

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

**REPLY BRIEF
OF
OHIO PARTNERS FOR AFFORDABLE ENERGY**

I. Introduction

Ohio Partners for Affordable Energy (“OPAE”) herein submits to the Public Utilities Commission of Ohio (“Commission”) this reply brief in these proceedings to consider the applications of Duke Energy Ohio, Inc. (“Duke”) for approval of a grid modernization opt-out tariff and a change in accounting procedures to allow deferrals of costs allegedly associated with the proposed tariff. Duke’s merit brief presents no reason why the Commission should approve Duke’s requests for deferrals or new charges to residential customers who elect to receive opt-out service. The Commission should provide for advanced meter opt-out service for residential customers in Duke’s service territory but deny Duke’s applications for cost deferrals and new charges at this time.

II. The deferral authority should be denied.

Duke argues that the Commission’s Staff is imposing “new criteria” for review of a deferral request. Duke Brief at 3. Duke claims that there is “no Commission precedent for the Staff’s newly minted criteria.” Id. at 5. Duke also complains that “the Staff makes no recommendation for recovery of the costs elsewhere.” Id. Duke asks

the Commission to “approve the request for deferral and recovery in the next base rate proceeding.” *Id.*

First, even if the Commission were to approve a deferral, there is no precedent that guarantees the deferred costs will be recovered in the next base rate proceeding. Issues of cost recovery in base rate proceedings are considered in base rate proceedings. See, *Duke Energy Ohio*, Case No. 09-712-GA-AAM, Entry on Rehearing (January 7, 2010) at 3, 5, 6. Second, because the Commission allows deferral requests without making any ruling on cost recovery, there has been a willingness to permit deferrals when they should not be allowed. The Commission should endorse Staff witness Liphtratt’s approach to considering deferrals. Mr. Liphtratt testified that, in reviewing deferral requests, Staff considers whether the current level of costs included in the last base rate case is insufficient to compensate the utility for costs incurred; whether the costs requested to be deferred are material; whether the situation that leads to increased costs was outside the utility’s control; whether the expenditures are atypical and infrequent; whether the costs would result in financial harm to the utility; and whether the Commission could encourage the utility to do something it would not otherwise do through the granting of the deferral authority. Staff Ex. 3 at 5-6.

Duke’s request does not satisfy these conditions. Duke both capitalized and expensed information technology (“IT”) costs in its last base rate case. Duke makes IT changes to its billing system in the normal course of its business regardless of deferral authority. Duke did not show that the IT costs embedded in current base rates are insufficient in comparison to current levels of spending, nor did Duke show that the \$243,122 in IT costs proposed for deferrals is incremental to the amount already

included in base rates. These IT costs are neither atypical nor infrequent; they are simply the sort of costs that make up test-year expenses in rate cases. Tr. at 169.

To grant a deferral, some need for the deferral must be shown. As part of its Form 10-K operating income, Duke reported \$187 million of income in 2014 and \$182 million in 2013. Given those levels of operating income, the claimed \$243,122 in IT costs allegedly associated with opt-out service are not material and will not result in financial harm to Duke. Staff Ex. 3 at 6; Tr. at 170. The amount is so insignificant to Duke that Duke did not even bother to allege financial harm. Tr. at 168.

It is also not true that Duke is unable to recover its IT costs. The obvious cost recovery method for such expenses is a base rate proceeding. Staff Ex. 3 at 7. Duke is free to initiate a base rate proceeding at any time that Duke wishes to do so.

III. There is no support for Duke's one-time charge for providing a traditional meter.

Duke claims that it will be required to maintain a separate meter stock to serve opt-out customers and will be required to repair, test, store, and purchase traditional meters. Duke Brief at 6. Duke also claims that it may need to remove an advanced meter and install a traditional meter. These potential tasks are the basis for Duke's proposed one-time fee per opt-out customer of \$126.70. Id. at 7. Duke claims that its witness Brown has knowledge of the cost elements of the tariff and that: "Short of parading into the hearing a team of twenty people", Duke relied upon Mr. Brown's knowledge, expertise, and collaboration with subject matter experts. Id. Duke claims that it is "in the best possible position to know what costs are incurred internally to create an opt-out program." Id. at 7.

