

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke)
Energy Ohio, Inc. for Approval of a)
Grid Modernization Opt-Out Tariff and)
for a Change in Accounting Procedures)
Including a Cost Recovery Mechanism.)

**INITIAL POST-HEARING BRIEF
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

BRUCE J. WESTON (0016973)
OHIO CONSUMERS' COUNSEL

Terry L. Etter (0067445), Counsel of Record
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
Telephone: (614) 466-7964 (Etter direct)
Terry.Etter@occ.ohio.gov
(willing to accept email service)

Dane Stinson (0019101)
Bricker and Eckler LLP
100 South Third Street
Columbus, Ohio 43215
Telephone: (614) 227-4854
DStinson@bricker.com
(willing to accept email service)

November 30, 2015

*Outside Counsel for the
Office of the Ohio Consumers' Counsel*

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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke)
Energy Ohio, Inc. for Approval of a) Case No. 14-1160-EL-UNC
Grid Modernization Opt-Out Tariff and) Case No. 14-1161-EL-AAM
for a Change in Accounting Procedures)
Including a Cost Recovery Mechanism.)

**INITIAL POST-HEARING BRIEF
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I. INTRODUCTION

The rules of the Public Utilities Commission of Ohio (“PUCO”) require electric utilities to give customers the option to remove an installed advanced meter¹ and replace it with a traditional meter.² The rules also permit customers to decline installation of an advanced meter and retain a traditional meter.³ These options must be provided as a tariffed cost-based opt-out service.⁴ The utility may, but is not required to, collect costs associated with customers having a traditional meter.⁵

This proceeding considers whether and how much the residential customers of Duke Energy Ohio, Inc. (“Duke”) will be charged for choosing not to have a smart meter at their homes. In its Application, Duke proposed a one-time charge of \$1,073.10 for

¹ 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.” Ohio Adm. Code 4901:1-10-01(A).

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 communications.” Ohio Adm. Code 4901:1-10-01(FF).

³ Ohio Adm. Code 4901:1-10-05(J)(1).

⁴ *Id.*

⁵ *See* Ohio Adm. Code 4901:1-10-05(J)(5)(c) and (d).

residential customers who do not have an advanced meter.⁶ In his testimony, however, Duke witness Justin C. Brown stated that the one-time charge should be \$462.04, due to reduced information technology (“IT”) costs compared to the estimate in the Application.⁷ In addition to the one-time charge, Duke has proposed charging customers who have a traditional meter \$40.63 per month for meter reading,⁸ even during months when the meter is not read.⁹ The Office of the Ohio Consumers’ Counsel (“OCC”), an intervenor in this proceeding on behalf of residential electric customers, opposes Duke’s proposed opt-out charges.

Duke’s proposal is unlawful and unreasonable for the following reasons:

- (1) Duke would impose its one-time charge on residential customers who have never had an advanced meter. This violates Ohio Adm. Code 4901:1-10-05(J)(5)(c).
- (2) Duke’s proposed one-time charge for customers who replace an advanced meter with a traditional meter is based on the number of Duke customers who have never had an advanced meter. Duke has not incurred costs to switch out the advanced meter for a traditional meter for those customers, and thus the proposed one-time charge is based on invalid assumptions.

⁶ See Duke Ex. 1 at 1.

⁷ See Duke Ex. 2 (Brown Testimony) at 4-5. Duke, however, has not amended the Application and the Application as filed has been entered into evidence in this case. All arguments against the one-time charge in the Application also apply to the one-time charge in Mr. Brown’s testimony.

⁸ See Duke Ex. 1 at 1; Duke Ex. 2 (Brown Testimony) at 6.

⁹ Tr. at 91.

- (3) Duke has not shown that the one-time and monthly meter reading charges are based on actual costs.¹⁰

The PUCO should deny Duke's Application. If the PUCO does not deny the Application, then changes to Duke's proposed tariff are needed to prevent residential customers who simply refused to have an advanced meter installed from being unlawfully charged the one-time fee. Also, if the Application is not denied then the PUCO should only approve a one-time charge and monthly meter reading charge for Duke that are set at zero dollars until the charges can be reviewed in Duke's upcoming base distribution rate case¹¹ to be sure that the charges are just and reasonable.

II. DISCUSSION

A. Duke's proposed one-time charge to customers violates Ohio Adm. Code 4901:1-10-05(J)(5)(c) because it would apply to customers who have never had an installed advanced meter replaced with a traditional meter.

Under Duke's proposed one-time charge, a residential customer with a traditional meter would pay hundreds of dollars, even if Duke did not have to replace an advanced meter with a traditional meter at the customer's home.¹² This violates the PUCO's rules.

¹⁰ The PUCO Staff's proposed one-time and monthly charges contain many of the same flaws as Duke's proposed charges, and the PUCO should reject those charges as well.

¹¹ Under the stipulation in Case No. 10-2326-GE-RDR, Duke must file a base distribution rate case within one year after the PUCO Staff determines that Duke's SmartGrid is fully deployed. *See* OCC Ex. 1 at 6, n. 4. The PUCO Staff has determined that Duke's SmartGrid is fully deployed. *See In the Matter of the Application of Duke Energy Ohio, Inc. to Adjust Rider DR-IM and Rider AU for 2010 SmartGrid Costs and Mid-Deployment Review*, Case No. 10-2326-GE-RDR, Notice of Staff Determination (October 15, 2015) ("PUCO Staff's Determination") at 1-2. Because the PUCO Staff's Determination was not docketed until after the hearing in this case, on November 19, 2015 OCC filed a motion asking the PUCO to take administrative notice of the PUCO Staff's Determination.

