

FILE

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. )

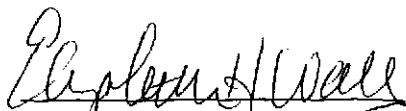
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APPLICATION FOR REHEARING OF DUKE ENERGY OHIO, INC.

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Pursuant to Ohio Revised Code (R.C.) 4903.10 and Ohio Administrative Code 4901-1-35, Duke Energy Ohio, Inc., (Duke Energy Ohio or the Company) respectfully applies for rehearing of the Finding and Order issued in the above-referenced proceedings, for the reasons stated in the attached Memorandum in Support, which is incorporated by reference herein.

Respectfully submitted,



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## **MEMORANDUM IN SUPPORT**

### **I. Introduction**

The Public Utilities Commission of Ohio (Commission) opened this docket to receive comments related to the rules contained in Chapter 4901:1-10, Ohio Administrative Code (O.A.C.), on July 11, 2012. A workshop to discuss the rules was held on August 17, 2012, and various parties submitted comments and reply comments related to proposed rules in January and February 2013, respectively. Supplemental comments were invited to be filed on July 10, 2013, and the parties have filed supplemental comments and reply comments related to additional amendments proposed in this Chapter.

The parties' comments initially dealt with the rules contained throughout Chapter 4901:1-10. However, the supplemental comments were largely focused on provisions allowing customers to refuse the installation of advanced meters. After receiving comments and reply comments, the Commission issued a Finding and Order stating that Rules 4901:1-01 and 4901:1-05, O.A.C., as adopted and modified, should be filed with the Joint Committee on Agency Rule Review. Duke Energy Ohio respectfully requests that the Commission grant rehearing with respect to these rules for the purpose of clarifying and further facilitating the proper implementation of the rules with respect to customer opt-outs. Much of what has been proposed remains very susceptible to differing interpretations and is thus unclear. In addition, certain matters are impractical, if not impossible, to adhere to properly. Duke Energy Ohio is the only Ohio electric distribution utility that has nearly completed deployment of advanced metering and distribution automation across its entire service territory. Most of the system deployment will be completed by the end of this year or in 2014.

Duke Energy Ohio is an industry leader in the deployment of advanced grid technology. While the Company wishes to continue the successful deployment of its grid modernization, it also wishes to continue to do so in compliance with the Commission's stated objectives. Further clarification and explanation of the proposed rules is necessary in order for Duke Energy Ohio to do so. The Company seeks rehearing on various issues, and submits the following explanation of the bases for rehearing.

## **II. Definition of Traditional Meter and Advanced Meter**

As noted in the Commission's Finding and Order, Staff recommended the addition of new or revised definitions with respect to advanced meters and traditional meters. The definition of an advanced meter includes the concept of a meter with *one-way communication*. Duke Energy Ohio's standard digital meters communicate in two directions. The two-way concept is not mentioned although in the definition of a traditional meter, there is a reference to two-way communications. The definition of advanced meter should be revised to include one or two-way communication. In the Commission's Finding and Order, it stated that "the Commission finds that the definition of advanced meter includes any electric meter capable of communication with the utility through one-way or two-way communications. However, the draft rule does not comport with this explanation of the Commission's present intent.

Additionally, with respect to definitions and capabilities to communicate, a traditional meter should be interpreted to include meters that can have their communication function turned off, rather than having a meter lacking communication hardware/software. Turning off the communication capability would likely appease customers who are concerned with radio frequencies, even though Duke Energy Ohio's residential meters currently communicate with power line carrier technology. If a traditional meter only includes a meter with no ability to

communicate, this would then require the Company to deploy the Commission's definition of a non-communicating traditional meter, consistent with the proposed definition and at a cost to customers. These non-communicating traditional meters will cease to become available on the market at some point in the future.

Also, it has been Duke Energy Ohio's experience that some customers are accepting of advanced meters to the extent they can be relocated to a different area of their property. The rules should provide for such flexibility as might be arranged with the customer so long as the customer is willing to pay for the additional variable option.

### **III. Opt-Out Practicalities**

Rule 4901:1-05 (J)(1) states that an electric utility shall provide customers with the option to opt-out. The definition of "customer" includes commercial and industrial (C&I) customers. Is it the Commission's intent to make the opt out requirements applicable to both residential and C&I customers? However, the Commission's proposed Rule 4901:1-10-05(J)(5)(b) only requires the utility to file a tariff allowing residential customers to opt-out.

The proposed rules are additionally confusing with respect to multi-tenant buildings. It is unclear, in respect of such buildings, who has the right to seek removal of a meter. The customer may not wish to have an advanced meter, but the meter is typically owned by the landlord. If the bill is in the customer's name, may the customer refuse an advanced meter?

