

**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.)

APPLICATION FOR REHEARING OF DUKE ENERGY OHIO, INC.

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, because the Finding and Order is unreasonable and unlawful in the following respects:

1. Rule 4901:1-10-22 is unlawful and unreasonable because it mandates that an electric distribution utility provide beginning and ending meter reads for customers that have advanced meters where the beginning and ending reads are irrelevant.
2. Rule 4901:1-10-24 is unlawful and unreasonable in that it sets forth a procedural mandate that impossible with which to comply and does so without consideration of stakeholder interests. Also, it does not provide cost recovery to provide resources to support compliance with the mandate.

For the reasons stated in the attached Memorandum in Support, which is attached hereto and incorporated by reference, Duke Energy Ohio respectfully request that the Commission grant the Company's application for rehearing and issue an Entry on Rehearing consistent with this filing.

Respectfully submitted,

Handwritten signature of Elizabeth H. Watts in blue ink, with the initials "EHW" and "DBL" visible.

Amy B. Spiller

Deputy General Counsel

Elizabeth H. Watts

Associate General Counsel

Duke Energy Business Services, Inc.

139 East Fourth Street, 1303-Main

Cincinnati, Ohio 45212

614-222-1330

amy.spiller@duke-energy.com

elizabeth.watts@duke-energy.com

Attorneys for Duke Energy Ohio, Inc.

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 November 7, 2012. Initially a workshop was held on August 17, 2012. Thereafter, interested parties submitted comments and reply comments related to proposed rules. Supplemental comments were invited to be filed on July 10, 2013, with respect to additional proposed rule amendments that provided for advanced meter opt-out procedures and associated definitions. Parties filed supplemental comments and reply comments related to those additional amendments. After receiving comments and reply comments, the Commission issued a Finding and Order adopting changes to Rules 4901:1-10-01 and 4901:1-10-05, O.A.C. and directing that they be filed with Joint Committee on Agency Rule Review. Thereafter, on January 15, 2014, the Commission adopted final rule changes for the balance of the rules contained in Chapter 4901:1-10, and directed that they be filed with the Joint Committee on Agency Rule Review. Duke Energy Ohio respectfully requests that the Commission consider additional changes to three of the rules adopted as final for the reasons set forth below.

II. Rules That Should Be Revised

- A. Rule 4901:1-10-22 is unlawful and unreasonable because it mandates that an electric distribution utility provide beginning and ending meter reads for customers that have advanced meters where the beginning and ending reads are irrelevant.**

Duke Energy Ohio customers invested in advanced metering and distribution automation that now provides enhanced service and more efficient and detailed metering data. During Duke

Energy Ohio's Smart Grid rider proceeding,¹ the Commission Staff retained an auditor to review and test the advanced meters that had been deployed. The auditor determined that "Smart electric meters are significantly more accurate in all weather conditions, offering significantly smaller measurement variability than traditional electric meters."² Despite this assurance from the Commission's auditor, the Commission continues to require beginning and ending meter reads on a customer's bill.

As Duke Energy Ohio finalizes deployment of advanced meters, it is now receiving hourly data and is reading hourly consumption to determine the usage that will be billed to a customer. The scalar reading is not involved in this calculation and should not be required on the bill. Storage and processing for this additional piece of data adds cost for systems and increases manual work and provides no measurable benefit to the customer. The concept of using the beginning and ending meter reads to "verify" the hourly usage is illogical and misguided since the hourly usage is more accurate than the outdated scalar read. The additional cost imposed on the electric distribution utility to provide duplicate data is unreasonable.

B. Rule 4901:1-10-24(E)(4) is unlawful and unreasonable in that it sets forth a procedural mandate that is impossible to comply with and does so without consideration of stakeholder interests. Also, the rule does not provide cost recovery to provide resources to support compliance with the mandate.

The Commission demonstrated its concern for customer privacy by adopting language to clarify the process for disclosing customer energy usage data. However, the Commission created a rule that is unworkable for Duke Energy Ohio. This rule should be submitted to a business

¹ *In the Matter of the Application of Duke Energy Ohio, Inc. to Adjust and Set Its Gas and Electric Recovery Rate for 2010 SmartGrid Costs Under Riders AU and Rider DR-IM and Mid-Deployment Review of AMI/SmartGrid program*, Case No. 10-2326-GE-RDR,

² *Id.* at p. 23.

policy working group comprised of diverse stakeholders for discussion and recommendation to the Commission.