¹² Tr. at 80-81.

Ohio Adm. Code 4901:1-10-05(J)(5)(c) allows (but does not require) an electric utility to establish a one-time fee specifically “to recover the costs of removing an existing advanced meter, and the subsequent installation of a traditional meter.” But Duke’s proposed tariff states: “Residential customers who request a traditional meter rather than an advanced meter shall pay a one-time fee....”¹³ As discussed at hearing, Duke would apply this tariff language broadly to include not only those customers who have an advanced meter replaced with a traditional meter, but also those customers who never had an advanced meter installed at their homes:

Q. (By OCC Counsel Stinson) So would the one-time fee in Duke’s proposed tariff apply to customers who choose to decline installation of an advanced meter and retain a traditional meter?

A. (By Duke Witness Brown) So as we wrote and come up with the costs associated with this, we submitted a uniform tariff. Like I mentioned earlier, our implementation is predominantly complete with our meters.

Q. So your answer’s yes?

A. Yes.

Q. Let’s look at the Charges section of the tariff. It states that, “Residential customers who request a traditional meter rather than an advanced meter shall pay a one-time fee of \$462.04 and a recurring monthly fee of \$40.53,” correct?

A. Correct.

Q. Now, that language does not distinguish between customers who want an already installed advanced meter replaced with a traditional meter, and those customers who decline an advanced meter and want to keep their traditional meter, does it?

¹³ Duke Ex. 1, attachment, p. 1; Duke Ex. 2 (Brown Testimony), Attachment JCB-2.

A. It does not.¹⁴

Duke's intent to unlawfully charge the one-time fee to customers who have never had an advanced meter was confirmed at hearing during the discussion regarding the distribution maintenance portion of the one-time charge. Although this charge is for removal of advanced meters and installation of standard meters,¹⁵ Duke intends to charge the \$51.20 distribution maintenance fee to customers who have never had an advanced meter. Duke witness Brown stated at hearing that customers who still have a traditional meter because they refused advanced meter installation would be charged the distribution maintenance fee:

Q. (By OCC Counsel Stinson) So removal of AMI meters and installation of nonstandard meters would refer to the swapout, replacing an AMI with a traditional meter?

A. (By Duke Witness Brown) That's correct.

Q. And the charge of – the one-time charge of \$51.20 would then capture the cost of removing the AMI meter and installing the nonstandard meter, correct?

A. Yes.

Q. And the 105 customers we've been talking about, the 400 customers we've been talking about who retained their traditional meters, those customers would still be assessed the distribution maintenance charge?

A. I think from that perspective, when we filed our tariff we wrote up a uniform tariff rider that would really apply to customers now as well as moving forward. So we assumed that all the customers would essentially have an AMI meter in place.

Q. Well, in answer to my question, would customers who retain their traditional meters still be subject to the 500 –

¹⁴ Tr. at 81. .

¹⁵ See *id.* at 47-48.

I'm sorry, \$51.20 charge listed on Attachment JCB-1, Page 2?

A. They would be.¹⁶

Duke's proposed a one-time charge to customers who retain traditional meters (without ever having had an advanced meter installed) violates Ohio Adm. Code 4901:1-10-05(J)(5)(c). Through the charge, Duke seeks to collect the cost of removing an existing advanced meter, and the subsequent installation of a traditional meter, from customers who have never had an advanced meter. Accordingly, Duke's proposed one-time charge is unreasonable, and violates PUCO rules. The PUCO should reject it.

B. Duke's proposed one-time charge to residential customers is unreasonable and is based on faulty cost estimates and invalid assumptions.

1. Duke's proposed one-time charge to residential customers is unreasonable because it is based on a number of customers who should not be charged a one-time fee under the PUCO's rules and includes some the customers who no longer have a traditional meter.

As stated above, the one-time charge is supposed to be based on the costs of removing an existing advanced meter and subsequently installing a traditional meter. But in formulating its proposed one-time charge, Duke based its charge on the number of Duke customers who have never had an advanced meter at their home, but instead retained their traditional meters. Duke estimated that 725 customers would reject an advanced meter, and divided its alleged costs by 725 to arrive at the one-time charge.¹⁷ The 725 number includes the total number of customers (325) who have rejected installation of an advanced meter at their homes at any time during Duke's deployment of

¹⁶ *Id.* at 48-49.

¹⁷ *See id.* at 19.

its SmartGrid, i.e., 2008-2014.¹⁸ The remaining 400 customers are those who have hard-to-access meters and who have not responded to Duke's notices that their traditional meter would be replaced with an advanced meter.¹⁹ Duke's method of devising the one-time charge is faulty for a number of reasons.

