

FILE

**BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO**

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In the Matter of the Commission's Review)
of Chapters 4901:1-17 and 4901:1-18 and)
Rules 4901:1-5-07, 4901:1-10-22, 4901:1-)
13-11, 4901:1-15-17, 4901:21-14, and)
4901:1-29-12 of the Ohio Administrative)
Code)

Case No. 08-723-AU-ORD

**COLUMBUS SOUTHERN POWER COMPANY'S
AND OHIO POWER COMPANY'S
REPLY COMMENTS**

Pursuant to the Commission's Entries in this docket, Columbus Southern Power Company and Ohio Power Company (collectively AEP Ohio) filed its Initial Comments in this proceeding on September 10, 2008. AEP Ohio now files its Reply Comments. AEP Ohio submits comments in opposition to certain proposals submitted by two groups: the Ohio Consumers Advocates (OCA) comments, submitted on behalf of five organizations, and the Ohio Consumers Group (OCG), comments submitted on behalf of seventeen organizations. AEP Ohio's Reply Comments do not address all of the OCA's and OEG's initial comments. AEP Ohio's absence of comment should not be interpreted as indicating either support or opposition to such unaddressed comments.

OCG'S AND OCA'S GENERAL COMMENTS

OCG prefaced its comments on specific rules with 59 pages of general observation. AEP Ohio responds to the following general topics, some of which also relate to OCG's specific comments.

Affordability and Responsibility

OCG asserts that the proposed rules “do not go far enough in addressing affordability issues.” (OCG, p.3). In discussing Staff-proposed goals regarding establishment of service and disconnection of service, OCG would delete the goal of encouraging responsible behavior by customers. (*Id.* at 16).

This pretty well sets out the philosophy of OCG’s comments. OCG would throw many additional barriers on top of the already detailed processes which must be pursued by utilities in their effort to protect themselves and the majority of their customers who pay their bills in full and on time. On the other end of OCG’s scale of fairness, it would minimize the extent to which customers must take responsibility for paying their bills on time or adhering to extended payment plans and for paying attention to disconnection notices rather than waiting until the last possible moment to deal with the reality of disconnection.

AEP Ohio realizes that many customers are unable to pay for the rapidly increasing cost of many day-to-day necessities. That inability, however, cannot become the exclusive responsibility of Ohio’s regulated utilities. The notion that affordability of utility service, after payment for life’s other necessities is made, must be considered on a case-by-case basis is unworkable and unfair to the utilities and their other customers.¹

OCG’s basis for determining affordability would include “consumption levels, energy costs, customer income, other major debt, previous payment history, and the utility account arrearages.” (OCG, p. 47). Under this approach the utility must make too many judgments about matters it should not pry into and about which there could be great debate. Take, for instance, consumption levels. Would the Commission have

¹ OCA also opposes the “one size fits all” approach and urges that affordability be given great weight.

energy utilities fashion extended payment plans based, in part, on an investigation of the reasonableness of the thermostat setting, how many appliances are in the home or whether the customer enjoys sleeping with the window open? Consider the issue of other major debt. Should a customer with a large car loan or home mortgage get a more lenient extended payment plan than a customer who bought an older used car without financing or bought a smaller home with a smaller mortgage payment? More to the point, why should the utility company be put in the position of making these judgments?

OCG argues that extended payments plans must be tailored to individual customer situations rather than based on a one size fits all approach. Then, *in the very next sentence*, OCG proposes a one size fits all solution. "In any event, no payment plan required of a customer should require payment of more than 5% of the customer's monthly income." (OCG, p.47). OCG cannot have it both ways. There must be an appropriate amount of standardization in the extended payment plans offered to customers. Consideration of "each case as a unique situation" (*Id.*) is impractical, inherently unfair and likely to lead to allegations of not treating customers equally. OCG's "affordability and case-by-case" approach must be rejected.

Customer Disconnection Bill of Rights

OCG recommends that a detailed Disconnection Bill of Rights be provided to all new customers and then again to all customers at the start of every heating season. AEP Ohio contends that the costs of preparing and distributing such a document are unwarranted. The availability of payment plans and low-income assistance is contained in customer handbooks which already are distributed. Further, disconnection notices

themselves provide information on payment plans and medical certification programs for residential customers.