Also, with respect to logistics, it is important to know that with respect to some portions of Duke Energy Ohio's territory, customers will be served using mesh technology. Thus, if a meter is removed, it may disrupt the mesh communication strategy. If this is true, must the meter still be removed from a customer's premises? If a customer's opt-out decision causes increased costs for the communications network supporting other customer's standard metering, are the

full network adjustment costs to be assessed to the opt-out customers? This is an important element of consideration that is wrapped into the opt-out process that is yet unaddressed by the Commission's Finding and Order.

#### **IV. Electric Distribution Utility Cost Recovery**

The Commission's Finding and Order in paragraph 27 deals with the situation where a customer elects to opt-out and then a new customer moves into the premises and wishes to participate in the standard metering program. The Commission states that the cost of reinstalling an advanced meter should be borne by the utility. This statement seems to be at odds with the Commission's proposed Rule 4901:1-10-05 (J)(5)(e) wherein the Commission proposes that "costs incurred by an electric utility to provide advanced meter opt-out service shall be borne only by customers who elect to receive advanced meter opt-out service." If the utility is to recover the costs of reinstallation through a rider, then in fact other customers are paying a portion of the costs of the opt-out option. Instead, the costs of reinstalling a meter should be included in the advanced meter removal fee.

#### **V. Appropriate Notice Requirements**

In its Finding and Order at paragraph 32, the Commission reiterated its directive that the electric utility must give customers one full business day of notice before installing an advance meter on the customers' premises. Duke Energy Ohio requests that the Commission clarify that this is required during full system upgrade deployments. Or in the alternative, is it the Commission's intention to require one day notice to customers even in the case where meters are deployed for new construction, or for temporary use? Must the electric utility also provide such notice when an a new, standard metering service customer is having an advanced meter reinstalled after a previous opt-out customer ceased service the residence? A new customer may

not be able to receive such notice. Finally, strict interpretation of the Commission's proposed Rule 4901:1-10-05(J)(2) would require the utility to provide one-day notice even if simply changing out a faulty meter.

## **VI. Safety, Theft and Tamper**

In paragraph 29 of its Finding and Order, the Commission noted that Staff's proposed rule contains a provision permitting the electric utility to refuse to provide opt-out service to customers with a history of tamper. The Commission further noted that opt-out service could create a safety hazard. While this is undoubtedly true, the Commission's Order fails to recognize theft as a reason for declining a customer the right of opt-out. Theft may come in the form of a breach of cyber security. And while the rule cited by the Commission to support the safety concern does indeed provide a colorable argument for the electric utility, it leaves the burden of explaining the denial on the utility rather than upon the customer. This rule should be revised to *include the concept of theft, theft or tamper through a breach of cyber security.*

Moreover, the Commission should address the Company's right to deny opt out to a customer who has a meter inside the premises. Accessing inside meters is a significant safety risk, and causes undue costs and time consuming labor. The Company originally proposed deployment of advanced metering as a final remedy to the problem of maintaining a "key room" for keys to customer premises. Going back to indoor meters will require walk-by reads and will result in increased estimated bills and customer complaints. The Company respectfully requests that the Commission clarify that maintaining inside metering with a traditional meter likewise presents an unacceptable safety hazard that justifies the Company in declining a customer opt-out. Requiring Duke Energy Ohio meter readers to enter customer premises presents safety

hazards and is not a preferred circumstance given that one of the reasons for deploying grid modernization was to eliminate this type of problem.

## **VII. CRES Coordination**

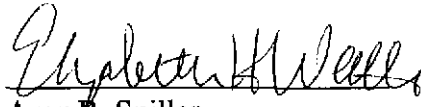
In paragraph 30 of its Finding and Order, the Commission addressed Direct Energy's comments with respect to providing customer energy usage data to competitive retail electric service providers (CRES) and Duke Energy Ohio's request that the Commission clarify its policy with respect to allowing the electric utility to disclose such data to the CRES provider. The Commission's Finding and Order notes that further dialogue is to occur in its Commission Ordered Investigation in Case No. 12-3151-EL-COI. Although much has been discussed in these meetings, this particular topic is not likely to be definitively addressed therein as there are a diverse set of viewpoints under discussion.

Duke Energy Ohio reiterates that if a customer is a shopping customer with time-of-use rates and is served by a CRES provider, the Company will not necessarily be aware of that arrangement. If the customer opts out of an advanced meter, this will disrupt its relationship with a CRES provider rate structure. The result may be that the customer should be then returned to standard service offer rates or some other rate with the CRES provider. This is an area of inquiry that must be resolved prior to implementation of time-of-use rates. It is worth noting that customers will likely notify the electric utility of their wish to opt-out. In doing so, it is unlikely that they will notify their respective CRES providers.

## **VIII. Numbering**

Duke Energy Ohio also requests clarification as to whether the second paragraph under the Commission's proposed Rule 4901:1-10-05(J)(5)(b)(ii) should be separately identified as 4901:1-10-05(J)(5)(b)(iii), since those two paragraphs address separate issues.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Elizabeth H. Watts".

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