

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Review of the)	
Commission's Review of its Rules for)	Case No. 17-1842-EL-ORD
Electrical Safety and Service Standards)	
Contained in Chapter 4901:1-10 of the)	
Ohio Administrative Code.)	

**MEMORANDUM CONTRA APPLICATIONS FOR REHEARING
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

Bruce Weston (#0016973)
Ohio Consumers' Counsel

Amy Botschner O'Brien (0074423)
Counsel of Record
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel
65 East State Street, 7th Floor
Columbus, Ohio 43215
Telephone [Botschner O'Brien]: (614) 466-9575
Amy.botschner.obrien@occ.ohio.gov
(Willing to accept service by e-mail)

April 6, 2020

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I. INTRODUCTION

In its February 26, 2020 Finding and Order, the PUCO recognized the barriers customers face when it comes to verifying the accuracy of their bills, and to address this concern, the PUCO adopted a new rule requiring each EDU to publish and maintain an online bill calculator.¹ The PUCO’s new rules also required more frequent actual meter readings.² These are important consumer protections that should stand.

FirstEnergy’s application for rehearing argues against the online bill calculator requirement claiming that it is “administratively burdensome.”³ However, at least one of the EDUs, AEP, already maintains an online bill calculator for residential customers.⁴ And Duke claims that it has an online bill calculator for residential customers as well.⁵ Given that this requirement is a benefit to all Ohio consumers with no undue burden on

¹ Finding and Order at 58 (Feb. 26, 2020) (“Order”); adopting subsection (C) to Rule 4901:1-10-22.

² Order at 17; revising Rule 4901:1-10-05(I)(1).

³ FirstEnergy Application for Rehearing at 10-11 (March 27, 2020).

⁴ <https://www.aepohio.com/account/bills/rates/AEPOhioRatesTariffsOH.aspx>

⁵ Duke Application for Rehearing at 6-7.

other EDUs,⁶ the applications for rehearing that protest this requirement should be rejected.

The PUCO also required actual readings of its customers' meters at least quarterly each calendar year and monthly meter readings where advanced meters are in use.⁷ The EDUs' claim that the PUCO's order was unreasonable because the meter readings would be burdensome should be rejected.

The PUCO's order on this issue correctly recognized that monthly meter reading are a benefit created by customers' investment in advanced metering infrastructure ("AMI") technology.⁸ With AMI, since an EDU is relying less on customer electricity usage estimates throughout the year, increasing the number of required, actual meter readings helps accomplish the goal of providing customers with more accurate bills.⁹

The utilities also sought rehearing¹⁰ opposing language added to 4901:1-10-22 and 4901:1-10-33 providing for non-utility ("non-jurisdictional") charges on customer bills. OCC agrees, but for different reasons.¹¹ The PUCO should not have allowed non-utility non-jurisdictional charges to be included on residential consumers' electric bills. However, if this provision is allowed to stand, the PUCO should mandate that the collection of non-utility non-jurisdictional charges be prohibited from collection through

⁶ The arguments made by some EDUs that an online bill calculator is an undue burden is absurd considering that AEP Ohio has had an online bill calculator on their website for many years to help consumers calculate their bills.

<https://www.aepohio.com/account/bills/rates/AEPOhioRatesTariffsOH.aspx>

⁷ Order at 17; revising Rule 4901:1-10-05(I)(1).

⁸ *Id.*

⁹ *Id.*

¹⁰ Applications for Rehearing were filed by Duke, FirstEnergy, AEP and DP&L (March 27, 2020).

¹¹ *See*, OCC Application for Rehearing, at 9-10 (March 27, 2020).

base rates, through any uncollectible rider or through the Universal Service Fund (USF) riders. And the PUCO should make sure that all expenses associated with billing system changes to allow this rule to take effect are collected from the cost causers: those non-utilities that are marketing the non-jurisdictional goods on customers' utility bills.