This recommendation is another example of OCG's view that customers' responsibility should be downplayed. At the heart of the recommendation for a second handbook is the idea that customers should not be held responsible for reviewing and retaining the handbooks they receive upon becoming a customer, or reviewing any disconnection notices they might receive. OCG's recommendation should be rejected.

Prepaid Meters

OCG contends that there are many issues to be resolved before prepaid meters are used as a method for establishing credit.² AEP Ohio believes that while a variety of issues related to prepaid meters should be resolved before prepaid meters are imposed as a method to establish credit, that does not mean that a utility should not be permitted to employ prepaid metering with customers who agree to the installation of such a device. Therefore, while AEP Ohio surely would participate in a Commission investigation of the use of prepaid meters, the Commission should permit the implementation of prepaid meters for utilities which care to use the technologies in connection with customers who choose that manner of establishing credit.

OSCAR Reports

OCG's discussion of the OSCAR Reports fails to support the significant expansion of information that would have to be included in the OSCAR Reports. (OCG, Appendix B). The OSCAR report currently proposed by the Commission provides sufficient data on the use of payment plans and service disconnections.

² OCA also opposes the use of prepaid meters (OCA, pp 9-12).

Payment Agents

Among the recommendations made by OCG is this far reaching idea: "The utilities should absorb the cost for acceptance of payments regardless if the payment is made to a company-owned payment center or an authorized agent of the utility." (OCG, p. 58). This would result in a significant expense being transferred to all AEP Ohio customers from those customers, even those with checking accounts, that pay their bills through an electronic transaction via the telephone, through checking and credit accounts. This recommendation should be rejected.

OCG SPECIFIC COMMENTS

4901:1-17-02 (D): OCG would preclude utilities from making credit determinations based, in part, on whether the customer is receiving public assistance. (OCG p. 63). While we all might hope that receiving public assistance is not an indicator of a credit risk, more often than not it is. Utilities should be permitted to consider this factor.

4901:1-17-03 (A): OCG would preclude the utility from asking for additional information in an effort to establish the prospective customer's credit. This recommendation is likely to lead to more instances in which a deposit will be required and should be rejected.

4901:1-17-03 (A) (2): This editorial modification suggested by OCG would require the utility, for a second time, to inform applicants for service of all other options for establishing creditworthiness, if the applicants refuse to provide their social security number. This cumbersome requirement is inefficient and unwarranted. It should be rejected.

4901:1-17-03 (A)(5)(c)(ii): OCG suggests that if a guarantor does not sign and return the guarantor agreement within fifteen days the customer will be given the opportunity to chose from among the other options for establishing credit. AEP Ohio believes that the customer must accept the responsibility to have the guarantor submit the agreement on a timely basis or, as proposed in the rule, have the utility place a security deposit on the customer's bill. OCG's suggestion is an example of reducing customers' responsibility and should be rejected.

4901:1-17-08 (C): The proposed rule provides that if a cash deposit is required and the customer expresses dissatisfaction with that requirement, the utility must provide certain information to the customer, including the right to complain to the Commission (and if one of OCG's proposed changes is accepted, to contact the Ohio Consumers' Counsel). OCG would require that this information be provided in *all* circumstances where a cash deposit is required. OCG's proposed modification will generate controversy where none exists and should be rejected.

4901:1-17-08 (D): This division of the rule provides that when information is required to be provided under division (C) of this rule, it must be provided in writing within five business days. OCG would reduce this time period to only two business days. This proposal, particularly when coupled with OCG's proposed modification to division (C), which would require that this information be sent to *all* customers from whom a cash deposit is required, is unduly burdensome and should be rejected.

4901:1-18-01 (C): OCG would modify the proposed definition of "bona fide dispute" to include complaints registered with the Ohio Consumers' Counsel (OCC). In its Initial Comments (p.9) AEP Ohio suggested that there should not be a definition of "bona fide

dispute.” If a definition is retained, however, it should not include complaints registered with OCC, whatever that means. The Commission is the regulatory agency with authority over utilities. OCC, as the statutory counsel for residential customers, does not have the same stature as the Commission. Consequently complaints registered with OCC do not have the same stature as complaints registered with the Commission. OCG’s proposal should be rejected.

