup> *In the Matter of the Review of the Consumer Privacy Protection, Customer Data Access, and Cyber Security Issues Associated with Distribution Utility Advanced Metering and Smart Grid Programs*, Case No. 11-277-GE-UNC, Finding and Order at 21 (May 9, 2012).

<sup>4</sup> Direct Energy Supplemental Comments at 5 (August 6, 2013).

identity.<sup>5</sup> Direct Energy further recommended that this information be provided to CRES providers via an electronic data interface file, web portal, or other mutually agreed upon format on a daily basis.<sup>6</sup>

Ohio Adm. Code 4901:1-10-29(E) outlines the requirements for customer information that must be provided to CRES providers as part of an “eligible-customer” list. Prior to disclosing this information to CRES providers, customers are afforded the opportunity to prohibit having personal information provided to CRES providers.<sup>7</sup> While the eligible-customer list includes an indicator if the customer has an interval meter, there is not a requirement for actual interval data to be provided to CRES providers.

Direct Energy claims that the interval data is not identifiable to a specific customer.<sup>8</sup> But given the amount of other personal customer information that is provided to CRES providers, there is no assurance that interval data could not be used to ascertain a customer’s identity, which could violate a customer’s right to privacy of identity. This concern is heightened by the existence of potential third-party developers who also may have an interest in energy usage data.<sup>9</sup>

Previously OCC highlighted the need for the electric utilities to perform privacy impact assessments to inform customers about potential privacy risks before customers consent to the release of their energy usage data.<sup>10</sup> And it was recognized that the granular usage information available from advanced meters combined with personal

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<sup>5</sup> Case 12-2050-EL-ORD, Proposed Ohio Adm. Code 4901:1-10-01(L).

<sup>6</sup> Direct Energy Supplemental Comments at 4-5 (August 6, 2013).

<sup>7</sup> Ohio Adm. Code 4901:1-10-12(F)(4).

<sup>8</sup> Direct Energy Supplemental Initial Comments at 4 (August 6, 2013).

<sup>9</sup> Proposed Ohio Adm. Code 4901:1-10-01(EE).

<sup>10</sup> Case 12-2050-EL-ORD, OCC Initial Comments at 21 (January 7, 2013).

identifying information increases the risk for privacy violations.<sup>11</sup> Accordingly, the PUCO should require CRES providers to conduct privacy impact assessments prior to requesting usage information for the utilities.<sup>12</sup>

Direct Energy's proposal to require the utilities to provide detailed interval data to CRES providers highlights the importance of privacy impact assessments being performed before the PUCO permits additional energy usage data to be provided to CRES providers. The PUCO should reject Direct Energy's proposal and require approval of privacy impact assessments prior to permitting utilities to release the electric interval usage data.

**B. The PUCO Should Reject Direct Energy's Request That CRES Providers Be Provided Real Time Access To Energy Usage Information Until Cost and Privacy Issues Are Addressed.**

In addition to the need for enhanced consumer privacy protections as discussed above, consumers should not be required to pay more for their electric service so that CRES providers can have real-time access to energy usage information. Direct Energy wants the PUCO to require electric utilities to provide CRES providers real-time access to customer energy usage data through an EDI file, web portal, or other mutually agreed upon format for customers who enroll with the CRES provider for a time differentiated pricing product.<sup>13</sup> But Direct Energy does not indicate the costs associated with the provision of real-time access to usage information to CRES providers or who would be responsible for those costs.

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<sup>11</sup> Case 12-1924-EL-ORD, OCC Initial Comments at 15 (January 7, 2013).

<sup>12</sup> Id at 16.

<sup>13</sup> Direct Energy Supplemental Initial Comments at 5 (August 6, 2013).

Ohio Adm. Code 4901:1-10-29 does not mandate specific technologies that must be in place to support the coordination between the EDUs and the CRES providers with the exception of eligible customer lists.<sup>14</sup> Accordingly, the PUCO should reject the Direct Energy proposal that requires electric utilities to provide real-time access to usage information via EDI format and web portals unless the PUCO determines that CRES providers will pay the costs associated with the provision of the information.