Finally, OCC continues to maintain that the PUCO erred by not prohibiting the EDUs from releasing customer contact information to energy marketers unless consumers opt-in to the release of their personal information.¹²

II. ARGUMENT

A. **R.C. 4928.10(C)(2) supports the PUCO's revision to rule 4901:1-10-22(C) that requires electric utilities to maintain an online bill calculator to help consumers understand how their bill is calculated and to protect consumers from billing inaccuracies.**

The minimum service requirements for consumer protection under Ohio law require the PUCO to adopt rules that require: "to the maximum extent practicable, a separate listing of each service component to enable a customer to recalculate its bill for accuracy."¹³ The PUCO's order requiring EDUs to maintain an online bill calculator that shows "each and every rate or charge and permits customers to enter their billing determinates to determine the accuracy of their bill"¹⁴ is reasonable and conforms to this statutory provision.¹⁵ The PUCO should reject Duke and FirstEnergy's arguments¹⁶ that

¹² See, OCC Application for Rehearing at 11-12.

¹³ R.C. 4928.10(C)(2).

¹⁴ Order at 58.

¹⁵ See, R.C. 4928(C)(2).

¹⁶ Duke Application for Rehearing at 6; FirstEnergy Application for Rehearing at 11.

an online bill calculator for each utility is unnecessary, administratively burdensome, or not supported by the evidence.

There is no administrative burden for Duke to comply with this requirement because that utility claims it already “maintains such a calculator for residential rates, pursuant to an earlier Commission Order.”¹⁷ FirstEnergy’s similar claims that an online bill calculator is “administratively burdensome” and “not vetted” in comments should be rejected.¹⁸ As the PUCO found, an online bill calculator on each EDU website is necessary, and is supported by the evidence, because of the barriers customers face when trying to verify their bills.

The PUCO’s rule that an online bill calculator be required on each EDU website as the most effective way for customers to be able to recalculate their bill for accuracy is supported by the evidence.¹⁹ OCC recognized in Comments that the number of riders and phase-in recovery charges included in customer bills makes it nearly impossible for customers to independently verify the accuracy of their bills. Therefore, OCC proposed that that a new rule be added on Ohio Adm.Code 4901:1-10-22 that would require disclosure of all riders exceeding a certain dollar amount on residential customer bills.²⁰ Ohio law requires that customers be provided, to the extent possible, a separate listing of

¹⁷ Duke Application for Rehearing at 6. *See*, In the Matter of the Commission’s Investigation of Submetering in the State of Ohio, Case No. 15-1594-AUCOI, Entry, p. 15 (June 21, 2017) (“In order to facilitate an orderly and expedient resolution of any potential complaints, the electric, gas, water and sewer distribution utilities are directed to work with Staff to develop a website tool or other mechanism to provide submetered residential customers with an estimated calculation of the what the customer would have paid the local public utility for equivalent usage, on a monthly total bill basis, under the utility’s default service tariffs.”); https://www.duke-energy.com/_/media/documents/our-company/2020-oh-rs-webcalculator.xlsx?la=en (the calculator itself).

¹⁸ FirstEnergy Application for Rehearing at 10-11.

¹⁹ *See*, Order at 57-58.

²⁰ OCC Comments at 14; Order at 57.

each service component on the bill so that customers can recalculate their bill for accuracy.²¹

The PUCO agreed with OCC regarding barriers customers face when it comes to verifying their bill for accuracy.²² The PUCO then required the EDUs to maintain an online active bill calculator that permits customers to enter their billing determinants to determine the accuracy of the bill. This requirement is part of the minimum service requirements for consumer protection found in R.C. 4928.10(C).²³ Thus, the PUCO's rule adopting the online bill calculator enables the statute to be fulfilled.

It is not a solution to suggest, as FirstEnergy does, that since "all pricing information is published in the Companies' Commission-approved tariffs,"²⁴ customers can look this information up for themselves. A typical residential consumer has little experience in investigating utility tariffs and would not know where to begin. And in fact, the sheer number of riders that EDUs include on customer bills would challenge the most seasoned regulatory professional.

Nor is it a solution to suggest that "the Companies' customer service representatives are available to assist with individual customer inquiries."²⁵ While these utility employees may or may not be helpful, their responses are no substitute for an online bill calculator.

Duke and FirstEnergy's applications for rehearing on this issue should be denied.

