

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Applications of Ohio)	Case No. 13-1938-EL-WVR
Power Company for a Limited Waiver of)	Case No. 17-1380-EL-WVR
Ohio Adm. Code 4901:1-18-06(A)(2).)	

**OHIO POWER COMPANY’S MEMORANDUM CONTRA APPLICATION FOR
REHEARING FILED BY THE OFFICE OF THE OHIO CONSUMERS’ COUNSEL
AND OHIO PARTNERS FOR AFFORDABLE ENERGY**

I. INTRODUCTION

Ohio Power Company (“AEP Ohio” or the “Company”) hereby submits this memorandum contra the application for rehearing that The Office of the Ohio Consumers’ Counsel and Ohio Partners for Affordable Energy (collectively, “OCC/OPAE”) filed in these proceedings on August 11, 2017. As set forth below, OCC/OPAE’s application for rehearing mischaracterizes the nature of the Commission’s July 12, 2017 Entry (“Procedural Entry”) as being a substantive decision on the merits and thus is premature. Moreover, the relief that OCC/OPAE seek would confuse and harm customers, and the OCC/OPAE’s factual assertions about the disconnection rate in the remote disconnect pilot area, upon which they predicate their application for rehearing and base their requested relief, are incorrect. For all of these reasons, the Commission should deny OCC/OPAE’s application for rehearing in its entirety.

II. BACKGROUND

On March 18, 2015, in Case No. 13-1938-EL-WVR (“*Waiver Case*”), the Commission approved AEP Ohio’s request for a limited waiver of the personal notice requirements of Ohio Adm. Code 4901:1-18-06(A)(2) within the gridSMART Phase 1 project area to facilitate a two-year remote disconnection pilot program (“Pilot”). *Waiver Case*, Entry at 12-14 (Mar. 18, 2015).

The Commission further directed that, following the Pilot, the Commission and the parties would “have the opportunity to evaluate the success of the pilot and consider revisions to the remote disconnection process if the process is continued or expanded.” *Id.* at 13. The Commission granted the waiver through August 1, 2017, or until otherwise ordered by the Commission, and directed AEP Ohio to file any request to continue or expand the Pilot by June 1, 2017. *Id.*

On June 1, 2017, the Company filed a motion in Case No. 17-1380-EL-WVR (“*Waiver Extension Case*”) to permanently or indefinitely extend the limited waiver granted in the *Waiver Case*. See *Waiver Extension Case*, Mot. for Extension of Limited Waiver (June 1, 2017).

Contemporaneously with that motion, AEP Ohio filed a motion in Case No. 17-1381-EL-WVR (“*Waiver Expansion Case*”) to expand the waiver to include the Company’s next advanced metering infrastructure (AMI) installation project, through which the Company plans to install an additional 894,000 meters over four years beginning in Summer 2017. See *Waiver Expansion Case*, Mot. for Expansion of Existing Waiver (June 1, 2017). OCC/OPAE filed memoranda contra AEP Ohio’s motions in both cases. See *Waiver Extension Case*, OCC/OPAE Mem. Contra (June 8, 2017); *Waiver Expansion Case*, OCC/OPAE Mem. Contra (June 16, 2017).

Consistent with its March 18, 2015 Entry in the *Waiver Case*, the Commission issued its Procedural Entry on July 12, 2017, establishing a procedural schedule, including a comment cycle, to evaluate the Pilot. See Procedural Entry at ¶ 21 (July 12, 2017). After the parties file initial and reply comments evaluating the Pilot, “the Commission will consider AEP Ohio’s motions to continue, extend, and expand” the Pilot. *Id.* at ¶ 22. To facilitate its evaluation of the Pilot and avoid customer confusion if it determines that the Pilot should continue, the Commission approved the continuation of the Pilot in the gridSMART Phase 1 project area, as initially approved in the *Waiver Case*, until it orders otherwise. *Id.*

The Commission's Procedural Entry thus preserves the status quo while the Commission evaluates the Pilot's success and the merits of the parties' arguments regarding its continuation and expansion. OCC/OPAE seek rehearing regarding the Commission's Procedural Entry, incorrectly characterizing it as substantively deciding the very merits issues that the Procedural Entry expressly directed would be evaluated after full comments on AEP Ohio's motions. OCC/OPAE's arguments are premature and otherwise without merit, as set forth below. The Commission, therefore, should deny OCC/OPAE's application for rehearing.

III. THE COMMISSION'S PROCEDURAL ENTRY IS LAWFUL AND REASONABLE.

OCC/OPAE's complaints about the Commission's Procedural Entry are misplaced, and the Commission should disregard them. As an initial matter, OCC/OPAE's application for rehearing is premature. The Procedural Entry did not, as OCC/OPAE contend, "fail[] to address" OCC/OPAE's arguments, or disregard record evidence, in continuing the limited waiver the Commission approved in the *Waiver Case* during the pendency of the *Waiver Extension Case* and *Waiver Expansion Case*. See OCC/OPAE App. for Reh'g at 4-8. The Procedural Entry makes no substantive decision on AEP Ohio's motions or OCC/OPAE's arguments. Rather, the Procedural Entry's entire purpose was to establish a procedural schedule for the parties to present evidence and comments to enable the Commission to evaluate the Pilot and fully consider AEP Ohio's requests to continue, extend, and expand it. Procedural Entry at ¶ 21-22. The parties to these proceedings, including OCC/OPAE, will have the opportunity to file initial and reply comments for the Commission's consideration in deciding the merits of AEP Ohio's waiver requests. *Id.* at ¶ 22.