First, the one-time charge is not based on the number of customers who have asked Duke to replace an already-installed advanced meter with a traditional meter. In fact, Duke does not claim that even one of its residential customers in Ohio has yet to ask that an already-installed advanced meter be replaced with a traditional meter.²⁰ Rather, Duke bases its one-time charge on the number of customers who either (1) initially refused an advanced meter or (2) did not respond to Duke's advanced meter installation notices and still have a traditional meter because Duke couldn't access the traditional meter to replace it. The customers Duke used in calculating the one-time charge have no correlation to the number of customers who might actually ask to have an already-installed advanced meter replaced with a traditional meter. Therefore, Duke began with an unreasonable and invalid basis for calculating its one-time charge. This contributed to an overstated charge that is not reflective of actual costs incurred.

Second, some of the customers Duke included in the 725 number now have advanced meters. Of the 325 customers who initially refused an advanced meter, only 105 still have a traditional meter.²¹ In other words, at least 220 of the 325 customers Duke used in its calculations now have advanced meters. Moreover, many or all of the

¹⁸ *See id.* at 34-35.

¹⁹ *See id.* at 36-37.

²⁰ *See id.* at 33.

²¹ *See id.* at 36.

400 customers who have yet to respond to Duke's notices conceivably could eventually have advanced meters installed once Duke is successful in gaining access to their hard-to-access traditional meters.²² Hence, the 725 number does not even represent the number of Duke's residential customers who still have a traditional meter, or may in fact have a traditional meter in the future. The 725 number is not a valid basis for determining the one-time charge. Thus the one-time charge resulting from Duke's calculation is unreasonable.

Duke's method of calculating the one-time charge is flawed. Duke, which has the burden of proof in this case, has not shown that any of its proposals for a one-time charge is just, reasonable, or cost-based. The PUCO should reject Duke's one-time charge.

2. Duke's proposed charge one-time to customers is unreasonable because it was devised using cost estimates that are speculative and based on faulty assumptions that do not withstand scrutiny.

Duke's one-time charge is comprised of three elements. First is metering services, which includes meter repair and testing, meter storage labor, and buying meters for reserve stock.²³ Second is distribution maintenance, which includes removal of advanced meters and/or installation of traditional meters.²⁴ Third is IT Systems, which is the information technology project to build the billing and service routing functionalities for traditional meters into the Customer Management System.²⁵ The IT Systems element of the one-time charge is by far the largest portion of the costs, amounting to

²² Duke could also make other arrangements, such as moving the meter location. See *id.* at 78-79.

²³ See Duke Ex. 2, Attachment JCB-1 at 2.

²⁴ See *id.*

²⁵ See *id.*

approximately 73 percent to 88 percent of Duke's proposed one-time charge.²⁶ These costs are unreasonable because they are overstated and unfounded.

- a. **Duke's estimated costs for meters for reserve stock, meter storage labor, and meter repair/testing associated with the one-time charge are speculative, based on false assumptions, and are not cost-based.**

- i. **Meter Reserve Stock**

Duke's cost estimates for the one-time charge are based on the assumption that 725 residential customers would choose to have an advanced meter replaced with a traditional meter at their homes.²⁷ For example, Duke based its meter reserve stock on the need to have a 30 percent reserve of traditional meters as replacements for traditional meters that malfunction.²⁸ Duke assumed that it would need a 30 percent reserve of the estimated 725 traditional meters, i.e., 218 meters, on-hand to accommodate customers who opt out from having an advanced meter.²⁹ But as discussed above, the 725 number is based on the invalid assumptions that (1) 325 customers have chosen to retain traditional meters when the number actually is 105,³⁰ and (2) 400 customers with hard to access meters would retain their traditional meters even though some could receive advanced meters once access is gained to their hard-to-access meters. Hence, Duke's

²⁶ IT costs are \$335.34 of the \$462.04 one-time charge (72.6 percent) in Duke witness Brown's testimony. *See id.* IT costs comprise \$946.40 of the \$1,073.10 charge (88.2 percent) in the Application. *See* Duke Ex. 1, Attachment, p. 3.

²⁷ *See* OCC Ex. 2.

²⁸ Tr. at 24.

²⁹ *Id.*

³⁰ As discussed above, Duke included in its estimate of 725 customers 325 residential customers who at any time during deployment had rejected installation of an advanced meter, but now only 105 residential customers do not have an advanced meter at their homes. Hence, at least 220 fewer residential customers have a traditional meter than Duke estimated.

estimate of the number of traditional meters that might be needed for reserve stock is overstated and invalid.

Duke's estimated costs for reserve meters also do not withstand scrutiny. Duke wrongly assumed that it would need to buy the traditional meters for its reserve stock.³¹ In reality, Duke already has traditional meters on-hand that could be used for its reserve stock. Duke removed "hundreds of thousands" of fully functional traditional meters during its SmartGrid deployment.³² Although some were salvaged, Duke's witness Brown acknowledged that Duke does have traditional meters on-hand.³³ In fact, Mr. Brown stated on cross-examination that the 725 traditional meters Duke intends to "deploy" would be meters that Duke had replaced with advanced meters:

Q. (By OCC Counsel Stinson) Well, where did the 725 meters you deploy come from?

A. (By Duke Witness Brown) That was assumed we would have some sort of meters flowing back from our deployment that we'd be able to take advantage of and deploy the 725.