²¹ R.C. 4928.10(C)(2); *See*, OCC Comments at 14.

²² Order at 58.

²³ R.C. 4928.10(C)(2): "To the maximum extent practicable, separate listing of each service component to enable a customer to recalculate its bill for accuracy."

²⁴ FirstEnergy Application for Rehearing at 11.

²⁵ *Id.*

B. The Order’s finding that EDUs must increase the total number of required actual meter readings per calendar year is reasonable as Ohio transitions to full deployment of AMI technology across most of the EDU service territories.

Duke and FirstEnergy²⁶ object to the PUCO revising Rule 4901:1-10-05(I)(1) to require EDUs to obtain actual meter readings of all in-service customer meters at least quarterly instead of once each calendar year.²⁷ AEP and FirstEnergy²⁸ object to the Order’s finding requiring an EDU to obtain actual meter readings on a monthly basis for customers with advanced meters.²⁹ AEP and Duke claim that there can be reasons outside of utility control where access to the meter is not available.³⁰ FirstEnergy asserts that not all customers have AMI and that some customers may opt-out of having AMI as a reason for not requiring monthly actual meter reads.³¹

The PUCO’s Order on these issues is sound and well-articulated and should not be abrogated. As the Order notes, actual meter reads provide customers with more accurate bills and that “monthly meter readings are a benefit created by customers’ charges sup[porting the utility’s investment in AMI technology.”³² The Order correctly found that “[i]ncreasing the number of required, actual meter readings helps accomplish the goal of providing customers with more accurate bills since an EDU must rely less on customer electricity usage estimates throughout the year.”³³ Accurate bills to customers

²⁶ Duke Application for Rehearing at 3-4; FirstEnergy Application for Rehearing at 5-6.

²⁷ Order at 17.

²⁸ AEP Application for Rehearing at 4; FirstEnergy application for Rehearing at 5.

²⁹ Order at 17.

³⁰ AEP Application for Rehearing at 4. Duke Application for Rehearing at 4.

³¹ FirstEnergy Application for Rehearing at 4.

³² Order at 17.

³³ *Id.*

are important because they prevent customers from being overcharged for electricity they didn't use or undercharged for electricity that they will later have to pay for in the future. The PUCO correctly concluded that "the benefits of the goal above outweigh any increased burden on the EDUs."³⁴ OCC agrees.

The utilities' objections to the Order's requirement of more frequent actual meter reads undermine one of the very reasons and major benefits that were touted by some of the EDUs (including Duke and FirstEnergy) for why smart meters were needed to eliminate estimated bills.³⁵ Now that customers are supposed to be receiving the benefits of actual monthly meter readings from millions of AMI meters deployed across Ohio, there can be no doubt that the traditional annual meter reading standard must be replaced with the more reasonable and modern monthly meter reading standards, as the PUCO recognized.³⁶

And the PUCO was correctly not persuaded by EDU arguments against modifying the standards for non-AMI meters from an annual meter read to a quarterly

³⁴ *Id.*

³⁵ *In the Matter of the Application of Ohio Power Company to Initiate Phase 2 of its gridSMART Project and to Establish the gridSMART Phase 2 Rider, Case 13-1939-EL-RDR, Application (September 13, 2013), page 5, "With automated meter reads, AMI nearly eliminates estimated bills, leading to greater billing accuracy." In the Matter of the Filing by Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company of a Grid Modernization Business Plan, Case No. 16-0481-EL-UNC, Application Exhibit A (February 29, 2016) at 23: "Using the smart meters, utilities leverage modern digital and wireless capabilities to migrate away from current metering approaches toward a future that allows remote meter reading and system assessment during both major and minor system outages." In the Matter of the Application of Duke Energy Ohio, Inc. to Adjust and Set Its Gas and Electric Recovery Rate for 2010 SmartGrid Costs Under Riders AU and Rider DR-IM and Mid-Deployment Review of AMI /SmartGrid Program. Case 10-2326-GE-RDR Application (June 30, 2011) at 2. Also see <https://www.duke-energy.com/our-company/about-us/smart-grid/grid-modernization-faqs>, "Smart meters have some immediate benefits, such as remote reading. Having a smart meter will also significantly reduce the need for us to estimate bills, so your energy bill will reflect your actual usage. These meters also allow for faster new service. Lastly, the smart meter will capture daily energy usage data that will help inform wiser energy decisions."*

