

**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of        )  
Duke Energy Ohio, Inc. for Tariff        )     Case No. 14-2209-EL-ATA  
Approval.                                        )

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**REPLY COMMENTS OF DUKE ENERGY OHIO, INC.**

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**I. INTRODUCTION**

Duke Energy Ohio, Inc., (Duke Energy Ohio) initiated this proceeding with the filing of an application for approval of a tariff that would more closely describe the Company's current capabilities with respect to providing customer energy usage data (CEUD)<sup>1</sup> to third parties. Ohio Partners for Affordable Energy (OPAE), The Office of the Ohio Consumers' Counsel (OCC), Direct Energy Business, LLC and Direct Energy Services, LLC (collectively, Direct Energy), Retail Energy Supply Association (RESA), Interstate Gas Supply, Inc. (IGS Energy), all moved to intervene and filed comments pursuant to the Attorney Examiner's Entry of January 30, 2015. The Staff of the Public Utilities Commission of Ohio (Staff) also submitted comments. The comments submitted seek much more than has ever been promised in the past, and much more than Duke Energy Ohio is able to provide absent further policy development. Pursuant to the Attorney Examiners' Entry, Duke Energy Ohio submits these Reply Comments.

**II. HISTORY AND BACKGROUND**

Many of the comments submitted by the parties and Staff include details relating to their respective views of various cases wherein the Company and other parties reached stipulations or

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<sup>1</sup> To allay any potential misunderstanding, Duke Energy Ohio defines CEUD as interval data recorded by Advanced Metering Infrastructure (AMI) meters.

otherwise had agreements related to interactions with competitive retail electric service (CRES) providers. As each of the parties has rewritten history in their own views, to provide as complete a discussion as possible and in an effort to facilitate progress on a matter that has been discussed in various Commission proceedings, a discussion of the history is necessary.

Duke Energy Ohio was granted authority by the Commission to deploy grid modernization in 2008 in its first Electric Security Plan proceeding, ESP I.<sup>2</sup> In that case, the Company proposed a comprehensive plan for deployment and agreed to comply with caps on customer rates. The Company further agreed to meet certain System Average Interruption Frequency Index (SAIFI) targets during the years of deployment.<sup>3</sup> As the Company began deployment, it also created the Duke Energy Ohio SmartGrid Collaborative (Collaborative), that started meeting monthly beginning in late 2009. The Collaborative was designed to provide transparency into the deployment process and to allow for open discussion and planning. All interested parties were permitted to attend. From 2009 until 2014, the Company pilot tested four different time-of-use (TOU) rates, two peak time rebate rates and one critical peak pricing rate. The Company provided the Collaborative with detailed information that was developed as a result of the pilot programs.

The Company also filed a series of rider true-up cases each year. In these cases, the Company engaged in settlement discussions that resulted in commitments related to SmartGrid deployment. In the second of these cases, the Commission undertook a global look at the progress made and reached a determination as to whether to continue with the deployment. In this “Mid-Term Review”, the Commission retained an auditor to review the safety and security

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<sup>2</sup> *In the Matter of the Application of Duke Energy Ohio for Approval of an Electric Security Plan*, Case No. 08-920-EL-SSO, *et al.*, (Application, July 31, 2008).

<sup>3</sup> *In the Matter of the Application of Duke Energy Ohio for Approval of an Electric Security Plan*, Case No. 08-920-EL-SSO, *et al.*, Stipulation and Recommendation, (October 27, 2008), at p.16-17.

of the program and to look at the projected costs versus benefits. In the first three rider proceedings, there were only two intervenors; The Office of the Ohio Consumers' Counsel and Ohio Partners for Affordable Energy. No CRES providers participated. Beginning with the rider proceeding filed in June of 2013, Direct Energy Business, LLC and Direct Energy Services, LLC (Direct Energy) intervened and initiated a discussion related to providing customer energy usage data to third parties.<sup>4</sup>

Coincidentally, during the years that the Company was deploying SmartGrid, it also filed its second ESP case, (ESP II).<sup>5</sup> In ESP II, in a stipulation and recommendation, the Company agreed among other things, to procure all of its energy and capacity to serve the standard service offer load through a competitive bid. The Company also agreed to work with interested CRES providers and Commission Staff to jointly develop a web-based system to provide access to customer usage and account data, subject to legally mandated privacy issues and compliance with the Commission's rules.<sup>6</sup> The Company did build the supplier portal and previewed the proposed portal to interested CRES providers and Staff on August 13, 2013.