It should be noted that today's Ohio electronic data interchange (EDI) guidelines allow competitive retail electric service (CRES) providers to submit EDI requests for historical interval data (*not smart grid interval data*). These requests are automatically responded to the next day as described in Duke Energy Ohio's tariff, (P.U.C.O. Electric No. 20, Sheet 36.6, Paragraph 7.4a) with the understanding that the CRES provider has the customer's authorization on file for the release of such data. These *traditional* interval meters have been in existence since before the advent of electric deregulation in Ohio and are installed on customer premises where the customer's electrical demand is equal to or exceeds 100 kW. The main reasons for the sharing of this data with CRES providers is to facilitate accurate scheduling by CRES providers with PJM Interconnect, LLC, (PJM) and for Duke Energy Ohio to provide accurate settlement data to PJM, as loads 100 kW and larger are difficult to accurately profile when converting summary monthly usage to hourly usage. Other reasons for the current method of sharing this data are for suppliers to offer time-of-use rates to larger customers and for prospective suppliers to make pricing offers based on a study of the customer's load pattern. Currently, several historical interval requests are received by Duke Energy Ohio from various suppliers when a large commercial or industrial customer puts their load up for bid. Applying this rule to traditional interval meters will result in a setback to the market efficiencies that have been gained over the past thirteen years.

The present rule appears to require that a competitive retail electric service (CRES) provider is to produce a piece of paper that the customer has signed, to the electric distribution utility (EDU) to establish that the customer is specifically releasing granular energy usage data to that competitive retail electric service provider. Duke Energy Ohio agrees with the

Commission's intention to protect the customer and to ensure that granular customer energy usage data is only released when authorized. However, it is simply impossible to translate potentially tens of thousands of pieces of paper into the ability to release data electronically, on a monthly basis. For each customer, the release would need to be verified each month and with each CRES provider. Manually inputting the data is physically impossible. Costs to enable this type of data management have not been considered. Simple transmission of the paper documents all by itself would be daunting for a CRES provider to accomplish. This is not a viable proposal for these reasons and more.

In addition, with respect to the interval data that the Company has dealt with for many years, Duke Energy Ohio believes that it should not be required to hold the customer authorizations for the release of interval data recorded by *traditional* interval meters. To require EDUs to hold these *traditional* interval meter authorizations is an unnecessary impediment to the competitive marketplace that will result in lost opportunities, as large commercial and industrial customers will not be able to receive timely offers from CRES providers who want to compete for the customer's business. The result will be reduced competition as opposed to enhanced competition. Duke Energy Ohio requests that the Commission consider allowing the current process for customer authorization for release of interval data from traditional interval, where the CRES provider retains the customer authorizations. As previously mentioned, Duke Energy Ohio believes that further discussion is need regarding the processes associated with the release of interval data recorded by smart grid meters.

In paragraph thirty of the Commission's Finding and Order that adopted Rules 4901:1-10-01 and 4901:1-10-05,³ the Commission addressed Direct Energy's comments with respect to providing customer energy usage data to competitive retail electric service providers (CRES) and

³ *Finding and Order, October 16, 2013.*

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. This is a matter that lends itself to further developments in that docket and in discussions among the various interested parties for resolution. The Commission should refer this discussion to a working group to allow a workable solution to be developed. In the absence of permitting further development of this process through collaboration, the Commission must provide that the electric distribution utility may recover costs from customers in order to facilitate this transfer of data.

III. Conclusion

For the reasons stated above, Duke Energy Ohio respectfully request that the Commission grant the Company's application for rehearing and issue an Entry on Rehearing consistent with this filing.


Respectfully submitted,



Amy B. Spiller
Deputy General Counsel
Elizabeth H. Watts
Associate General Counsel
Duke Energy Business Services, Inc.
139 East Fourth Street, 1303-Main
Cincinnati, Ohio 45212
614-222-1330
amy.spiller@duke-energy.com
elizabeth.watts@duke-energy.com
Attorneys for Duke Energy Ohio, Inc.

