

**In the Matter of the Application of )  
Duke Energy Ohio, Inc. to File for ) Case No. 14-2209-EL-ATA  
Tariff Approval. )**

The Retail Energy Supply Association (“RESA”)<sup>1</sup> hereby files these Reply Comments in accordance with the schedule established in this matter by the Attorney Examiner. Duke Energy Ohio, Inc. (“Duke”) filed the matter at bar for approval of tariff revisions,<sup>2</sup> after the Public Utilities Commission of Ohio (“Commission”) had ordered all Ohio electric distribution utilities, including Duke, to propose tariff amendments regarding the provision of customer energy usage data from advanced metering infrastructure (“AMI”) to competitive retail electric service (“CRES”) providers.<sup>3</sup>

In its Initial Comments, RESA argued that Duke had been obligated to take steps to provide CRES providers with access to the AMI data, has failed to comply in the past, and its

<sup>3</sup> Specifically, the Commission required the utilities to file amended tariffs that “specify the terms, conditions, and charges” pursuant to which they will provide customer energy usage data from AMI to CRES providers. The Commission specifically ordered that the tariff amendments address or include the (a) format, method, granularity, and frequency of the customer energy usage data that a CRES provider may receive; (b) implementation of individual network service peak load and peak load contribution formulas; and (c) recovery of any necessary capital improvement or infrastructure costs. *COI, supra*, Opinion and Order at 36.

application in this case is another example of Duke's noncompliance. (Duke's application states that the proposed tariff changes address interval data from Interval Data Recorders ("IDRs") deployed to large commercial customers only, and it does not address interval data from AMI meters deployed to residential and small commercial customers.) RESA suggested a series of steps and specific tariff provisions in order to move Duke quickly to providing the AMI data to CRES providers. RESA was not alone in its assessment of the past requirements/agreements and Duke's current application. Staff, Direct Energy Services LLC and Direct Energy Business LLC, (collectively "Direct Energy"), and IGS Energy ("IGS") all made similar arguments.<sup>4</sup> In addition, Initial Comments were filed by Ohio Partners for Affordable Energy ("OPAE") and a letter of correspondence was filed by the Ohio Consumers' Counsel ("OCC").

RESA stands behind its Initial Comments in the matter at bar and nothing raised in the others' Initial Comments alters RESA's position – Duke has not lived up to its past agreements, not complied with the Commission's *COI* directive, and a swift response and a timeline are needed so that CRES providers can access the AMI interval data in Duke's service territory. In these Reply Comments, RESA responds to several arguments/comments raised in the Initial Comments, but emphasizes that they should not detract or unnecessarily delay the provision of access to the AMI interval data. RESA addresses the following points raised in the others' Initial Comments:

- *Cost Recovery and Estimates*: Claim from OPAE that the costs of changes needed to transmit and any costs for the actual transmission of the AMI data to CRES providers via electronic data interchange ("EDI") must be borne by the CRES providers.<sup>5</sup> Staff requested cost estimates from Duke.<sup>6</sup> In addition, there was a request by Direct Energy to have the Staff make a formal determination as to whether Duke has achieved full deployment.<sup>7</sup>

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<sup>4</sup> Staff Initial Comments at 5; Direct Energy Initial Comments at 2-5; IGS Initial Comments at 4-7.

<sup>5</sup> OPAE Initial Comments at 2-3.

<sup>6</sup> Staff Initial Comments at 6.

<sup>7</sup> Direct energy Initial Comments at 16-17.

- *Content and Format Standardization:* Argument from OP&AE that the data content and format must be standardized across all Ohio EDU territories.<sup>8</sup>
- *Code of Conduct:* Request from OP&AE and OCC to follow the United States Department of Energy's code of conduct for privacy and confidentiality of customer data.<sup>9</sup>
- *Data Retention and Data Sharing:* Request from OP&AE and OCC to have AMI data retained for only as long as needed for its intended purpose, and a log of data sharing with third parties be maintained.<sup>10</sup>
- *Report on Rate-Ready Billing Option for Time-of-Use Rates:* Request from Staff to have Duke report on its experience in offering Rate-Ready billing for its time-of-use rates, as well as the participation levels.<sup>11</sup>

RESA supports a directive that Duke submit cost estimates and that the Staff determine the status of the Smart Grid deployment. RESA believes its proposal already incorporates content and format standardization. RESA agrees that Duke should report its experience in offering Rate-Ready billing for its time-of-use rates, as well as the participation levels.