Q. So the 725 you're talking about would be the traditional meters that were replaced by the advanced meters?

A. Correct.³⁴

It is likely that Duke already has enough traditional meters on-hand to meet its need for reserve stock to replace faulty traditional meters. PUCO Staff witness Rutherford noted that Duke "indicated that it had 3,772 traditional meters on hand at its

³¹ *Id.* at 23.

³² *Id.* at 24.

³³ *Id.* at 24-25.

³⁴ *Id.* at 41.

meter lab, and anticipates that only half of those meters will test accurately.”³⁵ Even if only half the traditional meters Duke replaced tested accurately, that would be 1,886 meters – at least eight times the number needed for Duke’s 30 percent reserve. Although purchasing new meters might be preferable to reusing old meters, if used traditional meters – which customers have already paid for through their electric rates – are fully functional and have considerable useful life remaining, they should be reused. The PUCO should disallow Duke’s estimated cost for buying new traditional meters for its reserve.³⁶

ii. Meter Storage Labor

Duke based its estimated costs for meter storage on the 218 traditional meters it claims are needed for reserve stock.³⁷ As discussed above, Duke has overstated the number of traditional meters that are needed for reserve stock. Hence, Duke’s estimated costs for meter storage are overstated.

In addition, some of the meters might be used to replace traditional meters that are already in use when they malfunction, and not for the purpose of replacing advanced meters with traditional meters. Because the 725 number that Duke bases its costs on includes customers who have never had an advanced meter, Duke’s estimated storage costs include traditional meters that would replace other traditional meters. But the PUCO’s rules allow the one-time charge to be imposed on only those customers who replace an advanced meter with a traditional meter. Thus, the storage labor portion of Duke’s one-time charge includes some costs that would not apply to customers who

³⁵ PUCO Staff Ex. 2 (Rutherford Testimony) at 4.

³⁶ See Tr. at 25.

³⁷ See OCC Ex. 2, p. 5; Tr. at 40-41.

replace an advanced meter with a traditional meter. Duke has not shown that the amounts collected through base rates are insufficient to recoup these costs.

iii. Meter Repair/Testing

Duke has overstated costs associated with meter repair and testing. Some of Duke's estimated costs for meter testing and repair do not involve replacement meters. For example, Duke apparently intends to test traditional meters that are already installed at residential customers' homes. On cross-examination, Mr. Brown referenced testing the 725 traditional meters that Duke "deployed":

- Q. (By OCC Counsel Stinson) Well, you've indicated that under your 30 percent rule Duke Energy wants to purchase 218 meters, and you're requesting a cost for repair and testing to include those meters. I'm asking if those 218 meters, would they need to be repaired?
- A. (By Duke Witness Brown) So we assume the total of 725 customers would take advantage of the program. The 218 meters, if you'll note there on that particular page, the meter storage labor is only including the 218, but the – as well as the cost of nonstandard meters is only 218, so that represents 30 percent of 725. Then meter repair and testing would be testing and making sure all the 725 meters that we would deploy for those customers would be tested out correct.
- Q. And that would include the 218 meters, correct?
- A. So the new meters that come in were not included – the ones we would buy for meter stock are not included in the 725, because those are in additional meter stock. The meter testing and repair would be the meters that we deployed. The 725 would be what we would deploy for the customers we assumed will take advantage of the program.³⁸

But Duke has not "deployed" any new traditional meters since the SmartGrid program began seven years ago. The only traditional meters that are in Duke's Ohio

³⁸ Tr. at 40-41.

service territory are traditional meters that residential customers had at their homes before SmartGrid deployment began. No residential customer has yet requested that Duke remove an advanced meter and install a traditional meter.³⁹ Yet Duke intends to test all traditional meters, not just those that might be used to replace an advanced meter. In response to a PUCO Staff data request, Duke stated that traditional meters currently in use would be tested “for continued use if the customer is currently non-AMI.”⁴⁰

Residential customers should not have to pay for Duke testing traditional meters that are currently in service, if the customer does not request the meter testing.⁴¹ Duke has not given a reason for the test. Duke’s proposed testing is an additional, unnecessary charge Duke plans to impose on residential customers who do not want an advanced meter.

OCC also agrees with the PUCO Staff that Duke should not charge customers for any testing of traditional meters before installation.⁴² As noted above, Duke tests each advanced meter before installation, without charge to the customer. Testing a traditional meter involves a similar process and is already included in base rates. Duke has not shown that it incurs any additional costs, beyond those included in base rates, associated with the testing of traditional meters for customers who do not want an advanced meter.

Duke has also failed to show that the charge is cost-based. Duke has included the cost of meter repair in the same charge with meter testing. But the charge for meter

³⁹ *See id.* at 33.

⁴⁰ OCC Ex. 2.

⁴¹ Even then, Duke’s tariff allows for waiver of meter testing charges for a customer’s first meter test request. *See* PUCO Staff Ex. 2 (Rutherford Testimony) at 4-5. Customers who have never requested a meter test should have the testing charges waived.

⁴² *See id.*

testing and repair is the same, even if the customer's traditional meter does not need repair.⁴³ Hence, this portion of the one-time charge is not cost-based.

In this regard, Duke would also charge customers for repairs that would never be done, and thus Duke would collect from customers some costs that it never incurred. The proposed one-time charge violates Ohio Adm. Code 4901:1-10-05(J)(5)(b)(ii), which requires charges to be "calculated based upon the costs incurred to provide advanced meter opt-out service...." Duke's proposed one-time charge is therefore unreasonable.

b. The distribution maintenance portion of the one-time charge is unreasonable because it is based on speculative cost assumptions.