**C. Customers Should Be Able To Opt-Out Of Having An Advanced Meter.**

The PUCO should not require a customer to have an advanced meter if they do not want one. Duke Energy Ohio, Inc. (“Duke”) opposed the concept of allowing customers to opt-out of having an advanced meter.<sup>15</sup> According to Duke, the benefits of advanced meters are diminished when the utility is required to serve opt-out customers using the “old-fashioned” analog meters.<sup>16</sup> While significant operational efficiencies may be obtained through advanced meters, customers should retain the option of opting out. There can be any number of reasons why customers do not want an advanced meter.<sup>17</sup> The PUCO should therefore provide for an opt-out provision.

Duke commented that there are very few customers who wish to continue use of the old-fashioned meter once customers learn about the benefits of the advanced meter.<sup>18</sup> Duke’s comments reaffirm the OCC position that customers may have fewer objections with advanced meters when they learn more about them. OCC recommended in the

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<sup>14</sup> Ohio Adm. Code 4901:1-10-29(E) requires electric utilities to make eligible-customer lists available to CRES providers in spreadsheet, word processing, or electronic non-image-based format that are compatible with personal computers.

<sup>15</sup> Duke Energy Ohio, Inc. Supplemental Initial Comments at 5-6 (August 6, 2013).

<sup>16</sup> Id at 5.

<sup>17</sup> OCC Initial Supplemental Comments at 2-3 (August 6, 2013).

<sup>18</sup> Duke Energy Ohio, Inc. Supplemental Initial Comments at 6 (August 6, 2013).

earlier comments in this case that the electric utilities should be required to explain to customers the facts concerning advanced meters and attempt to address customer concerns prior to signing up customers for traditional meter service.<sup>19</sup> Duke's experience in working with customers to address concerns is reflected in a nationwide study as an example of effective methods in reducing opt-out rates.<sup>20</sup> The PUCO should reject Duke's proposal to eliminate the advanced meter opt-out and instead, should adopt OCC's recommendation to require electric utilities to explain to customers the facts about advanced meters and to attempt to address customer concerns.

**D. Customers On Traditional Meter Service Should Be Able To Choose Monthly or Quarterly Meter Reads.**

Ohio Power recommended that the electric utility tariff specify the frequency of meter reading for customers who choose traditional meters.<sup>21</sup> While OCC agrees that a customer needs to be informed about how often the meter will be read, customers should also have the option of choosing if an actual meter read is to be performed on a monthly or quarterly basis.<sup>22</sup> Customers should also be informed by the utility that if an actual meter read is not performed, then their electric bill will be rendered based on an estimate of the amount of electricity used for the month(s) the meter is not read.

**IV. CONCLUSION**

OCC appreciates the opportunity to provide these supplemental reply comments regarding other parties' positions on the PUCO Staff's proposed program for allowing

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<sup>19</sup> OCC Supplemental Comments at 5 (August 6, 2013).

<sup>20</sup> Voices of Experience, Insights on Smart Grid Customer Engagement, U.S. Department of Energy, Office of Electricity Delivery & Energy Reliability, at 31.

<sup>21</sup> Ohio Power Initial Supplemental Comments at 6 (August 6, 2013).

<sup>22</sup> OCC Initial Supplemental Comments at 8 (August 6, 2013).

electric customers to opt-out of having an advanced meter. The PUCO's adoption of OCC's recommendations in OCC's comments, reply comments, supplemental comments and these supplemental reply comments will help to: 1) ensure more reliable electric service being provided to residential consumers; 2) ensure that necessary consumer protections are defined to protect customer privacy as more advanced metering data becomes available; 3) protect residential customers from unreasonable charges; and 4) ensure that net metering is implemented in a fair and reasonable manner across Ohio.

Respectfully submitted,

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## CERTIFICATE OF SERVICE

I hereby certify that I served a true copy of the foregoing Supplemental Reply  
Comments upon the following via electric transmission, this 16th day of August 2013.

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