

BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke Energy)	
Ohio, Inc., for a Waiver.)	Case No. 19-0187-EL-WVR
)	

**MEMORANDUM CONTRA APPLICATION FOR REHEARING
OF
DUKE ENERGY OHIO, INC.**

I. Introduction

Rather than losing any consumer protections, this case is about providing better consumer protections and better service for customers. The Public Utilities Commission of Ohio (Commission) correctly extended approval to allow Duke Energy Ohio, Inc., (Duke Energy Ohio or the Company) to continue a waiver of O.A.C. 4901:1-18-06(A)(2) that was first granted by the Commission on March 8, 2017, in Case No. 16-1096-EL-WVR (the Waiver Case). The Application for Rehearing filed by Communities United for Action, The Office of the Ohio Consumers' Counsel, and Pro Seniors, Inc., (Consumer Parties) in this case should be denied.

Notwithstanding the Commission's appropriately written and narrowly tailored approval of the Company's application, Consumer Parties seek rehearing of the Commission's Finding and Order granting an extension of a temporary waiver of Rule 4901:1-18-06(A)(2). The Consumer Parties mistakenly believe that the extension of the Commission's approval for a waiver in this case, will cause a "loss of consumer protections." The Consumer Parties persist in this unsupportable argument despite all evidence to the contrary. Moreover, these arguments have all been raised and disposed of in the previous case wherein the Commission granted the initial waiver. They were unpersuasive in that case, and there is nothing new that makes them any more compelling now. As discussed herein,

the Commission's decision does not violate any controlling law or regulation. Instead, as confirmed by the facts on which it is based, the decision provides for appropriate notification processes, incorporates consumer protection, and allows for benefits to customers. The Consumer Parties' Application for Rehearing should be denied.

II. Discussion

The Commission has enacted rules so that customers are given notice and an opportunity to act prior to having their electric service disconnected for non-payment. Rule 4901:1-18-06(A)(2) sets forth the requirements as follows:

On the day of disconnection of service, the utility company shall provide the customer with personal notice. If the customer is not at home, the utility company shall provide personal notice to an adult consumer. If neither the customer nor an adult consumer is at home, the utility company shall attach written notice to the premises in a conspicuous location prior to disconnection service.

The plain language of this rule makes clear that the Commission's intention is to provide all customers with adequate notice and opportunity to avoid disconnections, to the greatest extent possible. The Company's application in this case was consistent with these goals and provided mechanisms and protections to support them. Indeed, the application provided for protections beyond those reflected in the controlling regulations.

Consumer Parties argue that in-person notice is necessary because any other type of notice does not ensure that the customer actually receives the final notice and acts to avoid disconnection.¹ But this is contrary the Company's actual experience. As shown by an attachment to the Company's application in this case, the additional notifications employed by the Company have resulted in a reduction in both disconnections for nonpayment and for customers eligible for disconnection.

¹ Application for Rehearing at pg.3.

The Staff of the Public Utilities Commission of Ohio (Staff) noted in comments that 75 percent of customers scheduled for disconnection for nonpayment responded to one of the alternative means of notification and made the payment required to avoid disconnection.² Staff also examined the rates at which phone calls were answered by either a live person or voice mail and found that 77 percent of calls made two days prior to scheduled disconnection were successfully completed. And 69 percent of those resulted in the customer making payment and avoiding disconnection. Staff also noted that it received zero complaints about these practices.³

In its Finding and Order, the Commission properly reviewed these facts, along with the arguments raised by Consumer Parties, and determined that the request to continue the waiver should be approved. The Commission explicitly recognized that after two years of information gathering, customers are more responsive to the alternative notification process than the previous methods. The Commission correctly stated that the “arguments against the waiver, provided by OPAE and the Consumer Groups, are unpersuasive.”⁴

Finally, the Commission approved the continuation of the waiver with conditions as set forth in Staff’s recommendations. These conditions provide robust additional safeguards for customers to ensure that customers are advised of the procedures and given explicit notification prior.

III. Conclusion

The Commission’s Finding and Order was lawful and reasonable. The Commission properly found that the alternative notification process provides reasonable notice to customers, meets the requirements of R.C.4933.122, and should continue to be used. The Commission imposed conditions on the continuation of the waiver and thoroughly reviewed and considered all the arguments of the

² Comments Submitted on Behalf of the Staff of the Public Utilities Commission of Ohio, (May 10, 2019) at pg.3.

³ Id.

⁴ Finding and Order at pg.7.

parties. Mere speculation and conjecture that is contrary to facts and research is not compelling. The Consumer Parties' application for rehearing must be denied.

Respectfully submitted,

DUKE ENERGY OHIO, INC.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Memo Contra Application for Rehearing of Duke Energy Ohio, Inc., was served via regular US Mail postage prepaid, or by electronic mail service, this 7th day of November 2019, upon the following:

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This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

11/7/2019 3:03:07 PM

in

Case No(s). 19-0187-EL-WVR

Summary: Memorandum Memorandum Contra Application for Rehearing of Duke Energy Ohio, Inc. electronically filed by Dianne Kuhnell on behalf of Duke Energy Ohio, Inc. and Rocco D'Ascenzo and Watts, Elizabeth H.