A portion of the one-time charge is for distribution maintenance, which Duke describes as removal of advanced meters and installation of standard meters.⁴⁴ Distribution maintenance accounts for \$51.20 of Duke's proposed one-time charge, or \$37,120 of the total one-time costs Duke would ask customers to pay.⁴⁵ The distribution maintenance cost consists of one hour of labor for a Duke technician to remove an advanced meter and install a traditional meter, plus estimated vehicle costs.⁴⁶ The labor cost is "fully loaded," which means it includes not only the cost of the technician's hourly

⁴³ *Id.* Duke will not be sure if any meter needs repair until it is tested. See Tr. at 42.

⁴⁴ See Duke Ex. 1, attachment, p. 3; Duke Ex. 2 (Brown Testimony), Attachment JCB-1 at 2. Both the Application and Attachment JCB-1 refer to the "removal of AMI meters *and/or* installation of standard meters." (Emphasis added.) At hearing, however, Duke witness Brown clarified that the description should be "removal of AMI meters *and* installation of standard meters." Tr. at 47-48 (emphasis added).

⁴⁵ See Duke Ex. 1, attachment, p. 3; Duke Ex. 2 (Brown Testimony), Attachment JCB-1 at 2.

⁴⁶ Tr. at 46-47.

rate, but also the cost of fringe benefits such as healthcare, vacation, etc.⁴⁷ There are several problems with Duke's calculation of costs for distribution maintenance.⁴⁸

For one thing, Duke offers no support for its proposed cost. The charge is based on the "experience" of project managers in changing meters.⁴⁹ Duke performed no separate studies or analysis to determine how long it would take to replace an advanced meter with a traditional meter. But no customers in Ohio have asked Duke to replace an advanced meter with a traditional meter. Hence, Duke has not had any experience in removing an advanced meter and replacing it with a traditional meter in Ohio.

For another thing, Duke bases its distribution maintenance cost on the fully loaded cost of using a Duke employee to replace an advance meter with a traditional meter. However, Duke could hire independent contractors to replace advanced meters with traditional meters; Duke witness Brown stated that contractors could be used to replace advanced meters with traditional meters based on Duke's "business needs."⁵⁰ Nevertheless, customers would still be charged based on the fully loaded labor costs associated with a Duke employee doing the work, even though Duke does not incur fringe benefit costs when using contractors.⁵¹ Thus, customers would pay for costs that Duke would not incur.

⁴⁷ *Id.* at 49.

⁴⁸ Many of these same problems also are relevant to the PUCO Staff's proposed \$38 one-time charge, which is based solely on distribution maintenance costs. *See* PUCO Staff Ex. 2 (Rutherford Testimony) at 3-5. Thus, the PUCO Staff's proposed one-time charge also is flawed.

⁴⁹ *See* Tr. at 49.

⁵⁰ *Id.* at 50.

⁵¹ *Id.*

In addition, Duke's calculations are based on the erroneous assumption that 725 residential customers would choose to replace an advanced meter with a traditional meter. As discussed earlier, the actual number of Duke customers who want to replace an advanced meter with a traditional meter will likely be considerably less than the 725 Duke estimates. In fact, not one Duke customer in Ohio has requested that an advanced meter be replaced with a traditional meter. Duke has overstated its costs.

- c. Duke has not shown that it should collect the costs associated with IT Systems from customers because Duke is currently collecting IT costs in base rates and is already providing service to – and billing the usage of – residential customers who have traditional meters.**

In its Application, Duke claimed that it would incur \$686,140 in costs associated with modifying its IT Systems to build billing and service routing functionalities into its customer management system to serve opt-out customers.⁵² Duke now asserts that its actual costs to modify its IT Systems to serve opt-out customers were about one third the initial amount – \$243,122.⁵³ Even with the lower amount, Duke has not shown that these costs were necessary to serve opt-out customers.

According the Duke witness Brown, the modifications involved:

- (1) the ability to bill any approved one-time and ongoing charges;
- (2) inclusion of a “special condition” for opt-out customers “so that when customers call in, maybe have bill questions or

⁵² See Duke Ex. 1, attachment, p. 3.

⁵³ See Duke Ex. 2 (Brown Testimony), Attachment JCB-1 at 2.

- complaints, you can see that they are traditional customer – using a traditional meter as opposed to an AMI meter”; and
- (3) allowing Duke’s work management system to automatically identify customers who have a traditional meter so that if Duke must do a meter swap, the technician will be able to take the right meter.⁵⁴

Duke, which has the burden of proof in this case, has not shown that it should be allowed to collect the IT Systems costs from customers. Duke is already collecting IT-related costs through its base distribution rates,⁵⁵ which should be sufficient to cover the IT Systems costs Duke associated with opt-out. In arguing against Duke’s proposed deferral of the IT Systems costs, PUCO Staff witness Lipthratt testified that Duke “has not shown that IT related costs embedded in the last rate case are insufficient in comparison to current levels of spending....”⁵⁶ Mr. Lipthratt based his conclusion on Duke’s response to a PUCO Staff data request in which Duke stated that “it would have both capitalized and expensed IT costs included in the last base rate case.”⁵⁷ He added that “Staff believes IT charges of this nature and magnitude are neither atypical nor infrequent.”⁵⁸

In addition, Duke is already providing service to, and billing the usage of, residential customers who have a traditional meter.⁵⁹ And Duke’s IT systems must

⁵⁴ Tr. at 55-56.

