BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's Review of Chapter 4901:1-10 of the Ohio Administrative Code.	)))	Case No. 17-1842-EL-ORD

OHIO PARTNERS FOR AFFORDABLE ENERGY'S REPLY COMMENTS

I. Introduction

Ohio Partners for Affordable Energy ("OPAE") herein submits to the Public Utilities Commission of Ohio ("Commission") these reply comments in the Commission's review of the Commission's rules for minimum electric service and safety, Chapter 4901:1-10, Ohio Administrative Code ("O.A.C") in accordance with the Commission's July 17, 2019 Entry in this docket.

II. Notices of Disconnection of Service for Fraudulent Acts Should Continue to be Hand-Delivered.

AEP Ohio's comments on 4901:1-10-20(C)(1) undermine the Staff of the Commission's proposal to eliminate a hand-delivered notice to customers whose service is disconnected for an alleged fraudulent act. AEP Ohio apparently accepts the Staff proposal to eliminate the requirement for a hand-delivered notice, a further erosion of consumer protections. However, it goes farther, requesting authority to lock or remove a customer's meter, in addition to sealing the meter. Simply put, if a crew is dispatched to a home to physically prevent a customer who has committed fraud, why can't they drop off a notice that provides customers with information of their rights? Why should the customer wait up to three days to know why his or her service has been disconnected and what their rights are when utility staff is present at the property? The Commission is regularly approving waivers from Ohio's 'last knock' rule, so If the disconnection occurs remotely and does not involve utility personnel visiting the property, the waiver notice provisions would be followed – so long as the waivers continue. If utility personnel are on-site as a result of the allegation of fraud, utility personnel should deliver the notice.

III. The Payment Due Date for Residential Customers Should be 21 Days After the Date of the Postmark.

Thanks to regulations issued by the Federal Trade Commission, authorized by the CARD Act of 2009, amending the Truth in Lending Act, credit card companies are required to provide 21 days from the date of the postmark to pay the bill. 15 U.S.C. 1666b. Current Commission regulations also provide for 21 days when a bill is mailed from out-of-state. Retaining essential electric service is much more important than a credit card. The 21-day rule for residential customers should be followed.

IV. Prepaid Service Should Not Be Included in Ohio Regulations Because it Violates Ohio Law.

The Office of the Ohio Consumers' Counsel ("OCC") makes clear that the Staff's prepaid service proposal violates numerous state statutes: R.C. 4933.12(D); R.C. 4922.12(F); R.C. 4933.12(C)(2); R.C. 4933.122(B); and, R.C. 4933.122(C). OPAE concurs. Distribution utilities remain a monopoly, and are the gatekeeper to essential energy services. As a result, the General Assembly has enacted a series of provisions designed to provide due process and notice to customers prior to disconnection. When a customer is disconnected as a result of funds on the prepaid card running out, he or she is denied those due process protections. Running out of funds is a *de facto* and *de jure* a disconnection.

Proponents argue that prepay provides customers with choice, gives them more control over energy use, is an energy conservation technology, and improves affordability. All of these arguments are flawed. It is clear that low-income customers are steered to prepay, attracted by the lack of a deposit or credit check and steered to prepay by utility customer service representatives, and the potential to avoid an extended disconnection for failure to pay bills, though payment plans are available. Once a customer gets on prepaid service, getting off is difficult; the same problems the customer faced before still exist, but the customer will not be coming to Home Energy Assistance Program agencies for the type of help that can get the customer reconnected to traditional service.

The argument of greater control is also misplaced. Proponents often note that prepay is great for students who move regularly and folks with vacation homes. This makes no sense. First, what do you do with a card that has $15 on it after you move? Other than simple cabins, does anyone leave heat off in vacation homes all winter? If a customer calls a utility and asks to be disconnected at the end of the tenancy, the utility will do so and send a final bill to the new address. The advantages claimed appear ephemeral.

OPAE's other concern with prepaid meters is that customers are disconnected frequently. Few utilities in the United States have released data on the frequency of disconnections. However, there are surveys from the United

Kingdom. Following is a selection from a 2012 report of the National Consumer Law Center[1] that summarizes some of these studies:

> Customer surveys, however, have helped fill the information gap. Accent, an independent research firm in the UK, surveyed prepaid customers. They found that 9 percent of prepaid electric customers were disconnected in the past 12 months.[2] Credit customers experienced a disconnection rate of about one tenth of one percent during the same time period.[3] Further, a 1997 customer service survey conducted by the Centre for Sustainable Energy National Right to Fuel Campaign found that 28 percent of prepayment customers in Great Britain were disconnected from their service over the past year.[4] Research shows that the rates of disconnection due to lack of funds are increasing in the United Kingdom. Between 2008 and 2009, the number of customers reporting disconnections for lack of funds increased from 21 percent to 39 percent and an increasing number of customers were disconnecting with greater frequency. The duration of disconnection also lengthened, with less than half of customers disconnecting for more than a day in 2008 whereas most customers disconnected for more than a day in 2009.[5] While most customers are disconnected for short periods, the poorest customers are disconnected the longest.[6]

[1] Howat, John and Jillian McLaughlin, *Rethinking Prepaid Utility Service: Customers at Risk*, National Consumer Law Center (June, 2012). https://www.nclc.org/images/pdf/energy_utility_telecom/consumer_protection_and_regulatory_issues/report_prepaid_utility.pdf

[2] Accent prepared for National Housing Federation, "Pre-Payment Meter Utilities Customers, Final Report," (June 2008), p. 12.