The Commission did not err by continuing the Pilot it initially approved in the *Waiver Case* until further order. It is well settled that the Commission has "broad discretion to manage

its dockets, including the discretion to decide how, in light of its internal organization and docket considerations, it may best proceed to manage and expedite the orderly flow of its business, avoid undue delay, and eliminate unnecessary duplication of effort.” See *In the Matter of the Application Seeking Approval of Ohio Power Company’s Proposal to Enter into an Affiliate Power Purchase Agreement for Inclusion in the Power Purchase Agreement Rider*, Case No. 14-1693-EL-SSO, *et al.*, Opinion and Order at 10 (Mar. 31, 2016), citing *Duff v. Pub. Util. Comm.*, 56 Ohio St.2d 367, 379, 384 N.E.2d 264 (1978); *Toledo Coalition for Safe Energy v. Pub. Util. Comm.*, 69 Ohio St.2d 559, 560, 433 N.E.2d 212 (1982). The Commission expressly determined that continuing the current Pilot beyond August 1, 2017 would “facilitate an evaluation of the [Pilot] and avoid any customer confusion should the Commission subsequently determine the [Pilot] should be continued * * *.” Procedural Entry at ¶ 22. It was well within the Commission’s discretion to manage the flow of its business in this manner in order to facilitate its substantive review of the Pilot and avoid customer confusion that terminating and subsequently resuming the Pilot would cause.

The Commission’s decision also avoids the expenditure of potentially unnecessary time, energy, and funds that terminating and subsequently resuming the Pilot would require. As AEP Ohio explained in its motion for extension of the waiver, the Company has reallocated its resources for performing in-person disconnections within the gridSMART Phase 1 area to other roles, and it no longer has the staff assigned to that area to allow a seamless transition if it were required to continue operations without remote disconnect capability. See *Waiver Extension Case*, Mot. for Extension of Limited Waiver at 4 (June 1, 2017). Terminating and then resuming the Pilot would require the Company to reallocate its resources twice, potentially in short succession. This would be wasteful and financially detrimental to customers.

Both of the foregoing considerations also weigh against OCC/OPAE's argument that the Commission should have approved only a 6-month continuation of the Pilot. *See* OCC/OPAE App. for Reh'g at 7-8. Six months from now, if these proceedings have not concluded, the same customer confusion and resource considerations would apply, arguably with even more force (*i.e.*, customers would likely be more confused – and more Commission, Company, and customer resources would likely be expended – if the Pilot were temporarily terminated and then resumed only a short time later). The Commission thus acted reasonably and within its discretion in deciding to continue the Pilot until further order.

Finally, although the Commission will evaluate the merits of AEP Ohio's motions and OCC/OPAE's objections thereto based upon the parties' future comments – and was not required to do so in its Procedural Entry – AEP Ohio also notes that OCC/OPAE's contention that the Pilot has an adverse impact on residential customers is demonstrably incorrect. Contrary to OCC/OPAE's position, disconnections in the Pilot area have actually decreased since the Pilot began. The data that the Company has provided to Staff and OCC/OPAE reflects that 17,425 fewer disconnections occurred in 2017 than in 2016. From September 2015, when the Pilot began, until May 2016, the average number of customers remotely disconnected per month was approximately 3,613. From September 2016 to May 2017, the average number of customers remotely disconnected per month was 2,732 – 881 fewer customers per month on average. Thus, fewer customers have been disconnected per month in the Pilot area as the initial Pilot term has proceeded. Moreover, OCC/OPAE's position that residential customers in the Pilot area were disconnected at a disproportionately high rate is flawed. *See* OCC/OPAE App. for Reh'g at 5-6. OCC/OPAE compared the percentage of total disconnections that occurred in the Pilot area (29.7%) with the percentage of total residential customers residing in the Pilot area (10%). *Id.* at

5. That calculation, however, disregards that the disconnection rate in the Pilot area was significantly higher than 10% – indeed, was roughly 20% – in the year before the Pilot began. A 29.7% disconnection rate is not as significant as OCC/OPAE contend when an apples-to-apples comparison is made, particularly when other variables such as weather, the number of employees, the availability of low income support funds, and the number of customer delinquencies – all of which independently affect the disconnection rate – are also accounted for.

IV. CONCLUSION

It was lawful, reasonable, and appropriate for the Commission to continue the Pilot approved in the *Waiver Case* during the pendency of these proceedings. OCC/OPAE's arguments otherwise are without merit for the reasons set forth above. Accordingly, the Commission should deny OCC/OPAE's application for rehearing in its entirety.

Respectfully submitted,

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CERTIFICATE OF SERVICE

In accordance with Rule 4901-1-05, Ohio Administrative Code, the PUCO's e-filing system will electronically serve notice of the filing of this document upon the following parties. In addition, I hereby certify that a service copy of the foregoing Notice of Appearance was sent by, or on behalf of, the undersigned counsel to the following parties of record this 21st day of August, 2017, via electronic transmission.

/s/Steven T. Nourse
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Summary: Memorandum - Ohio Power Company's Memorandum Contra Application for Rehearing Filed by the Office of the Ohio Consumers' Counsel and Ohio Partners for Affordable Energy electronically filed by Mr. Steven T Nourse on behalf of Ohio Power Company