⁵⁵ See PUCO Staff Ex. 3 (Lipthratt Testimony) at 6.

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ See Tr. at 56-57.

already have the functionality to keep track of different serial or assigned meter numbers and the locations where those meters are installed.⁶⁰ As OCC witness Williams noted, it appears that the only changes to the billing system are for Duke to be able to bill the one-time and monthly charges it seeks to impose in this proceeding.⁶¹ Customers should not have to pay for such billing system changes, especially when the PUCO does not require a utility to implement the one-time and recurring charges,⁶² and when Duke has not shown that the IT-related costs already included in base rates is insufficient to make the IT system changes Duke described in its testimony.

Duke has not shown that it should be allowed to collect the IT Systems costs associated with opt-out. The PUCO should deny Duke's Application.

C. Duke's proposed monthly meter reading charge to customers is unreasonable because it is based on faulty cost estimates that overstate travel time and the amount of work to be performed, and includes functions that are not performed monthly.

Duke has proposed a monthly meter reading charge of \$40.53.⁶³ Each customer with a traditional meter would be charged for meter reading even in months when Duke does not read the customer's meter because of weather or other circumstances.⁶⁴ In such months, customers would pay the charge even though Duke would not incur any meter reading costs during that month.⁶⁵ Thus, the meter reading charge is not cost-based.

⁶⁰ Ohio Adm. Code 4901:1-10-05(H).

⁶¹ OCC Ex. 3 (Williams Testimony) at 11.

⁶² Ohio Adm. Code 4901:1-10-05(J)(5)(c) and (d) allow, but do not require, utilities to impose one-time and recurring charges associated with opt-out.

⁶³ See Duke Ex. 2 (Brown Testimony), Attachment JCB-1 at 3.

⁶⁴ Tr. at 91.

⁶⁵ See *id.* at 107-108.

Duke also has not shown the validity of its estimated costs. The proposed charge has two categories of costs. First is the category of Metering Services, which involves monthly meter reading for on-cycle and off-cycle reads, as well as revenue assurance.⁶⁶ An on-cycle read is the monthly meter read; an off-cycle read is generally performed at initiation or termination of service; revenue assurance is related to theft investigations.⁶⁷ The second category is Distribution Maintenance, which includes purchasing, locating and installing communications devices to read meters that are “stranded” because of communications gaps that may be caused by traditional meters.⁶⁸ Duke’s proposed charge has no support in the record.

1. Metering Services

The Metering Services portion of Duke’s monthly meter reading charge overstates the amount of work to be performed. In developing this portion of its monthly charge, Duke looked at two elements of meter reading: the labor and vehicle costs associated with traveling to a customer’s home that has a traditional meter; and the labor cost associated with actually reading the meter.⁶⁹ Duke estimated the costs for reading the traditional meter at the farthest location with a traditional meter from Duke’s Queensgate Center⁷⁰ and the costs for reading a traditional meter at the nearest location with a traditional meter.⁷¹ Duke then averaged the two costs to derive the per-customer cost.⁷²

⁶⁶ See Duke Ex. 2 (Brown Testimony), Attachment JCB-1 at 3.

⁶⁷ See Tr. at 58-59.

⁶⁸ See Duke Ex. 2 (Brown Testimony), Attachment JCB-1 at 3. See also Tr. at 72-73.

⁶⁹ See Tr. at 60-61.

⁷⁰ Duke has consolidated meter reading operations at its Queensgate Center. See *id.* at 61-62.

⁷¹ See *id.* at 62.

⁷² See *id.*

Duke then multiplied the per-customer cost by the 725 customers Duke expects to opt out from having an advanced meter in order to derive the total annual cost Duke claims it will incur.⁷³ Duke's methodology is flawed.

In developing its meter reading charge, Duke estimated the amount of time it would take a meter reader to drive from Queensgate Center to a customer's home that has a traditional meter and back to the Queensgate Center.⁷⁴ But Duke did not take into consideration the possibility that meter readers could read more than one meter on each trip. Thus, Duke did not consider the efficiencies that would occur by developing meter reading routes that include numerous customers who have traditional meters.⁷⁵ Although Duke might have to change billing cycles for some customers with traditional meters in order to implement meter reading routes,⁷⁶ Duke did not consider changing customers' billing cycles when it estimated meter reading costs. Thus, Duke's estimated costs for meter reading are overstated.

In addition, two of the elements in the monthly meter reading charge are not functions that occur monthly. Off-cycle reads occur when service is initiated or terminated, or at the customer's request. These are essentially one-time reads, and their costs should not be included in a monthly meter reading charge.

⁷³ See Duke Ex. 2, Attachment JCB-1 at 3.

⁷⁴ See Tr. at 64-65.

⁷⁵ The PUCO Staff's proposed \$24 charge for monthly meter reading also was based on the meter reader traveling from the Queensgate Center to the customer's residence and then returning to Queensgate. *Id.* at 156. The PUCO Staff's proposed monthly charge thus suffers the same defect as Duke's proposed monthly charge.