4901:1-18-01 (H): OCG would modify the definition of “customer” in a manner to include only “those who affirmatively apply for service” (OCG, p. 79). The definition of “customer” should not be limited as proposed by OCG. If a person takes service pursuant to the utility’s tariff a contract exists regardless of whether an affirmative application for service was made. OCG’s proposal would have the effect of relieving persons who choose not to make an affirmative application for service from the responsibilities which attach to the status of being a customer. OCG’s proposal should be rejected.

4901:1-18-02 (D): This rule allows the utility and a customer to agree to the use of electronic transactions. OCG proposes a modification which, in certain circumstances, would override the customer’s willingness to deal electronically with the utility. Once again, OCG would excuse customers from their exercise of responsibility by imposing non-electronic means of communication despite the customer’s agreement to the contrary.

4901:1-1-18-02 (F): OCG recommends that a utility’s duties or responsibility under “these rules” are not relieved by a tariff provision. There are at least two problems with the recommendation. First, what does “these rules” encompass? Is it all aspects of 18-

02, all of Chapter 4901:1-18, something broader, or something narrower? This lack of clarity is reason enough to reject this recommendation.

Second, OCG fails to recognize that a utility's tariff has been approved by the Commission. While rules set out generally applicable provisions, a provision in the Commission-approved tariff is specific to that utility and should be controlling. Further, OCG's recommendation would render ineffective Rule 4901:1-18-02 (B). That provision leaves to the Commission the options of prescribing different standards in any proceeding ((B) (2)) or waiving any requirement of Chapter 4901:1-18 ((B) (3)). A Commission action under either of those subdivisions, and the resulting tariff provision, will prevail over generally-applicable provisions of "these rules." OCG's recommendation should be rejected.

4901:1-18-03 (F): OCG suggests that disconnection of service required for scheduled maintenance must be preceeded by twenty-four hours notice in all instances, regardless of how short the interruption would be. The rule OCG would modify requires prior notice (not necessarily at least twenty-four hours in advance) only if the service interruption is anticipated to exceed six hours.

OCG's suggestion, if adopted, would be administratively burdensome and costly. OCG does not understand the meaning of "scheduled maintenance." While the maintenance work may be scheduled in a general sense, the actual day and time of that work is subject to other unexpected service requirements that often arise. If the notice OCG would require for *every* maintenance procedure that would require a service interruption were given, and then the work had to be postponed, OCG's suggestion would require yet another notice. In addition to the unnecessary burden and cost of

administering this process, there would be customer confusion to deal with. OCG's suggestion should be rejected.

4901:1-18-02 (G): This rule permits disconnection of service upon the customer's request. OCG would modify the rule to require that if the customer does not reside at the premises the provisions of Rule 4901:1-18-08 must be followed. That rule addresses service disconnections in the landlord/tenant context. It is limited, however, to multi-unit dwellings that are master metered. OCG would extend those provisions to single family residences. The difficulty with this proposed modification is that the utility typically will not know if the customer (the landlord) does not reside at the premises. Even if the bill for services is sent to a different address, that does not mean there is a landlord/tenant situation. OCG's proposal would require utilities to become investigators to determine if there is a landlord/tenant relationship. Such requirement would be burdensome and costly and should be rejected.

4901:1-18-03 (H): OCG suggest adding a reference to Rules 4901:1-18-06 through 09 to this provision concerning disconnection for nonpayment. Those four rules speak for themselves and do not need to be incorporated into this rule. If the Commission is inclined to adopt OCG's modification it should not include the reference to Rule 4901:1-18-07 which concerns reconnection of service.

