

**BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO**

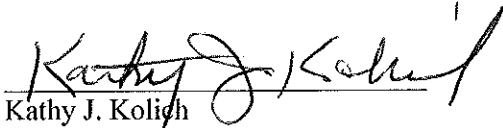
In the Matter of the Commission's Review of)
Chapter 4901:1-10, Ohio Administrative)
Code, Pursuant to Chapter 4928, Revised) Case No. 12-2050-EL-ORD
Code, Regarding Electric Companies.)
)

**MOTION OF OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC ILLUMINATING
COMPANY, AND THE TOLEDO EDISON COMPANY FOR WAIVER OF RULES 4901:1-10-
05(J)(1), (J)(5)(a) and (J)(5)(b)**

Pursuant to Section 4901-1-12, Ohio Administrative Code, Ohio Edison Company ("Ohio Edison"), The Cleveland Electric Illuminating Company ("CEI"), and The Toledo Edison Company ("Toledo Edison"), (collectively, the "Companies"), by and through counsel, do hereby respectfully move for a waiver of Rule 4901:1-10-05(J)(1) and Rules 4901:1-10-05(J)(5)(a) and (b) (collectively "the Opt Out Rules"), because neither Ohio Edison nor Toledo Edison offers such services that would be governed by said rules; and CEI only offers such services through a small pilot with terms and conditions already approved by the Commission that would negate the need for the filing contemplated by the Opt Out Rules.

For reasons more fully discussed in the attached memorandum in support, the Companies ask that this Motion be granted.

Respectfully submitted,


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On behalf of Ohio Edison Company, The
Cleveland Electric Illuminating Company and
The Toledo Edison Company

Memorandum in Support of Motion

Background and Procedural History

By Entry issued November, 7, 2012, the Commission, pursuant to Section 119.032, Revised Code, stated its intent to review the rules set forth in Chapter 4901:1-10, Ohio Administrative Code ("O.A.C") ("Rules"), and solicited comments on proposed modifications to these Rules. By Entry issued on July 10, 2013, the Commission issued proposed additional amendments to Rules 4901:1-10-01 and 4901:1-10-05, O.A.C. as those rules pertain to advanced meter opt out service, and solicited supplemental comments and reply comments on the additional amendments. Numerous parties submitted comments and reply comments consistent with the November 7, 2012 and July 10, 2013 Entries. On October 16, 2013, the Commission issued its Finding and Order, adopting Rules 4901:1-10-01 and 4901:1-10-05, O.A.C. as modified by the Order, and directed that these rules as modified be filed with the Joint Committee on Agency Rule Review ("JCARR"), the Secretary of State, and the Legislative Service Commission. In a separate Finding and Order issued on January 15, 2014, the Commission adopted the remaining Rules and ordered that they too be filed with the JCARR, the Secretary of State, and the Legislative Service Commission. The Commission filed the final Rules on May 19, 2014, with an effective date of May 29, 2014.

Pursuant to Rule 4901:1-10-05(J)(5)(a), the Companies must file a tariff for advanced metering opt out service within thirty days of the date on which the Rules become effective. For reasons more fully discussed below this Motion seeks a waiver of this filing requirement, along with the requirements set forth in Rule 4901:1-10-05(J)(1) and Rule 4901:1-10-05(J)(5)(b) (collectively with Rule 4901:1-10-05(J)(5)(a), "the Opt Out Rules"), which the Companies respectfully ask be granted consistent with this memorandum in support.

Rules at Issue

Rule 4901:1-10-05(J)(1), O.A.C., provides:

- (1) An electric utility shall provide customers with the option to remove an installed advanced meter and replace it with a traditional meter, and the option to decline installation of an advanced meter and retain a traditional meter, including a cost-based, tariffed opt-out service.

Rules 4901:1-10-05(J)(5)(a) and (b), O.A.C., provide:

- (a) The electric utility shall file a proposed tariff for opt-out service within thirty calendar days of the effective date of this rule.
- (b) Each electric utility shall have on file with the commission an approved tariff offering residential customers the option to remove an installed advanced meter and replace it with a traditional meter, and the option to decline the installation of an advanced meter and retain a traditional meter. Such tariff shall comply with the following requirements:
 - i. In the event special tariff provisions are required due to circumstances not addressed in this rule, the electric utility shall address those circumstances in its tariff application, but shall make its best efforts to maintain consistency with the rules herein.
 - ii. The tariff shall not be available to any customer taking generation service under a time differentiated rate.

An electric utility may establish certain fees for electing not to use an advanced meter. Such fees shall be calculated based upon the costs incurred to provide advanced meter opt-out service as allowed by this rule.

Rule 4901:1-10-01(A) defines an "Advanced Meter" as:

Any electric meter that meets the pertinent engineering standards using digital technology and is capable of providing two-way communications with the electric utility to provide usage and/or other technical data.^[1]

¹ In its December 18, 2013 Entry on Rehearing (at page 2), the Commission indicated that it believes "that it is appropriate for the definition of advanced meter to exclude meters with ERT [Encoder Receiver Transmitter] and AMR [Advanced Meter Read] technology that communicate a meter reading on a one-way basis."