⁷⁶ See *id.* at 63.

Similarly, revenue assurance is when Duke sends out a technician to examine whether a meter has been tampered with.⁷⁷ This does not occur with each customer on a monthly basis; in fact, Duke assumes that it will conduct theft investigation only for approximately one percent of meters,⁷⁸ which would involve fewer than seven traditional meters per year. Duke does this strictly for its own edification. It is not a function that the customer has requested. Customers should not be charged for this.

2. Distribution Maintenance

Duke also has not shown support for the estimated costs in the Distribution Maintenance portion of the charge. The costs are associated with communications nodes that Duke asserts will be necessary to close any communications gaps among advanced meters that traditional meters might cause.⁷⁹ As OCC witness Williams noted, Duke stated in a discovery response that there have not been any communications gaps caused by traditional meters.⁸⁰ Although that may be due in part to the manner in which Duke deployed advanced meters,⁸¹ Duke has not shown the accuracy of its estimated future need for communications nodes. The cost is purely speculative, and until Duke shows an actual need for the communications nodes, customers should not pay for them.

Further, communications nodes may be needed for other issues, such as replacing defective communications nodes in the SmartGrid system. Hence, communications nodes should be a capital investment that is already collected from customers through

⁷⁷ See *id.* at 69-70.

⁷⁸ See OCC Ex. 2, p. 7.

⁷⁹ See Tr. at 72-73.

⁸⁰ OCC Ex. 3 (Williams Testimony) at 16.

⁸¹ See Tr. at 112.

Duke's base rates or its SmartGrid rider. This is another aspect that should be examined as part of the distribution rate case Duke will file during the coming year.

Under the stipulation in Case No. 10-2326-GE-RDR, Duke must file a base distribution rate case within one year after the PUCO Staff determines that Duke's SmartGrid is fully deployed.⁸² On October 15, 2015, the PUCO Staff filed its determination that Duke's SmartGrid is fully deployed.⁸³ Because the PUCO Staff's Determination was not docketed until after the hearing in this case, OCC filed a motion asking the PUCO to take administrative notice of the PUCO Staff's Determination.⁸⁴ OCC noted that the PUCO Staff's Determination is relevant to this case because both the PUCO Staff and OCC have argued that costs associated with Duke's proposed opt-out program should be examined in Duke's next electric distribution rate case.⁸⁵ OCC also noted that if the alleged costs associated with customer opt-outs are reviewed in Duke's next distribution rate case, then there is no need to implement a tariff in the interim to charge customers for these costs.⁸⁶

The PUCO Staff's Determination has obviated the need for the PUCO to establish opt-out charges in this proceeding. The PUCO should address Duke's opt-out charges in the distribution rate case, where all of Duke's alleged costs regarding opt-out can be more fully examined to be sure that the charges are just and reasonable.

⁸² See OCC Ex. 1 at 6, n. 4.

⁸³ *In the Matter of the Application of Duke Energy Ohio, Inc. to Adjust Rider DR-IM and Rider AU for 2010 SmartGrid Costs and Mid-Deployment Review*, Case No. 10-2326-GE-RDR, Notice of Staff Determination (October 15, 2015) at 1-2.

⁸⁴ Motion to Take Administrative Notice (November 19, 2015).

⁸⁵ See *id.* at 1 citing OCC Ex. 3 (Williams Testimony) at 6-7 and PUCO Staff Ex. 2 (Rutherford Testimony) at 8.

⁸⁶ See *id.* at 5.

D. Duke does not plan to work with customers toward a mutually agreeable solution to the customer's concerns regarding advanced meters; thus Duke's proposed opt-out service contravenes PUCO directives.

Duke's proposal for customers to opt out from having an advanced meter does not provide options, as the PUCO expects. As OCC witness Williams noted, the PUCO has directed electric utilities to work with customers to develop alternatives to having an advanced meter.⁸⁷ In its Entry on Rehearing where it established opt-out rules, the PUCO stated:

The Commission believes that the EDUs should work with customers on a case by case basis, regardless of whether their meter is an advanced meter, and should arrive at a mutually agreeable solution to the customer's concerns. The EDUs should recognize advanced meter opt-out service as one of many solutions to customer concerns regarding their meters.⁸⁸

Duke, however, offers no alternatives to its proposed opt-out tariff. Residential customers can either take the opt-out service dictated by Duke – with its unreasonable one-time charge and unavoidable monthly meter reading charge – or the customers must have an advanced meter installed at their homes against their wishes. This runs counter to the PUCO's directive in the Opt-Out Entry on Rehearing that utilities recognize opt-out as one of many solutions to customer concerns. The absence of alternatives also weakens the PUCO rules providing customers the choice not to have an advanced meter. The PUCO should require Duke to work with customers in developing more options for opting out of having an advanced meter.

⁸⁷ OCC Ex. 3 (Williams Testimony) at 19.

⁸⁸ *Id.*, Entry on Rehearing (December 18, 2013) ("Opt-Out Entry on Rehearing") at 3.