The Commission has no obligation to take Duke's word for what Duke claims to be the costs associated with opt-out service. The Commission needs some evidence that there are actual costs involved and what those costs may be. Staff witness Marchia Rutherford testified that Duke would need approximately 950 traditional meters to accommodate the potential 725 opt-out customers if a 30% reserve for meters is used. Staff Ex. 2 at 3-4. Duke already has 3,772 traditional meters on hand and even if only half of those meters test accurately, there are still no costs for purchasing additional meters. Id. at 4. Ms. Rutherford also testified that meter testing and repair and labor storage costs for traditional meters are already currently recovered through Duke's base rates. There is no indication that the current cost recovery for these activities is insufficient to support the potential 725 opt-out customers. Because Duke is already recovering these costs through base rates, Duke should not be allowed to include costs for testing/repair and labor storage as part of the proposed one-time charge. Staff Ex. 2 at 4. Duke should also waive meter testing costs for opt-out customers for the one-time meter swap/installation because Duke's current tariff allows meter testing charges to be waived for a customer's first meter test request. Staff Ex. 2 at 4-5. The one-time charge relating to distribution maintenance costs is to cover travel to remove an advanced meter and install a traditional meter. Duke alleges that this will cost \$51 for 60 minutes of work. The timeframe should be reduced to 45 minutes to recognize the minimum amount of travel that it may take a field employee to perform this function. With its adjustments, Staff reduced the one-time charge to \$38. Staff Ex. 2 at 5.

The Office of the Ohio Consumers' Counsel ("OCC") witness James D. Williams recommended that the Commission reject the one-time charge in its entirety. Duke did not provide sufficient justification for the one-time fee. Tr. at 198. Duke already bills customers who have refused an advanced meter so changes to the IT system are not necessary to bill such customers. OCC Ex. 3 at 11. There is no indication that the costs to bill opt-out customers are incremental to costs Duke is already recovering from customers through base rates. Duke failed to show the IT system costs are incremental.

Moreover, Duke's claim that it needs additional funds to purchase, store, repair, and test traditional meters is unproven. Customers who have refused an advanced meter already have a traditional meter. Duke has no need for additional revenues to purchase, store, test and repair 725 traditional meters. Customers have already paid for traditional meters through base rates. Duke's claim that it needs additional revenues to perform distribution maintenance on traditional meters is also not proven. OCC Ex. 3 at 13. Customers have already paid for maintenance of their traditional meters through base rates. Meter maintenance costs, regardless of the type of meter, are already in base rates and are not unique to traditional meters.

IV. The monthly recurring fees are not supported.

Duke claims that opt-out customers will "cause additional work that was not anticipated" when Duke began advanced meter deployment so that opt-out customers decrease the economies of scale from the deployment. Duke Brief at 5. Duke also claims that its opt-out customers will be located throughout the service territory and that the population of such customers will vary from one month to the next. Id. at 6. Duke

claims there will be more drive time between each manual read, and meter route planning will present challenges not previously experienced. Duke also claims that maintenance of communications on the advanced meter system may present challenges and that it may be necessary to locate and install additional communication devices to solve for communication gaps. Duke Brief at 6. This is the basis for Duke's proposed \$40.53 per month charge. Duke claims that it "is in the best position to understand the recurring costs involved in providing this service" and that the Commission should therefore approve the cost as proposed by Duke. Id. at 6.

Again, the Commission needs evidence, not simply Duke's word that there will be additional costs. Staff recommended a \$24.00 monthly meter reading charge. Staff testified that the cost of communication devices supporting the advanced meter system is recovered from customers through Duke's Rider DR-IM, which should be used to recover any costs for re-establishing communication for stranded meters as a result of opt-out activity. Tr. at 144. Opt-out customers pay Rider DR-IM so they are paying their share of the costs. In addition, there is no evidence that there will actually be communications gaps when customers opt out of advanced meters. Customers have already refused advanced meters, and Duke has experienced no communications gaps as a result of customers who refused an advanced meter. OCC Ex. 3 at 16.

Staff also recommended that Duke not be allowed to recover theft-related costs as part of the monthly charge. Duke does not currently charge an investigation fee for fraud or theft unless Duke can confirm that tampering has occurred through an investigation. When tampering or fraudulent practice is alleged, Duke visits the premise to determine what is actually taking place. Tr. at 148. If it is determined that

fraudulent activity is taking place, the costs are imposed on the customer. Tr. at 148. A penalty is only assessed when Duke has proven fraudulent activity. Staff Ex. 2 at 7.

Staff also reduced the time for reading opt-out meters from the 60 minutes Duke requested to 35 minutes. Staff Ex. 2 at 6-7. Based on the information provided by Duke (and the lack of information), 35 minutes was established as 15-minutes each way, and adding an additional five minutes for the meter reading time. Staff testified that “There are so many unknowns and there are so many variables that exist, that it is more reasonable . . . to take a safe approach in assigning costs to opt-out customers because there is no evidence . . . what . . . the number of customers that choose to take that service, that it actually would warrant the higher timeframe for 60 minutes as opposed to the [3]5.” Tr. at 150. Information will be available on the number of customers taking opt-out service and associated costs in a base rate case. Tr. at 159.