As the time for implementation of the website approached, the Company held additional webcast meetings to discuss the website with interested parties. In May, 2014, the Company debuted the final website. Subsequent to the first meeting, the Commission Staff provided some responses related to the proposed design, but there was no feedback provided by any of the CRES providers who attended.

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<sup>4</sup> *In the Matter of the Application of Duke Energy Ohio to Adjust Rider DR-IM and Rider AU for 2012 Smart Grid Costs*, Case No. 13-1141-GE-RDR, Application, (June 28, 2013).

<sup>5</sup> *In the Matter of the Application of Duke Energy Ohio for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan, Accounting Modifications and Tariffs for Generation Service*, Case No. 11-3549-EL-SSO, et al., Application, (June 20, 2011).

<sup>6</sup> *In the Matter of the Application of Duke Energy Ohio for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan, Accounting Modifications and Tariffs for Generation Service*, Case No. 11-3549-EL-SSO, et al., Stipulation, (October 24, 2011) at pps.33-34

It was Duke Energy Ohio's understanding that the portal design generally met the terms of the stipulation and recommendation. The web portal is currently active and available to CRES providers, although the ability of a CRES to download CEUD is temporarily disabled. Indeed, the website has been used over 57,000 times by suppliers to download customer account usage data. It is important to note that the May 2014 website enhancements did include the ability for CRES providers to retrieve hourly interval data for traditional interval data recorders (IDRs).

Beginning in July of 2012, the Commission initiated a rule review for rules contained in Chapter 4901:1-10, O.A.C. Among the proposed new rules was a rule to regulate the manner in which residential CEUD is shared with third parties. In particular, the rule requires that an electric distribution utility receive authorization in a specific form from each residential customer prior to sharing the data with any third party. During the rulemaking process, Duke Energy Ohio explained the difficulties inherent in the rule design, and requested that the customer authorization process be dealt with in a working group, however the Commission did not adopt this recommendation.<sup>7</sup> As a result of the new final rule, Duke Energy Ohio disabled the function in the supplier portal that allows CRES providers to access CEUD, since the portal does not have the ability to receive and track residential customer authorization. However, since commercial CEUD is not subject to the same rule, the Company is presently working to reopen the portal to permit disclosure of commercial customer energy usage.

In 2014, Duke Energy Ohio filed its third electric security plan case, (ESPIII), wherein the Company sought to clarify and explain that the interval usage data that was currently available to CRES providers, was the interval data gathered from IDR meters and shared through the Electronic Data Interchange (EDI) process and on the CRES provider web portal, for

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<sup>7</sup> *In the Matter of the Commission's Review of Chapter 4901:1-10, Ohio Administrative Code, Regarding Electric Companies*, Case No. 12-2050-EL-ORD, Application for Rehearing, Section II. B., (February 14, 2014).

approximately 4,000 non-residential customers. The Company sought to clarify its tariff to ensure that it would be current with existing capabilities and to avoid confusion with CEUD.

Somewhat concurrently, and beginning in 2012, the Commission opened a docket to explore matters related to the vitality of the competitive retail electric service market in Ohio. At the conclusion of that investigation, the Staff recommended to the Commission that it require EDUs that have deployed AMI to file amended tariffs to specify the terms, conditions and charges associated with providing CEUD. Staff also recommended that the Commission require EDU's to demonstrate that tariff amendments are consistent with Commission rules.<sup>8</sup> Finally and most importantly, Staff recognized the need for ongoing discussion in order to resolve many outstanding questions. Staff recommended "that the Commission encourage and/or provide an opportunity for CRES to work with utilities to specify options for granularity, frequency, quality and format so that the costs and charges associated with each option may be specified."<sup>9</sup>

The Commission agreed with the Staff's recommendation and directed EDUs to file amended tariffs that specify the terms, conditions and charges associated with providing CEUD.<sup>10</sup> The Commission further directed that amendments should address or include the format, method, granularity, and frequency of CEUD that a CRES provider may receive.<sup>11</sup>

It is this opportunity for global discussion that is absent in this proceeding since it involves only one EDU and a handful of CRES providers. It is this cooperative and iterative process that is necessary in order to consider whether it is advisable for the Commission to

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<sup>8</sup> *In the Matter of the Commission's Investigation of Ohio's Retail Electric Service*, Case No. 12-3151-EL-COI, Results of the Staff's Investigation, (January 16, 2014) at p.24-25.

<sup>9</sup> *Id.*

<sup>10</sup> *In the Matter of the Commission's Investigation of Ohio's Retail Electric Service*, Case No. 12-3151-EL-COI, Finding and Order, (March 26, 2014) at p. 36.