RESA disagrees that cost recovery is an issue for debate at this point in time because it was previously addressed by the Commission and Duke has not yet provided an estimate of any costs associated with CRES provider access to AMI interval data. Also, RESA disagrees that special record retention and data sharing logs should be created for the AMI data. Further explanation of RESA's positions is set forth below.

## **II. Cost Recovery and Estimates**

Recovery of any necessary capital improvement or infrastructure costs was one of the topics that, in the *COI*, the Commission ordered Duke to include in its tariff proposal. RESA reserved comment on the topic of cost recovery in its Initial Comments because Duke's

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<sup>8</sup> OP&AE Initial Comments at 3.

<sup>9</sup> OP&AE Initial Comments at 3-5; OCC Letter.

<sup>10</sup> OP&AE Initial Comments at 5; OCC Letter.

<sup>11</sup> Staff Initial Comments at 6.

application did not address the issue. OPAE, however, argued that the costs of changes needed to transmit and any costs for the actual transmission of the AMI data to CRES providers via EDI must be borne by the CRES providers. Staff's Initial Comments advocated for cost estimates from Duke.

RESA agrees with Direct Energy's request to have the Staff make a formal determination as to whether Duke has achieved full deployment. Duke previously committed to filing an electric distribution rate case "in the first year after full deployment of SmartGrid" and that commitment was approved by the Commission.<sup>12</sup> Duke stated in June 2014 that it was 99% complete with its AMI meter deployment and expected to be fully complete by the fourth quarter of 2014.<sup>13</sup> Duke stated in February 2015 that SmartGrid deployment in Ohio is virtually complete and encompasses all residential customers that are possible.<sup>14</sup> While RESA disagrees with OPAE's suggestion that costs associated with CRES provider access to interval data from AMI meters should be paid by CRES providers, it is more appropriate to consider the issue of cost allocation after Duke provides an estimate of associated costs and proposes a mechanism for recovery of such costs, potentially within an electric distribution rate case. RESA supports Staff's recommendation that Duke be directed to file an estimate of costs associated with CRES provider AMI data access. Furthermore, RESA suggests that the appropriate time to consider allocation of such costs is following Staff's determination that Duke's SmartGrid deployment is complete and Duke satisfies its commitment to file an electric distribution rate case.

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<sup>12</sup> *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, Stipulation at 7.

<sup>13</sup> *In the Matter of the Application of Duke Energy Ohio, Inc., to Adjust Rider DR-IM and Rider AU for 2013 Grid Modernization Costs*, Case No. 14-1051-GE-RDR, Duke Ex. 3 (Schneider Direct Testimony) at 3.

<sup>14</sup> *Id.*, Transcript at 53.

### III. Content and Format Standardization

OPAE contends that the AMI data content and format must be standardized across all Ohio EDU territories. While RESA agrees that there is potential benefit to having standardized processes for data sharing between Ohio EDUs and CRES providers, Duke is the only Ohio utility with full AMI deployment. Therefore, to the extent that OPAE's suggestion seeks to push the discussion of content and format to another forum (i.e., the Market Development Working Group), RESA objects. The relevant issues should be resolved in this proceeding.

Moreover, in its Initial Comments, RESA actually proposed standardized content and format for the AMI data— (a) interval frequency be one-hour, 15-minute, and one-minute; (b) reporting frequency be 24-month historical, monthly, next day, and live/real-time; (c) data quality be raw and bill-quality; (d) and the format be web portal, EDI, FTP push, and URL push.<sup>15</sup> These recommendations are consistent with comments that RESA has filed in the *COI* and in other jurisdictions.

### IV. Code of Conduct

Both OPAE and OCC asked for a determination from the Commission that the United States Department of Energy's code of conduct for privacy and confidentiality of customer data be followed by the Ohio EDUs. Foremost, RESA would like to note that the document referenced by OPAE and OCC is a Voluntary Code of Conduct ("VCC") that is "intended to apply as high level principles of conduct for both utilities and third parties."<sup>16</sup> Further, while the DOE notes that the VCC could be voluntarily adopted by utilities and third parties, it is "envisioned that the VCC could be most beneficial to either entities that are not subject to

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<sup>15</sup> RESA Initial Comments at 14.