One simple option would be for customers to be allowed to avoid the additional costs associated with the monthly meter reading charge. To avoid this charge, customers should have the option of reading their own meters during most months and report the reading to Duke. As OCC witness Williams pointed out, Duke already offers this option to its customers with traditional meters.⁸⁹ This was confirmed at hearing by Duke witness Brown.⁹⁰

Allowing customers to read their own meter and report the reading to Duke is consistent with the PUCO's rules. Ohio Adm. Code 4901:1-10-05(I)(1) requires that utilities read meters only once a year, and allows utilities and customers to make other arrangements for meter reading:

The electric utility shall obtain actual readings of all its in-service customer meters at least once each calendar year. Every billing period, the electric utility shall make reasonable attempts to obtain accurate, actual readings of the energy and demand, if applicable, delivered for the billing period, except where the customer and the electric utility have agreed to other arrangements.

The PUCO should require Duke to make this option available to customers who choose not to have an advanced meter at their homes.

Another alternative would be for Duke to waive charges for installing an advanced meter at a different location from where the traditional meter is currently installed, for those customers who object to having an advanced meter on their homes. Duke does give customers the option of installing an advanced meter in a location different from the traditional meter – but at the customer's expense. This was discussed during the cross-examination of Duke witness Brown:

⁸⁹ OCC Ex. 3 (Williams Testimony) at 5-6.

⁹⁰ Tr. at 38.

Q. (By OCC Counsel Stinson) Now, isn't it true that if a customer expresses a concern about having an AMI meter installed, the customer has two options, the first being to have a traditional meter?

A. (By Duke Witness Brown) I believe that's what this tariff was filed for.

Q. And is another option to have the AMI meter located further from the customer's residence?

A. The customer can have their meter base moved, and we will install a meter base somewhere else – or, excuse me, a meter and that meter base somewhere else on their property.

Q. And isn't it true that the customer pays for that relocation?

A. Yes.⁹¹

Duke has also not shown a willingness to work with customers who have concerns about the communications functions of advanced meters. Duke has alleged that PUCO rules prevent it from shutting off the communications function.⁹² But that is simply not the case. In the Opt-Out Entry on Rehearing, the PUCO specifically mentioned turning off the communications function as an alternative to opt-out:

The Commission notes that the electric utility may continue to work with customers on alternatives to opt-out, such as turning off the communication function of the meter or moving the meter to another area of the property, but the customer shall have the option to request full advanced meter opt-out service for replacement of the advanced meter with a traditional meter.⁹³

The PUCO should require Duke to work with customers regarding their concerns over traditional meters. This includes providing customers with alternatives to monthly meter readings, such as those Duke already makes available to customers.

⁹¹ Tr. at 78-79.

⁹² *Id.* at 79.

⁹³ Opt-Out Entry on Rehearing at 3.

III. CONCLUSION

Duke has the burden of proof in this case to show that its proposed charges for customers to choose a traditional meter are just and reasonable. Duke has failed to meet this burden. Its proposed one-time charge is based on invalid assumptions and speculative cost estimates. The proposed one-time charge would also apply to residential customers who have not replaced an advanced meter with a traditional meter. This would violate PUCO rules. In addition, Duke's proposed monthly charge overstates travel time and the amount of work to be performed, and includes functions that are not performed monthly.

Duke's costs would best be examined in the distribution rate case Duke is to file in the coming year. To protect Ohioans, the PUCO should either deny Duke's application, or approve the Application with both the one-time charge and the monthly recurring charge set at zero dollars in Duke's tariff. The PUCO should also order Duke to develop more alternatives to opt-out for customers.

Respectfully submitted,

BRUCE J. WESTON (0016973)
OHIO CONSUMERS' COUNSEL

/s/ Terry L. Etter

Terry L. Etter (0067445), Counsel of Record
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
Telephone: (614) 466-7964 (Etter direct)
Terry.Etter@occ.ohio.gov
(willing to accept email service)

Dane Stinson (0019101)
Bricker and Eckler LLP
100 South Third Street
Columbus, Ohio 43215
Telephone: (614) 227-4854
DStinson@bricker.com
(willing to accept email service)
*Outside Counsel for the
Office of the Ohio Consumers' Counsel*

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Initial Post-Hearing Brief was served on the persons stated below via electronic transmission, this 30th day of November 2015.

/s/ Terry L. Etter

Terry L. Etter
Assistant Consumers' Counsel

SERVICE LIST

John Jones
Natalia Messenger
Assistant Attorneys General
Public Utilities Section
Attorney General's Office
180 East Broad Street, 6th Floor
Columbus, Ohio 43215
john.jones@puc.state.oh.us
natalia.messenger@puc.state.oh.us

Colleen L. Mooney
Ohio Partners for Affordable Energy
231 West Lima Street
Findlay, Ohio 45839-1793
cmooney@ohiopartners.org

Amy B. Spiller
Elizabeth H. Watts
Duke Energy Ohio, Inc.
139 E. Fourth Street
Cincinnati, Ohio 45201-0960
Amy.Spiller@duke-energy.com
Elizabeth.Watts@duke-energy.com

Attorney Examiner:
Bryce.mckenney@puc.state.oh.us

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

11/30/2015 4:51:43 PM

in

Case No(s). 14-1160-EL-UNC, 14-1161-EL-AAM

Summary: Brief Initial Post-Hearing Brief by the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Etter, Terry L.