If costs associated with opting out of an advanced meter are imposed on customers, the Commission needs to consider the perspective not only of the utility but also of the customers. It is more reasonable to come in at the lower end of costs as opposed to having a higher level of costs when the higher level of costs is not supported by any data. Tr. at 142. Given the lack of information, it is more reasonable to take a low-end approach as opposed to establishing a cost without any support to show why the cost should be higher. Id. at 143. With the adjustments for communication devices, theft-related investigation costs, and monthly meter reading costs, the monthly charge should be reduced to \$24. Staff Ex. 2 at 8.

OCC witness Williams recommended that the recurring charge also not be approved at this time. Duke has not substantiated the monthly cost to read the meters

of opt-out customers. Tr. at 198. Duke has also not considered alternatives to a monthly meter read such as a quarterly read or allowing customers to read their own meters and report the reading to Duke. Duke has not demonstrated that the metering service costs are incremental to the costs customers are already paying in base rates. The cost of meter readers is already included in base rates, and the number of meter readers has been reduced with smart grid deployment so that the embedded costs in current base rates may be too high. Duke already collects sufficient revenues to perform manual meter reads for the customers who opt out of advanced meters. OCC Ex. 3 at 15.

V. There are good reasons to provide advanced meter opt-out service without any new charges to ratepayers at this time.

OCC witness Williams testified that Duke's estimates of the costs for the meter opt-out program appear to be overstated and unsupported. OCC Ex.3 at 5. Duke has not substantiated the costs for either the one-time fee or the recurring fee. Tr. at 198. While there should be an opt-out tariff in place for customers who choose to opt out, the charges should be set at zero at this time for both the one-time fee as well as the recurring fee until there is a base rate proceeding. Tr. at 199. Duke is already providing opt-out service and has been providing the service since the smart grid deployment began. Tr. at 199. This same process should continue until there is a base rate proceeding and an opportunity to look at revenues and expenses in a broader context. Tr. at 199.

Duke's advanced meter deployment has just reached completion and authorization for cost recovery from customers for the opt-out service should only occur in an appropriate regulatory proceeding where all of Duke's expenses and revenues

are examined to ensure that rates and charges are just and reasonable. There has not been an opportunity for a full evaluation of the impact that advanced meter deployment has on Duke's operating expenses.

The deployment should reduce operating costs, but there has been no opportunity to examine those reduced costs or the cost of advanced meter opt-out service. There is no evidence to support the contention that Duke is not already sufficiently recovering its costs through existing rates to provide customers with the ability not to have an advanced meter. Duke is continuing to perform meter reads for customers who have requested not to have an advanced meter. Customers may also provide meter reads directly to Duke. OCC Ex. 3 at 5-6. As of May 2015, only 105 residential customers had refused an advanced meter and are being served with a traditional meter. OCC Ex. 3 at 17. Providing opt-out service to this small number of customers has not been demonstrated to impact Duke financially.

Duke is required to file an electric distribution base rate case in the first year after completing its smart grid deployment. The deployment has now been completed. The test year to be used in the base rate application should reflect the reduced operating expenses that are attributable to the smart grid deployment. These reductions in operating expenses can be evaluated concurrent with the revenues Duke is collecting from customers in the test year to enable a more reasonable assessment of the costs involved in providing the advanced meter opt-out service. Therefore, separate new charges on customers to opt out of the advanced meter should not be allowed at this time. OCC Ex. 3 at 7.

The proposed new charges may force customers to accept advanced meters against their will. Duke should not use the advanced meter opt-out charges as a way to coerce customers into having an advanced meter if they do not want one. OCC Ex. 3 at 9. Duke should instead work with customers to address their concerns about advanced meters and alternatives.

VI. Conclusion

The Commission should allow for advanced meter opt-out service for residential customers in Duke's service territory but delay the implementation of any new charges associated with the service until Duke's upcoming electric base rate case considers all the expenses associated with the opt-out service in the test year. Both the one-time and recurring charges should be rejected because there is not enough information to support the charges until a base rate case is considered. In addition, Duke's deferral request should be denied because Duke has not shown a need for deferral of the IT costs.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of this Reply Brief was served on the persons stated below via electronic transmission, this 15th day of December 2015.

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