<sup>16</sup> United States Department of Energy, "Data Privacy and the Smart Grid: A Voluntary Code of Conduct" published January 12, 2015 at 1. *See*: [https://www.smartgrid.gov/sites/default/files/VCC\\_Concepts\\_and\\_Principles\\_2015\\_01\\_08\\_FINAL\\_1.pdf](https://www.smartgrid.gov/sites/default/files/VCC_Concepts_and_Principles_2015_01_08_FINAL_1.pdf)

regulation by applicable regulatory authorities, or entities whose applicable regulatory authorities have not imposed relevant requirements or guidelines (emphasis added).<sup>17</sup> Clearly, both Duke and CRES providers are regulated by the Commission. Finally, the Commission has already adopted rules regarding exchange of data between EDUs and CRES providers, and the letter of authorization to be used by a customer seeking to permit such access. *See, e.g.,* Rule 4901:1-21-10(E), Ohio Administrative Code. Therefore, while the Commission might consider the concepts and principles outlined in the VCC, it is unnecessary for the Commission to adopt, or suggest that Ohio utilities adopt, the VCC.

#### **V. Data Retention and Data Sharing**

OPAE and OCC asked that AMI data be retained for “only as long as needed” for its intended purpose, and a log of data sharing with third parties be maintained by the CRES providers. These requests should be rejected. The Commission’s existing rules require CRES providers to retain information, including usage data, for a minimum period of time of two years. *See, Rule 4901:1-21-04, Ohio Administrative Code.* All CRES providers are subject to that requirement. OPAE’s and OCC’s suggestion would not only potentially conflict with the existing rule, but also make the data retention vary depending on a subjective evaluation of how long data was “needed” and therefore should be rejected by the Commission.

#### **VI. Report on Rate-Ready Billing Option for Time-of-Use Rates**

Staff suggested that Duke report on its experience in offering Rate-Ready billing for its time-of-use rates, as well as the participation levels. RESA agrees that Duke should (a) identify the current status of its Rate-Ready billing function for the TOU rates in effect and (b) describe the experience of the CRES providers with that billing functionality. This information would be

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<sup>17</sup> *Id.*

helpful to the Commission as it explores the billing capabilities of Duke vis-à-vis its AMI meters.

## VII. Conclusion

Duke has spent years deploying AMI meters in its service territory and has not provided access to the interval data from AMI meters to CRES providers. Duke has agreed to undertake certain actions that would have begun the provision of interval data from AMI meters. Yet, despite ample time and opportunity, Duke has failed to meet its commitments. Duke's current tariff filing is blatantly noncompliant with the Commission's *COI* directives.

As set forth in RESA's Initial Comments, the Commission should take immediate action – require Duke to propose in this docket no later than April 30, 2015, tariff language that complies with the Commission's earlier directives and the additional points that RESA identified here and in its Initial Comments. Moreover, Duke should be ordered to re-activate its Smart Grid Collaborative (which has not met for nearly one year) to work through the steps so that Duke accomplishes the following:

- Within 30 days of the Order in this case: Provide to CRES providers 12 and 24 months of historical, billing quality, hourly interval data via its web portal for any customer who authorizes the CRES provider such access.<sup>18</sup>
- Within 3 months of the Order in this case: Provide to CRES providers (with proper customer Letters of Authorization, as per Commission rules) billable quality interval data in one-hour increments (hourly intervals) on a monthly basis via EDI at least three business days before the customer bills or a time period no shorter than already provided to CRES providers using bill-ready utility-consolidated billing.

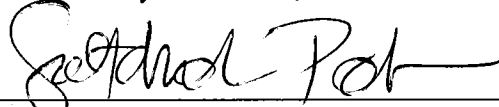
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<sup>18</sup> Duke explicitly committed to giving CRES providers this information in *In the Matter of the Application of Duke Energy Ohio Inc. for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan, Accounting Modifications and Tariffs for Generation Service*, Case Nos. 11-3549-EL-SSO, et al.

- Within 6 months of the Order in this case: Provide (a) non-billing quality (AMI meter data) in hourly intervals via an FTP file on a next-day, daily basis for any customer of a CRES provider with a verified AMI meter who authorizes the CRES provider such access; and (b) a proposed budget as well as a listing of benchmarks/tasks with deadlines for the capabilities listed in the chart contained in these comments and designated as Phase 2 and Phase 3 capabilities.

Moreover, the Commission should make Duke subject to specific penalties, as recommended by RESA in its Initial Comments. In addition, the Commission should require Duke to include in its April 30, 2015 filing (a) cost estimates and (b) a report on its experience in offering Rate-Ready billing for its time-of-use rates, as well as the participation levels. Lastly, the Commission should require the Staff to formally determine the status of Duke's Smart Grid deployment.

Respectfully Submitted,



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