

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio :
Power Company for Approval of an : Case No. 14-1158-EL-ATA
Advanced Meter Opt-Out Service Tariff. :

**POST-HEARING BRIEF
SUBMITTED ON BEHALF OF THE STAFF OF
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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**On behalf of the Staff of
The Public Utilities Commission of Ohio**

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TABLE OF CONTENTS

Page

INTRODUCTION	1
STATEMENT OF THE FACTS	3
A. Regulatory Background.....	3
B. AEP Ohio’s Application.....	6
C. The Stipulation	8
ARGUMENT.....	10
A. The stipulation is a product of serious bargaining among capable, knowledgeable parties.....	11
B. The stipulation, as a package, benefits ratepayers and the public interest.	12
C. The stipulation does not violate any important regulatory principle or practice.....	14
CONCLUSION	16
PROOF OF SERVICE.....	17

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INTRODUCTION

Customers of a distribution utility have a choice to opt out of having an advanced meter¹ installed at their premises. An advanced meter electronically communicates electric usage to the distribution utility, thereby doing away with the need to perform a manual meter read. Traditional meters lack this communicative feature. This means that for customers with traditional meters, a meter reader must make a manual meter read at the customers' premises to determine electric usage.

Some customers value this freedom of choice, but that choice is not a cost-neutral decision. Advanced meters, unlike traditional meters, cut down on meter-reading costs by minimizing, if not eliminating, truck rolls and walking meter-reading routes. These

¹ For the purpose of this brief, the term "advanced meter" denotes both AMI and AMR meters.

cost savings can only be achieved, however, through significant advanced-meter deployment. Customers who refuse advanced meters pose an obstacle to achieving these savings.

Recognizing that a patchwork of advanced and traditional meters limits the cost-savings achievable from advanced-meter deployment, the Commission adopted a rule authorizing distribution utilities to charge customers for the costs associated with opting-out of advanced-metering services. The rule permits the distribution utility to establish a one-time fee to cover the costs to switch out an advanced meter for a traditional meter. The rule also permits the distribution utility to establish a recurring fee to cover the costs of meter reading and billing associated with the use of a traditional meter.

Not all customers are subject to these charges. The rule provides that only customers who elect to receive advanced meter opt-out service shall bear these charges. By permitting cost recovery from this customer group, the Commission's rule follows the longstanding regulatory principle of cost causation. This rate-design principle explains that costs should be assigned to the customers responsible for causing those costs.

The question presented in this proceeding is what those costs should be. The stipulation reached between AEP Ohio (or Company) and the Staff provides the proper answer to that question. The stipulation provides that AEP Ohio should be permitted to impose a one-time charge of \$43 to switch out an advanced meter for a traditional meter and a recurring charge of \$24 to provide advanced meter opt-out service. Those figures are amply substantiated by the record and conform to the requirements of the Commission's rule.

Importantly, the stipulation is not just a means for AEP Ohio to recover its costs. The stipulation also requires AEP Ohio to track on a monthly basis various items of information associated with advanced meter opt-out service and to share that information with Staff upon request. This will enable Staff to stay informed of, and responsive to, all material issues arising out of the implementation of advanced meter opt-out service.

In short, the stipulation should be approved. It was the product of arm's-length bargaining, embodies important regulatory principles, and benefits ratepayers and the public interest.

STATEMENT OF THE FACTS

A. Regulatory Background

Before proceeding to the substance of AEP Ohio's application and the evidence presented at hearing, some background will be helpful. The backdrop for this case comes from the rulemaking proceeding held in *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 ("*Metering Rules Proceeding*"). There the Commission adopted rules addressing several aspects of advanced meter opt-out service.