<sup>11</sup> *Id.* at 37.

continue to mandate development of systems that will be costly to customers and may not ultimately yield the benefits anticipated.

### **III. DISCUSSION**

This brings us to the filing that the Company has submitted. The only interval data that the Company can presently provide, while still being in compliance with the Commission's rules, is the data that flows from its IDRs. However, the Company is working to fulfill all commitments made to date. The Company is presently working on the capability to provide CEUD for individual residential customers through the supplier portal. Each exchange with a CRES provider to provide this data will require receipt of authorization from the customer. The data provided will not be billing quality data. The system changes needed to enable this feature are extensive, costly and time consuming. However, the data provided will fulfill the Company's commitment as made in ESPII.

The Stipulation in ESPII specifically included the caveat that the commitment to develop the portal was "subject to appropriate limitations reflecting legally mandated customer privacy issues, including compliance with protections addressed in the Ohio Administrative Code and specifically including but not limited to Rules 4901:1-10-29, 4901:1-10-24, O.A.C., and any successors to such Rules." The rules subsequently enacted by the Commission rendered the anticipated supplier portal data sharing function unworkable. Thus, although comments submitted by the Staff, Direct Energy, RESA and IGS Energy all suggest that the Company has not fulfilled its commitment from ESPII, in fact, the Company did fulfill its commitment. The necessity of complying with the new rules simply makes it impossible to provide CEUD until the Company can construct the necessary systems to do so.

#### **IV. FUTURE PLANNING AND MATTERS TO BE RESOLVED**

As Duke Energy Ohio explained in its application in this proceeding, prior to moving forward with any plan to provide wide-scale access to customer information to third parties, including CRES providers, there are many unanswered questions that should be resolved. The answers to these questions will impact customers, CRES providers, other EDUs, the Commission, and many other interested stakeholders. While the Company agrees with Staff that some matters specific to Duke Energy Ohio may be resolved in this docket, there are still many significant decisions to be made before the Company should be required to move forward to providing CEUD to all requesting third parties in the manner requested by intervenors in this proceeding. While many details are unknown, it is clear that any requirement to provide more than “one-at-a-time” non-billing quality data to third parties will require tens of millions of dollars. If the Commission ultimately determines that all EDUs should be required to provide this data, it will be necessary to resolve additional public policy matters that are outside the scope of this proceeding.

Questions to be resolved will necessarily involve many stakeholders who are not involved in this case. Decisions made must apply equally to all EDUs who deploy advanced meters capable of obtaining CEUD. The data exchange should be uniform so as to enable all suppliers to access the data in a fair and competitively neutral way. It doesn't make sense to accommodate any one particular supplier at the expense of others. Will CRES providers actually commit to using the data once it is provided at great expense to customers? What level of granularity will be required? Will CRES providers make use of non-billing quality data? While some of these questions may be resolved, after some discussion in a working group setting with all interested parties, the actual process will require significant changes to billing, EDI,

settlement, and meter data management information systems and to supplier business offices in order to allow the exchange to take place. The Company would not be able to place such work in motion until the scope of the work is clarified. It is necessary to proceed in an orderly and deliberative fashion. Responding in a “one off” way to the demand of a few CRES providers would not result in the best outcome.

Duke Energy Ohio has approximately 60+ active CRES providers in its service territory. In the Commission’s retail market investigation, Staff recommended that EDUs with AMI deployment should offer TOU rates. Staff then envisioned that the EDU rates could be terminated once CRES providers offered TOU rates. To date, only approximately three providers have requested access to CEUD. Of the three CRES providers who seek access, it is unclear whether the data, once obtained, will be used to provide meaningful TOU rates, or any rates that provide a benefit to the customer. The Commission should first determine what the CRES providers will commit to, in terms of TOU rates, prior to expecting customers to pay tens of millions of dollars to build systems that they neither need nor want.

With regard to cost recovery, the initial steps of providing access to interval data for commercial customers, and providing access to residential CEUD through the supplier portal are projects that can ultimately be projected and estimated when the Company is able to properly determine the scope of the project. Such budget projections will necessarily be based upon answers to some of the issues raised above. Accordingly, the Company is not yet in a position to provide any accurate budget estimates.



## V. CONCLUSION

For the reasons stated above, Duke Energy Ohio respectfully requests that the Commission approve the requested tariff changes and issue an entry consistent with this filing.

Respectfully submitted,

Duke Energy Ohio, Inc.



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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was delivered by U.S. mail (postage prepaid), personal delivery, or electronic mail, on this 27<sup>th</sup> day of March, 2015, to the following parties.

  
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