[3] . NCLC took the total number of electric customers from the four quarters including and preceding Q2 2008 (Q2 2008, Q1 2008, Q4 2007, Q3 2007) and compiled an average of all electric customers not paying by prepay. Then, NCLC added all the disconnections reported for the same quarters. The total number of disconnections reported was 3220 for that 12-month period. Undoubtedly, many of these customers were disconnected more than once during that 12-month period but since that data is unavailable; NCLC assumed that each disconnection during that period was a different customer, making the percentage a conservative estimate. Using this methodology, the average of the disconnection rates across the four quarters is 0.0035%.

[4] Centre for Sustainable Energy and National Right to Fuel Campaign, "Counting the Hidden Disconnected," (1998), p. 20.

[5] Accent for National Housing Federation, "Pre-Payment Meter Utilities Customers: Wave 2 Final Report," (April 2009), p. 10, 11.

[6] Hannah Mummery and Holly Reilly, "Cutting back, cutting down, cutting off," Consumer Focus (July 2010), p. 6.

Ohio requires utilities to file annual disconnection reports, which provide insight into the impact prepay could have on utility service. Duke Energy Ohio provides a typical example. In its filing in Case No. 19-974-GE-UNC, Duke reported issuing 1,036,094 final notices of disconnection, but ultimately disconnected 42,914, or 4.1%. However, if the 1.04 million customers were on prepaid service, all those households would have been disconnected. Is this what we want to see in Ohio?

Prepaid customers are not as satisfied as proponents suggest. In this summary of studies conducted by SRP, an Arizona utility that has the largest number of of prepay customers,

> In studies designed and conducted or commissioned by the SRP in Arizona, prepayment customers generally report a high satisfaction level with the program. However, the same studies show that customers continue to be dissatisfied with aspects of the program, particularly with payment methods. To re-load the meter, customers must travel to a location with a pay center self-service kiosk. Seventy-one percent of customers surveyed in 2006 said they experienced a problem with an inoperable pay center in the previous year. The longer customers remain in the prepayment program, the more dissatisfied they are with the pay centers. When looking at overall experience, SRP's credit customers reported a better overall experience (50 percent) compared to prepayment customers (44 percent) in 2010.[7]

Deprivation is not conservation. Regular disconnections are not consistent with R.C. 4928.02(A), which requires utilities make available "…adequate, reliable, safe, efficient, nondiscriminatory, and reasonably priced electric service." It does not say that customers should be offered a second-

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[7] Howat, John and Jillian McLaughlin, *Rethinking Prepaid Utility Service: Customers at Risk*, National Consumer Law Center (June, 2012) at 21.

class service that bypasses the very regulations that require service be ‘adequate and reliable’. Prepaid service in neither.

V. Allowing Customers the Right to Block Competitive Retail Electric Suppliers is an Important Consumer Protection and Should be Adopted.

Staff’s proposal to allow customers to request a block to prevent the switching to a Competitive Retail Electric Supplier (“CRES”) should be adopted by the Commission. The ability to block switching does not impede competition; it merely ensures that when a customer makes a decision to retain the Standard Offer Service (“SSO”) it is respected. The customer is king in Ohio, and should have the tools to ensure the decision they make is followed.

While most marketers operate businesses that comply with Commission rules, unscrupulous marketers regularly target low-income, disabled and elderly customers using door-to-door salespeople. Virtually all these contracts are at prices over the SSO, and have a tremendously negative impact on those with little income. Not only will the rule prevent slamming, but it adds another layer of protection. CRES are continuing to request waivers from current enrollment rules that will make it easier for door-to-door salespeople to bind people through contracts. Customers deserve a provision that ensure contracts are executed only with willing customers. Our caseworkers can make effective work of a tool that allows us to show the most vulnerable customers how to protect themselves from a deal they cannot afford.

VI. Conclusion

The Electric Service and Safety Standards, along with O.R.C. 4901:1-17 and 18 establish basic consumer protections for residential customers. The installation of smart meters should not result in the erosion of consumer protections. Adequate notice and other due process protections are the reasons for these regulations, and should be the primary screen for evaluating proposed rule changes. Personal notice prior to disconnection regardless of the reason; adequate time to pay a bill; prevention of substandard services such as prepay; and, the ability of a customer to protect his or her choice of SSO service are basic protections the Commission should retain.

Respectfully submitted,

/s/Colleen L. Mooney
Ohio Partners for Affordable Energy
PO Box 12451
Columbus, OH 43212
Telephone: (614) 975-8692
cmooney@opae.org
(will accept e-mail service)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Reply Comments will be served electronically by the Commission's Docketing Division upon the persons who are electronically subscribed on this 30th day of August 2019.

/s/Colleen L. Mooney
Colleen L. Mooney

William.Wright@ohioattorneygeneral.gov