Argument in Support of Motion

- A. There is no need for Ohio Edison or Toledo Edison to file an advanced meter opt out service tariff at this time because neither company has installed, nor currently has plans to install, advanced meters.**

The Opt Out Rules require an electric utility to provide customers with an option to remove an installed advanced meter and replace it with a traditional meter, or to decline the installation of an advanced meter and retain their traditional meter. The Opt Out Rules also require an electric utility to file a proposed tariff for advanced meter opt out service. Rule 4901:1-10-01(A) defines an “advanced meter” as one that is capable of two-way communication, thus excluding ERT and AMR meters – a fact that was confirmed by the Commission in its December 18, 2013 Entry on Rehearing in this docket.

Inasmuch as Ohio Edison and Toledo Edison are not currently installing advanced meters, and have no immediate plans to do so, there is no need for either of these companies to provide an advanced meter opt-out service tariff. To do so could confuse the public by including a tariff that currently has no applicability.² Moreover, without a designed advanced meter program in place, it would be virtually impossible for these two companies to determine the estimated costs associated with the removal and replacement of an advanced meter. Accordingly, Ohio Edison and Toledo Edison respectfully request that the Opt Out Rules be waived until either or both develop a comprehensive advanced meter program.

- B. There is no need for CEI to file an advanced meter opt out service tariff at this time because it currently offers customers the opportunity to opt out of taking an advanced meter at no cost, pursuant to terms and conditions already approved by the Commission in Case No. 09-1820-EL-ATA.**

CEI only offers advanced metering through its Consumer Behavior Study (“CBS”) as part of its Ohio Site Deployment program. The Ohio Site Deployment Program is a three-year pilot that is part of the FirstEnergy’s three-state Smart Grid Modernization Initiative, which is being funded in part through the U.S. Department of Energy Smart Grid Investment Grant. Phase I of the CBS included an initial

² Although the Opt Out Rules do not apply to meters with ERT or AMR technology, the Companies will work with customers who have these types of meters on a case-by-case basis consistent with the Commission’s directive in its December 18, 2013 Entry on Rehearing at page 3.

deployment of advanced meters to approximately 5,000 customers within a geographical area located within CEI's service territory.

On October 19, 2012, the Companies filed a request for a directive from the Commission that would allow for Phase II of the Smart Grid Modernization Initiative to proceed. As part of this initiative, the scope of the second phase of the CBS was expanded from approximately 5,000 potential customers to 44,000 potential customers. Each of the potential CBS participants received a customized invitation with explicit directions on how to join the program, and an explanation of the terms and conditions of the program, including the fact that participants have the opportunity to opt out of receiving an advanced meter, or could request removal of the advanced meter at any time, without charge. In its May 15, 2013 Finding and Order in Case No. 09-1820-EL-ATA et al., the Commission authorized the Companies to proceed with Phase II of their Smart Grid Modernization Program.

Inasmuch as (i) CEI currently has no plans to offer advanced metering on a grand scale; (ii) CEI offers only a small group of customers an option to receive an advanced meter through a pilot with limited participation and explicit instructions; (2) the terms and conditions of the pilot have already been approved by the Commission; (3) the terms and conditions of the pilot currently allow customers to refuse the installation of an advanced meter without charge; and (4) the pilot participants currently can request removal of an advanced meter received through the pilot at no cost, the development of an advanced meter opt out service tariff is unnecessary and would serve no useful purpose. Further, the development of such a tariff could create customer confusion given that all potential pilot customers are contacted directly through mailings and other targeted marketing materials.

Conclusion

In light of the foregoing, the development of an advanced meter opt out service tariff for any of the Companies would serve no useful purpose, would unnecessarily waste the time and resources of all involved, and could create customer confusion in the market place. Should any of the Companies develop an advanced meter program in the future, that Company will submit such a tariff as part of its program filing or offer an alternative solution for the Commission's consideration. Accordingly, the Companies

respectfully request that the Commission grant their Motion for a waiver of the provisions set forth in Rule 4901:1-10(J)(1), Rule 4901:1-10-05(J)(5)(a) and Rule 4901:1-10-05(J)(5)(b) until the Companies offer a comprehensive advanced meter program. Should the Commission deny the Companies' Motion, the Companies alternatively request that they be granted thirty days from the issuance of the Entry making such a ruling to comply with the Opt Out Rules.

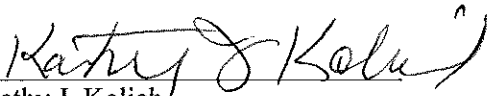
Respectfully submitted,


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On behalf of Ohio Edison Company, The
Cleveland Electric Illuminating Company and
The Toledo Edison Company

CERTIFICATE OF SERVICE

Copies of the foregoing *Motion for Waiver of Rules 4901:1-10-05(1), (J)(5)(a) and (J)(5)(b) and related Memorandum in Support* of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company was filed with the Commission through its Docketing Information System on this 3rd day of June, 2014.


Kathy J. Kolich

This foregoing document was electronically filed with the Public Utilities

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in

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

Summary: Motion for a Waiver of Rules 4901:1-10-05(J)(1), (J)(5)(a) and (J)(5)(b) electronically filed by Ms. Kathy J Kolich on behalf of Ohio Edison Company and The Cleveland Electric Illuminating Company and The Toledo Edison Company