³⁶ Order at 17.

actual meter reading.³⁷ Ohio Adm.Code 4901:1-10-22(B) has long required customer bills to be rendered on a monthly basis and to be accurate. The argument from Duke and FirstEnergy that requiring quarterly meter reads can somehow result in additional disconnections³⁸ is a misinterpretation of Ohio Adm. Code 4901:1-18-03(E)(1).

Quarterly meter readings are required for the purpose of providing consumers with accurate electric bills. Ohio Adm.Code 4901:1-18(E)(1) pertains to customers denying a utility access to the meter to obtain a meter read for a year. Duke's argument that it will incur significant costs to hire and deploy meter readers to perform quarterly meter reads is unsupported and lacks merit. Duke has fully deployed AMI across its service territory and customers who opt-out of having a smart meter are already paying a recurring monthly charge of \$30.00 to have a traditional manual meter read.³⁹

FirstEnergy's argument that the utility should be able to defer and recover any additional costs incurred as a result of implementing the quarterly meter reading requirements in the Government Directives Recovery Rider⁴⁰ is without merit. The utility's current Grid Mod deployment of over 700,000 AMI meters as well as other substantial investments made in the distribution system should provide sufficient operations and maintenance expense reductions to more than sufficiently cover any additional costs associated with providing quarterly meter reads. Of course, FirstEnergy utilities are not precluded from filing a distribution base rate case where they would have

³⁷ *Id.*

³⁸ Duke Application for Rehearing at 4. FirstEnergy Application for Rehearing at 7.

³⁹ Tariff P.U.C.O Sheet No. 19, Sheet 127, Rider AMO, Advanced Meter Opt-out (AMO) – Residential.

⁴⁰ FirstEnergy Application for Rehearing at 8.

an opportunity to demonstrate if their overall revenues are insufficient to cover their overall expenses.

The Order on this issue should stand, and Duke and FirstEnergy's Applications for Rehearing should be denied.

C. EDU-only customer bills and consolidated bills should not include non-jurisdictional (non-utility) charges as these charges are outside the jurisdiction of the PUCO.

The PUCO found that EDUs may not prohibit “non-commodity goods and services” charges on EDU-only customer bills under Ohio Adm.Code 4901:1-10-22 or prohibit these charges on consolidated bills under Ohio Adm.Code 4901:1-10-33.⁴¹ The only change the PUCO recommended was replacing the phrase “non-tariffed, non-regulated service” with the term “non-jurisdictional services.”

The applications for rehearing filed by the four EDUs in this case address their concerns regarding collections from customers when utilities bill for non-jurisdictional services,⁴² and point out that the revised Rule offers no clarity around how EDUs should implement the amended Rule.⁴³ FirstEnergy's concern was the lack of guidelines on how marketers should pay the EDU for ‘non-jurisdictional’ charges other than competitive retail electric service.⁴⁴ AEP questioned the public policy of the rule revision because it prohibits the EDU from unduly restricting a marketer from including charges for non-

⁴¹ Order at 50-51; Order at 78-79.

⁴² DP&L Application for Rehearing at 2; AEP Application for Rehearing at 5-6; Duke Application for Rehearing at 8; FirstEnergy Application for Rehearing at 11-12.

⁴³ See, FirstEnergy Application for Rehearing at 12.

⁴⁴ *Id.*

jurisdictional services on a consolidated electric bill, because open-ended non-utility charges on customer bills could exacerbate existing customer issues.⁴⁵

The utilities' focus regarding the rule revision to Ohio Adm.Code 4901-1-10-33 was largely that the Order was unreasonable because it did not give parameters or guidelines on how cost collection from customers could be achieved when the EDU is required to list non-utility marketer charges on a consolidated bill.⁴⁶ OCC views this concern as secondary to the larger concern that bill formats for bills containing EDU-only charges,⁴⁷ and consolidated bill formats that contain utility and marketer charges,⁴⁸ should not include charges for non-utility goods and services.

