

**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.

**DUKE ENERGY OHIO, INC’S MEMORANDUM CONTRA APPLICATION FOR
REHEARING**

I. INTRODUCTION

The Public Utilities Commission of Ohio (Commission) issued a Finding and Order in this proceeding on February 26, 2020 (Order), adopting certain amendments to Ohio Adm. Code (O.A.C.) Chapter 4901:1-10, and rejecting other proposed amendments. The Office of the Ohio Consumers’ Counsel (OCC) filed an application for rehearing on March 27, 2020, arguing that the Commission erred in four respects.¹ OCC’s assignments of error are baseless, and its application for rehearing should be denied.

II. DISCUSSION

A. Requiring electric distribution utilities (EDUs) to record shadow billing data and make it publicly available would be costly, unwieldy, and redundant.

In its first assignment of error, OCC argues that the Commission erred in finding its proposed shadow billing requirement “unnecessary,” and that the requirement would be “essential in making sure that consumers are being protected in the market.”² But it fails to support this bold assertion.

First, OCC does not explain what value its proposal would add, over and above existing protections. For example, OCC acknowledges that “some individual customers might be able to

¹ Application for Rehearing by the Office of the Ohio Consumers’ Counsel (March 27, 2020) (OCC Rehearing App.).
² *Id.*, p. 4.

use the price to compare message on the bill to determine their savings or losses compared to the marketer rates as the PUCO suggests,”³ but does not explain why it believes this ability would be limited to only “some individual” customers. Furthermore, OCC derides the “apples-to-apples” website as overly complex and impractical for customers,⁴ but does not explain why an annual shadow billing report would be more comprehensible. As the Commission already determined, shadow billing is unnecessary in light of existing protections.

Second, as the Company pointed out in its reply comments, OCC does not consider the costs and effort involved in implementing its proposal. Some study and understanding of the relative costs and benefits would be necessary for such a change to be properly considered, much less implemented. For these reasons, the Commission should deny rehearing on OCC’s first assignment of error.

B. OCC overlooks that implementing a CRES provider switching block would require EDUs to expend significant effort and to incur costs.

In its second assignment of error, OCC argues the Commission unreasonably rejected a proposal to enable customers to “block...their accounts to prevent switching to or from a marketer” without explicit consent to the EDU.⁵ In addition to the Commission’s valid reasons for declining this proposal, given existing protections that exist, implementing such a customer block would require utilities to expend significant efforts and costs making modifications to their billing systems, websites, and customer call center procedures. Before adding any such requirement, the Commission must consider such costs. OCC fails to take this into account when considering the benefits of such a measure, and therefore its request for rehearing on its second assignment of error

³ *Id.*, p. 6.

⁴ *Id.*, p. 5.

⁵ *Id.*, pp. 6-9.

should be denied. In the alternate, if the Commission decides to implement such a block, it should authorize EDUs to recover the costs that such a change entails.

C. R.C. 4928.10 does not prohibit retail electric customer bills from including non-jurisdictional charges.

In its third assignment of error, OCC argues that Ohio law prohibits the inclusion of charges for non-jurisdictional or “unregulated” goods and services on a retail electric customer bill.⁶ However, R.C. 4928.10(C), on which OCC relies, does not in any way limit what may appear on a customer bill. The title of the provision, “*Minimum* content of customer bills,” (emphasis added) makes obvious that the listed elements are mandatory elements, but not necessarily the only elements. The provision further states that “[t]he rules shall *include* all of the following requirements,” (emphasis added), which signifies that additional items may be allowed or included.

In addition to an untenable statutory interpretation, OCC attempts to frighten the Commission with an implausible scenario, arguing that the Order’s refusal to bar non-jurisdictional services from the bill will result in customers paying for non-jurisdictional services in base rates and uncollectible riders.⁷ This is simply not the case. OCC argues that the non-jurisdictional services will be included in utilities’ purchase of receivables programs and therefore in base rates and uncollectible riders. However, purchased receivables are not included in base rates. And purchase of receivables programs must be approved by the Commission; utilities will not be able to unilaterally include non-jurisdictional goods and services in such programs simply because such items are permitted on a bill. The Commission has previously specified that a utility’s purchase of receivables program could include “only commodity-related charges,” and nothing in the Order

⁶ *Id.*, p. 10.

⁷ *Id.*

precludes it from doing so in future cases.⁸ For these reasons, OCC's application for rehearing on its third assignment of error should be denied.

D. OCC overlooks the costs that its opt-in and opt-out proposals would impose on EDUs.

In its fourth assignment of error, OCC requests that the Commission prohibit EDUs from releasing customer contact information unless a customer opts in, or require EDUs to provide an electronic opt-out option for customers from having information on the pre-enrollment list provided to suppliers.⁹ As with the customer block discussed above in Section B, OCC fails to consider the costs incurred by EDUs to implement this. Before adding any such requirement, the Commission must consider such costs and, if it decides to implement OCC's opt-in or opt-out scheme, it must authorize EDUs to recover the costs of the change.

III. CONCLUSION

For the foregoing reasons, the Commission should deny OCC's Application for Rehearing.

⁸ See *In the Matter of the Application of Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to R.C. 4928.143, in the Form of an Electric Security Plan*, Case Nos. 13-2385-EL-SSO & 13-2386-EL-AAM, Opinion and Order, p. 80 (February 25, 2015) (“[W]e authorize AEP Ohio to establish a POR program that complies with the following requirements: . . . (2) only commodity-related charges may be included in the POR program; . . .”).

⁹ OCC Rehearing App., pp. 11-12.

Respectfully submitted,

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CERTIFICATE OF SERVICE

In accordance with Rule 4901-1-05, Ohio Administrative Code, the Commission'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 document was sent by, or on behalf of, the undersigned counsel to the following parties of record this 6th day of April, 2020 via electronic transmission.

/s/ Larisa M. Vaysman
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