As part of that proceeding, the Commissions defined "advanced meter opt-out service" as "a service provided by an electric utility under the terms and conditions of a commission-approved tariff, which allows a customer to take electric distribution service

using a traditional meter.”² A “traditional meter” is “any meter with an analog or digital display that does not have the capability to communicate with the utility using two-way communication.”³ And an “advanced meter” is “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.”⁴

A meter capable of two-way communication—an advanced meter—is sometimes referred to as an advanced metering infrastructure meter (AMI meter) or a smart meter; on the other hand, a meter capable of just one-way communication is sometimes referred to as an automated meter reading meter (AMR meter). Even though by rule an AMR meter is not technically an advanced meter, the Commission has explained that the distribution utility should make its advanced meter opt-out service available to customers with AMR meters.⁵

Unless there is a safety hazard or a problem accessing the meter, the distribution utility must give customers the option to remove an installed advanced meter in place of a traditional meter, as well as the option to retain a previously-installed traditional meter.⁶

² Ohio Adm. Code 4901:1-10-01(B).

³ Ohio Adm. Code 4901:1-10-01(A).

⁴ *Id.*

⁵ *In the Matter of the Application of Ohio Power Company for Approval of an Advanced Meter Opt-Out Service Tariff*, Case No. 14-1158-EL-ATA (hereinafter *Metering Rules Proceeding*) (Entry on Rehearing at 2) (Dec. 18, 2013).

⁶ Ohio Adm. Code 4091:1-10-01(J)(1) and (4).

The distribution utility must file tariffs with the Commission setting out the parameters of its advanced meter opt-out service.⁷

As part of its tariff, the distribution utility is authorized to “establish one-time fee to recover the costs of removing an existing advanced meter, and the subsequent installation of a traditional meter.”⁸ The distribution utility may also “establish a recurring fee to recover costs associated with providing meter reading and billing services associated with the use of a traditional meter.”⁹ The one-time fee and the recurring fee apply only to customers who elect to receive advanced meter opt-out service.¹⁰

Currently, there are approximately 487,000 AMR meters installed throughout AEP Ohio’s territory.¹¹ So far, 70 customers have refused an AMR meter.¹² These meters are spread throughout AEP Ohio’s territory, in both urban and rural areas.¹³ As for AMI

⁷ Ohio Adm. Code 4091:1-10-01(J)(5).

⁸ Ohio Adm. Code 4091:1-10-01(J)(5)(c).

⁹ Ohio Adm. Code 4091:1-10-01(J)(5)(d).

¹⁰ Ohio Adm. Code 4091:1-10-01(J)(5)(e).

¹¹ Tr. at 63.

¹² *Id.* at 41.

¹³ *Id.* at 112.

meters, installation has occurred in roughly 132,000 locations.¹⁴ As of now, 12 customers have refused an AMI meter.¹⁵ Unlike AMR meters, AMI meters are deployed only in northeast Columbus.¹⁶

B. AEP Ohio's Application

AEP Ohio filed an application seeking approval of its advanced meter opt-out tariff.¹⁷ That application proposed to charge customers a one-time fee of \$43.00 to replace an advanced meter with a traditional meter.¹⁸ It also proposed to charge customers a recurring fee of \$31.80 to receive advanced meter opt-out service.¹⁹ Attached to the application are a set of calculations showing the justifications for these costs.²⁰

¹⁴ Tr. at 56.

¹⁵ *Id.* at 41.

¹⁶ *Id.* at 61.

¹⁷ AEP Ohio Ex. 2.

¹⁸ *Id.* at Ex. C-2 to the Application.

¹⁹ *Id.*

²⁰ *Id.* at Ex. E to the Application.

Andrea Moore, director of regulatory services for AEP Ohio, explained that the derivations for these costs are set forth on a spreadsheet attached to AEP Ohio's application.²¹ The cost components of the spreadsheet calculations originate in AEP Ohio's last distribution rate case.²²

The calculations are based on the sum of labor and vehicle costs.²³ As for labor costs, Ms. Moore explained that the average travel time per trip to read a meter is 30 minutes and the average time spent to read a meter is 15 minutes.²⁴ These numbers are based on field experience from AEP Ohio's meter group.²⁵ Applying an hourly rate of \$28.76 plus fringes at 65% for the 45 minutes estimated to perform the job yields a per customer labor cost of \$35.59.²⁶ As for vehicle costs, AEP Ohio uses class 40 vehicles to perform meter reads.²⁷ Ms. Moore explained that AEP Ohio's fleet service uses an hourly rate of \$9.24 to operate these vehicles.²⁸ Applying that rate for 45 minutes yields

²¹ AEP Ohio Ex. 2 at Ex. E to the Application.