Ohio law specifically requires that the PUCO rules specify certain important elements of customer bills related to the service provided by utilities that is subject to the PUCO jurisdiction.⁴⁹ Nowhere in R.C. 4928.10, R.C. 4905, or R.C. 4909 is the PUCO vested with authority to establish rules that authorize non-jurisdictional (non-utility) charges to be included on a regulated monopoly customer's electric bill. OCC asked that the PUCO explicitly prohibit charges for non-utility unregulated charges that are not under the jurisdiction of the PUCO from being included on any EDU bill format.

If the PUCO authorizes marketer non-jurisdictional charges on the bill formats of EDU-only or consolidated bills (which it should not), the PUCO should mandate that the EDUs be prohibited from collecting non-commodity charges and non-jurisdictional

⁴⁵ AEP Application for Rehearing at 5.

⁴⁶ DP&L Application for Rehearing at 2; AEP Application for Rehearing at 5-6; Duke Application for Rehearing at 8; FirstEnergy Application for Rehearing at 11-12.

⁴⁷ Ohio Adm.Code 4901:1-10-22.

⁴⁸ Ohio Adm.Code 4901:1-10-33.

⁴⁹ R.C. 4928.10(C).

charges from customers through base rates, any uncollectible rider, or the Universal Service Fund (“USF”) rider. The full system costs associated with implementing the charges on the bill should be paid by the requesting entity and costs allocations should be adjusted accordingly.

OCC supports AEP’s request that if the PUCO approves the placement of non-jurisdictional charges on the EDU bill, then marketers should pay the full allocated costs associated with including non-jurisdictional charges on the bill.⁵⁰ OCC, however, opposes AEP’s request that the PUCO authorize a deferral of the charges for later cost collection from customers,⁵¹ as these deferred charges invariably and unfairly tend to be collected from customers.

Finally, OCC continues to maintain that the PUCO erred by not prohibiting the EDUs from releasing customer contact information to energy marketers unless consumers opt-in to the release of their personal information.⁵²

III. CONCLUSION

To protect Ohio’s electric utility consumers, the PUCO should deny the various applications for rehearing filed by the electric distribution utilities. The utilities have failed to show that the PUCO’s ruling was unjust, unreasonable or unlawful.

⁵⁰ AEP Application for Rehearing at 5-6.

⁵¹ *Id.*

⁵² *See*, OCC Application for Rehearing at 11-12.

Respectfully submitted,

Bruce Weston (#0016973)
Ohio Consumers' Counsel

/s/ Amy Botschner O'Brien

Amy Botschner O'Brien (0074423)
Counsel of Record
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel

65 East State Street, 7th Floor
Columbus, Ohio 43215

Telephone [Botschner O'Brien]: (614) 466-9575

Amy.botschner.obrien@occ.ohio.gov

(Willing to accept service by e-mail)

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Memo Contra Applications for Rehearing has been served via electronic transmission upon the following parties of record this 6th day of April 2020.

/s/ Amy Botschner O'Brien
Amy Botschner O'Brien
Assistant Consumers' Counsel

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SERVICE LIST

John.jones@ohioattorneygeneral.gov
whitt@whitt-sturtevant.com
fykes@whitt-sturtevant.com
scasto@firstenergycorp.com
rendris@firstenergycorp.com
edanford@firstenergycorp.com
talexander@calfee.com
khehmeyer@calfee.com
bellish@buckeyeenergybrokers.com
rdove@keglerbrown.com

Michael.schuler@aes.com
stnourse@aep.com
cblend@aep.com
bethany.allen@igs.com
joe.oliker@igs.com
rocco.dascenzo@duke-energy.com
Larisa.vaysman@duke-energy.com
paul@carpenterlipps.com
bojko@carpenterlipps.com

Attorney Examiner:

Matthew.sandor@puco.ohio.gov

This foregoing document was electronically filed with the Public Utilities

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in

Case No(s). 17-1842-EL-ORD

Summary: Memorandum Memorandum Contra Applications for Rehearing by the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Botschner-O'Brien, Amy