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Application for Rehearing was served this 14th day of February, 2014, by electronic mail upon the persons on the service list below:


Elizabeth H. Watts

William Wright
Chief, Public Utilities Section
Public Utilities Commission of Ohio
180 East Broad Street
Columbus, Ohio 43215
William.wright@puc.state.oh.us
Byrce.mckenney@puc.state.oh.us

Thadeus B. Cully
Keyes, Fox & Wiedman LLP
436 14th Street, Suite 1305
Oakland, California 94612
510-314-8203
510-314-8205
jkeyes@kfvlaw.com
tculley@kfvlaw.com

Christopher J. Allwein
Advanced Energy Economy – Ohio
Williams Allwein & Moser, LLC
1373 Grandview Ave., Suite 212
Columbus, Ohio 43212
callwein@wamenergylaw.com

Nicholas McDaniel
Environmental Law & Policy Center
1207 Grandview Avenue, Suite 201
Columbus, Ohio 43212
NMcDaniel@elpc.org
Nolan Moser
Ohio Environmental Council
1207 Grandview Avenue, Suite 201
Columbus, Ohio 43212-3449
Nolan@theoec.org

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

Kimberly W. Bojko
Carpenter Lipps & Leland LLP
280 North High Street, Suite 1300
Columbus, Ohio 43215
bojko@carpenterlipps.com

Elizabeth Watts
Jeanne W. Kingery
Duke Energy Retail Sales, LLC
155 East Broad Street, 21 Fl
Columbus, Ohio 43215
Jeanne.kingery@duke-energy.com
Elizabeth.watts@duke-energy.com

Joseph M. Clark
Direct Energy
21 East State Street, 19th Floor
Columbus, Ohio 43215
joseph.clark@directenergy.com

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

Nathan G. Johnson
Staff Attorney
Buckeye Forest Council
1200 W. Fifth Ave., STE 103
Columbus, Ohio 43212
Nathan@buckeyeforestcouncil.org

Trent A. Dougherty, Esq.
Director of Legal Affairs
Ohio Environmental Council
1207 Grandview Ave., Suite 201
Columbus, Ohio 43212
trent@theoec.org

Scotte Elliott, MSEE, CEM
NABCEP Certified Solar PV
InstallerTM
Metro CD Engineering, LLC
7003 Post Road, Suite 204
Dublin, Ohio 43016
selliott@metrocdengineering.com

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

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

Thomas J. O'Brien
Bricker & Eckler LLP
100 South Third Street
Columbus, Ohio 43215-4291
tobrien@bricker.com

James W. Burk
Counsel of Record
Carrie M. Dunn
FirstEnergy Corporation
76 South Main Street
Akron, Ohio 44308
burkj@firstenergycorp.com
cdunn@firstenergycorp.com

Matthew S. White
In House Counsel
Vincent A. Parisi
General Counsel
Interstate Gas Supply, Inc.
6100 Emerald Parkway
Dublin, Ohio 43026
mwhite@igsenergy.com
vparisi@igsenergy.com

Colleen J. Mooney
Cathryn N. Loucas
Ohio Partners for Affordable Energy
231 West Lima Street
Findlay, Ohio 45840
emooney@ohiopartners.org
cloucas@ohipartner.org

Matthew J. Satterwhite
Steven T. Nourse
American Electric Power Corporation
1 Riverside Plaza, 29th Floor
Columbus, Ohio 43213
mjstatterwhite@aep.com
stnourse@aep.com

Richard L. Sites
General Counsel and Senior Director of
Health Policy
155 East Broad Street, 15th Floor
Columbus, Ohio 43215-3620
ricks@OHANET.org

Matthew White
In-House Counsel
Interstate Gas Supply, Inc.
6100 Emerald Parkway
Dublin, Ohio 43016
mswhite@igsenergy.com

Steven Giles
Vice President – Alternative Energy
Hull & Associate, Inc.
6397 Emerald Parkway
Dublin, Ohio 43016
sgiles@hullin.com

Emma Berndt
Opower, Inc.
1515 North Courthouse Road
Arlington, Virginia 22201
Emma.berndt@opower.com

James Nice
230 W. Huron, Ste. 85-53
Cleveland, Ohio 44113
jnice@energy-avenue.com

Mallory M. Mohler
Carpenter Lipps & Leland LLP
280 North High St., Ste. 1300
Columbus, Ohio 43215
mohler@carpenterlipps.com

Melissa R. Yost
Deputy 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

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

2/14/2014 4:02:48 PM

in

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

Summary: Application Application for Rehearing of Duke Energy Ohio, Inc. electronically filed by Dianne Kuhnell on behalf of Duke Energy Ohio, Inc. and Watts, Elizabeth H. and Spiller, Amy B.