²² *Id.*; Tr. at 24; *In re AEP Ohio*, Case No. 11-351-EL-AIR (Opinion and Order) (Dec. 14, 2011).

²³ AEP Ohio Ex. 2 at Ex. E to the Application.

²⁴ Tr. at 36-40, 44.

²⁵ *Id.* at 36, 44.

²⁶ AEP Ohio Ex. 2 at Ex. E to the Application.

²⁷ *Id.*

²⁸ Tr. at 43.

a per customer vehicle cost of \$6.93.²⁹ After adjusting for rounding, the sum of the labor and vehicle costs results in a per customer charge of \$43.00.³⁰ This figure represents the one-time charge that AEP Ohio proposes to collect to switch out an advanced meter for a traditional meter.

Based upon the Company's experience, it performs meter reads 8.875 times per year in its AMI territory.³¹ Dividing this figure into a 12-month year and then multiplying by \$43.00 yields a monthly recurring fee of \$31.80 for customers choosing to receive advanced meter opt-out service.³²

C. The Stipulation

After the application was filed, settlement negotiations ensued among AEP Ohio, Staff, and the Ohio Consumers' Counsel (OCC).³³ Those negotiations produced a stipulation between AEP Ohio and Staff, but not OCC. The stipulation proposes to reduce the recurring fee from \$31.80 to \$24.00.³⁴ Per the stipulation, this recurring fee applies only

²⁹ AEP Ohio Ex. 2 at Ex. E to the Application.

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ Ohio Partners for Affordable Energy (OPAE) did not participate in these settlement negotiations. OPAE was not, however, purposefully excluded from these negotiations. OPAE's lack of participation stems from the fact that it sought intervention after the stipulation was filed.

³⁴ Joint Ex. 1 at Original Sheet No. 103-12 of Stip. Ex. B-2.

when the sum of AMI and AMR deployment reaches 85% for a specified meter reading route in AEP Ohio's territory.³⁵ The stipulation also grants Staff access to the following data kept by AEP Ohio regarding its advanced meter opt-out service:

- The number of customers participating in advanced meter opt-out service;
- The total number of meter reading routes;
- The number of designated AMI and AMR meter reading routes; and
- The number of actual meter reads for each customer that participates in advanced meter opt-out service.³⁶

Aside from recommending outright disapproval of the stipulation, neither OCC nor OP&E presented a counterproposal to these cost-based figures.³⁷ OCC witness James Williams conceded that he has no expertise in reading meters, designing meter reading routes, nor in managing a team of meter readers.³⁸ He does not question the average travel time per trip of 30 minutes to perform a manual meter read.³⁹ He could not express an opinion on how AEP Ohio's meter readers are compensated.⁴⁰ He does not question

³⁵ Joint Ex. 1 at Original Sheet No. 103-12 of Stip. Ex. B-2.

³⁶ *Id.* at 3-4.

³⁷ Tr. at 135.

³⁸ *Id.* at 148.

³⁹ *Id.* at 151.

⁴⁰ *Id.* at 152.

the vehicle cost.⁴¹ And he agreed that he has no idea how long it takes to switch out an advanced meter for a traditional meter.⁴²

ARGUMENT

Ohio Adm. Code 4901-1-30(A) authorizes two or more parties to enter into a stipulation. Though not bound by a stipulation, the Commission should give it substantial weight.⁴³ The Commission conducts a three-factor inquiry to assess whether a stipulation is reasonable and should be adopted.⁴⁴ The three factors are:

1. Whether the stipulation is a product of serious bargaining among capable, knowledgeable parties;
2. Whether the stipulation, as a package, benefits ratepayers and the public interest; and
3. Whether the stipulation violates any important regulatory principal or practice.

⁴¹ Tr. at 154.

⁴² *Id.* at 160.

⁴³ *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 64 Ohio St.3d 123, 125, 592 N.E.2d 1370 (1992).

⁴⁴ *Cincinnati Gas & Electric Co.*, Case No. 91-410-EL-AIR (Order on Remand) (Apr. 14, 1994).

The Ohio Supreme Court has endorsed this test.⁴⁵ As shown below, because the stipulation satisfies the Commission's three-factor inquiry it should be approved as reasonable.

A. The stipulation is a product of serious bargaining among capable, knowledgeable parties.

Ms. Moore explained that the stipulation is a “product of meetings and negotiations involving experienced counsel as well as the technical experts from each party in the case.”⁴⁶ There is no evidence showing that any party was intentionally excluded from the settlement process.⁴⁷ While it is true that OPAE did not participate in these discussions, this is due to the fact that OPAE sought intervention after the stipulation was filed. Thus it was impossible to bring OPAE to the negotiating table.

OCC witness Jim Williams testified that the stipulation does not meet the first prong of the test because a diversity of interests is not present.⁴⁸ He submits that no one representing residential customers is a signatory to the stipulation.⁴⁹ This is wrong on two levels.

⁴⁵ *Indus. Energy Consumers of Ohio Power v. Pub. Util. Comm.*, 68 Ohio St.3d 559, 561, 629 N.E.2d 423 (1994).

⁴⁶ AEP Ohio Ex. 1 at 4 (Moore Pre-Filed Direct Testimony).

⁴⁷ Tr. at 127.

⁴⁸ OCC Ex. 4 at 6 (Williams Pre-Filed Direct Testimony).

⁴⁹ *Id.*

First, Mr. Williams conceded on cross that Staff's duty is to balance the interests of all customer classes.⁵⁰ Residential customers are undoubtedly part of this balancing process. So to say that the interests of residential customers are unaccounted for here is incorrect. Second, the Commission has stated time and again that no party wields a veto power over the stipulation process and that unanimous stipulations are not required.⁵¹ Thus OCC's refusal to sign the stipulation does not mean that it should automatically be disapproved. The Commission has approved numerous stipulations in the past where OCC was not a signatory party and it should follow that precedent here.⁵²

B. The stipulation, as a package, benefits ratepayers and the public interest.

The package embodied in the stipulation benefits ratepayers and the public interest. First, the recurring fee proposed in the stipulation is less than what AEP Ohio originally proposed. The application proposed to charge customers a recurring fee of \$31.80.⁵³ But after settlement negotiations ensued, the signatory parties agreed to reduce

⁵⁰ Tr. at 216.

⁵¹ See, e.g., *In re Application of Vectren Energy Delivery of Ohio, Inc.*, Case No. 13-1571-GA-ALT (Opinion and Order at 10) (Feb. 19, 2014); *In re Application of Columbia Gas of Ohio, Inc.*, Case No. 07-478-GA-UNC (Opinion and Order at 32) (Apr. 9, 2008).

⁵² See, e.g., *In re Application of Vectren Energy Delivery of Ohio, Inc.*, *supra* at 10; *In re FirstEnergy*, Case No 12-1230-EL-SSO (Opinion and Order at 26) (Jul. 18, 2012).

⁵³ AEP Ohio Ex. 2 at Ex. E to the Application.

that fee to \$24.00.⁵⁴ Ratepayers have a strong interest in receiving reliable electric service at the cheapest price. A charge that is roughly 25% less than what the Company originally proposed is a persuasive sign of a financial benefit that accrues to ratepayers.

Second, the stipulation grants Staff access to the following data kept by AEP Ohio regarding its advanced meter opt-out service:

- The number of customers participating in advanced meter opt-out service;
- The total number of meter reading routes;
- The number of designated AMI and AMR meter reading routes; and
- The number of actual meter reads for each customer that participates in advanced meter opt-out service.⁵⁵

This information-sharing feature of the stipulation enables Staff to stay informed of, and responsive to, all material issues arising out of the implementation of advanced meter opt-out service. With this information, Staff will be better positioned to coordinate with the Company and address any issues associated with advanced meter opt-out service that could arise in the future.

Third, the stipulation protects the pocketbooks of customers with advanced meters by shielding them from advanced meter opt-out service charges. Acceptance of advanced meters by these customers drives efficiencies in the Company's management of the distribution system. Opt-out customers, on the other hand, limit these efficiencies. It is for

⁵⁴ Joint Ex. 1 at Original Sheet No. 103-12 of Stip. Ex. B-2.

⁵⁵ *Id.* at 3-4.

this reason that only opt-out customers bear responsibility for these charges. As the Commission has previously explained, customers electing to receive opt-out service “decrease the effectiveness of the smart grid and thus raise costs on the rest of customers.”⁵⁶ By limiting charges to only those customers electing to receive advanced meter opt-out service, the stipulation benefits the pocketbooks of advanced-meter customers.

C. The stipulation does not violate any important regulatory principle or practice.

The stipulation follows important regulatory principles and practices. Three reasons support this claim. First, the terms embodied in the stipulation comply with the Commission’s rules addressing advanced meter opt-out service. The rules require AEP Ohio to file tariffs with the Commission setting out the parameters of its advanced meter opt-out service.⁵⁷ The proposed tariff sheets attached to the stipulation comply with this provision.⁵⁸ The rules authorize AEP Ohio to impose a one-time fee and a recurring fee for the costs of providing advanced meter opt-out service.⁵⁹ The proposed tariffs attached to the stipulation comply with this provision too.⁶⁰ Finally, consistent with Ohio Adm.

⁵⁶ *Metering Rules Proceeding* (Finding and Order at 15) (Oct. 16, 2013).

⁵⁷ Ohio Adm. Code 4091:1-10-01(J)(5).

⁵⁸ Joint Ex. 1 at Original Sheet Nos. 103-12 and 13 of Stip. Ex. B-2.

⁵⁹ Ohio Adm. Code 4091:1-10-01(J)(5)(c)-(d).

⁶⁰ *Id.*

Code 4091:1-10-01(J)(5)(e), the proposed tariffs apply only to those customers electing to receive advanced meter opt-out service.⁶¹

Second, as a corollary to Ohio Adm. Code 4091:1-10-01(J)(5)(e)'s directive to limit the charges to customers taking opt-out service, the stipulation follows principles of cost causation. This rate-design principle explains that costs should be assigned to the customers responsible for causing those costs.⁶² Mr. Williams agrees that cost causation is a factor the Commission should account for in evaluating the stipulation.⁶³ The proposed tariff sheets accompanying the stipulation make it clear that only customers electing to receive advanced meter opt-out service are subject to the charges.⁶⁴ By assigning opt-out charges only to the class of customers responsible for creating those costs, the stipulation furthers important regulatory principles.

Third, the stipulation follows Ohio's energy policies. As set forth in R.C. 4928.02(D), it is this state's policy to: "Encourage innovation and market access for cost-effective supply- and demand-side retail electric service including, but not limited to, demand-side management, time-differentiated pricing, waste energy recovery systems, smart grid programs, and implementation of advanced metering infrastructure." Smart

⁶¹ Ohio Adm. Code 4091:1-10-01(J)(5)(c)-(d).

⁶² See *Myers v. Pub. Util. Comm.*, 64 Ohio St.3d 299, 302 (1992); *KN Energy, Inc. v. FERC*, 968 F.2d 1295, 1301 (D.C. Cir. 1992).

⁶³ Tr. at 220.

⁶⁴ Joint Ex. 1 at Original Sheet No. 103-12 of Stip. Ex. B-2.

grid programs can only flourish if AMI meters gain widespread acceptance among customers. A stipulation that imposes a financial disincentive for accepting or retaining an AMI meter poses an obstacle to achieving that policy objective. As proposed, the stipulation removes impediments to AMI-meter acceptance by limiting the one-time and recurring fees to customers that choose to receive electric service through a traditional meter.

CONCLUSION

For the foregoing reasons the stipulation should be adopted and approved.

Respectfully submitted,

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**On behalf of the Staff of
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PROOF OF SERVICE

I hereby certify that a true copy of the foregoing **Post-Hearing Brief** submitted on behalf of the Staff of the Public Utilities Commission of Ohio, was served via electronic mail upon the following Parties of Record, this 22nd day of June, 2015.

/s/ Ryan P. O'Rourke

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