4901:1-18-03 (I): OCG suggests removing the reference to "good cause shown" as a reason for disconnection of service. History suggests that neither the Commission, utilities nor other interested parties can think of every reason that would warrant disconnection of service. Utilities must recognize that if they disconnect service to a customer for a reason other than a reason specified in this rule, they have the burden of

showing that good cause existed for that action. AEP Ohio is not aware of any abuse of the “good cause” provision and OCG has not asserted that any abuse has occurred. OCG’s suggestion should be rejected.

4901:1-19-05 (A): OCG suggests including the concept of affordability in the structuring of extended payment plans. AEP Ohio addressed this concept in its response to OCG’s General Comments. For the reasons previously expressed by AEP Ohio, this suggestion should be rejected.

4901:1-18-05 (E): OCG proposes that, in the context of extended payment plans, utilities must inform *all* customers of the medical certification program, not just those customers who inform the utility of a medical program. Customers with legitimate medical issues should be responsible for informing the utility of that situation. Utilities should not have to invite customers to be forth coming with such information. OCG’s proposal would likely lead to abuse of this very important program and should be rejected.

4901:1-18-06 (A) (1): OCG would preclude disconnections of service on any day where the forecasted weather is to be 32°F or below during the heating season or 90°F or above during the non-heating season. The first problem with OCG’s proposal is that it would apply to *all* disconnections, not simply disconnections for nonpayment. Even if OCG intended that its proposal apply to only disconnections for nonpayment it still should be rejected. This is another one of OCG’s proposals that imposes an administrative burden on utilities that is associated with a larger community issue (inability to pay) or with customers not fulfilling their responsibility to pay. Utilities in general, and AEP Ohio in particular, provide service in large geographic areas. AEP Ohio provides service in more

than sixty counties throughout Ohio. Temperature forecasts vary throughout Ohio. It is impractical to impose an obligation on utilities to match the location of a premises scheduled for service disconnection with the temperature predicted for the day of disconnection. Moreover, which temperature prediction is controlling? The prediction at close of business on the prior day when disconnections are being scheduled; the prediction on the morning of the scheduled disconnections; or some other prediction?

Promulgating as a rule a practice that might already exist informally --AEP Ohio attempts to limit service disconnection on days where extreme hot or cold temperatures are anticipated --is unwise and OCG's proposal should be rejected.

4901:1-18-06 (A) (5): OCG suggests that the disconnection notice can be included *in* the regular bill instead of *on* the regular bill. Once again OCG would impose on utilities the obligation and cost of including a separate bill insert apparently because OCG believes customers should not be burdened with the responsibility of reviewing their entire bill. Besides this proposed shift in responsibility OCG does not explain why it believes that customers who do not take the responsibility for reading their entire bill would bother to look at bill inserts.³

OCG further suggests that the disconnection notice should include the date upon which the delinquency occurred. Customers should realize that their delinquency occurred once they did not make their payment by the due date shown on their bill. Incorporating this information in the disconnect notice will require additional computer programming costs. This suggestion should be rejected.

³ To the extent OCG believes that customers do not bother to review their entire bill, that might be the result of bills having to include extensive information as urged in the past by various organizations professing to represent the desire of customers for additional information.

4901:1-18-06 (C): OCG argues that the medical certification program needs a “major overhaul ... [which recognizes] the chronic nature of many illnesses that customers experience and the effect this has on their ability to make utility payments.” (OCG, p. 94). Topics such as the nature of chronic illnesses and the ability of the chronically ill customer, or a customer with a family member that is chronically ill to make payments are not the types of issues within the Commission’s scope of authority. The Commission should proceed cautiously if it decides to take on the type of “major overhaul” proposed by OCG.

In the mean time, the Commission should reject OCG’s proposed of remove the requirement for the consumer with a medical certification to be a permanent resident of the premises. (See (C) (1) (a) and (C) (3) (b) of this rule). Temporary visitors should not qualify as a basis for a residence being immune from service disconnections. Similarly, OCG’s proposed modification to (C) (3) (d) goes to the heart of the chronic illness issue and, therefore, should not be adopted.

In subdivision (C) (3) (g), OCG proposes that regardless of what time of day the medical certification is received the utility must restore service on that day. The rule OCG would modify requires same day reconnection only if the certification is provided to the utility prior to 3:30 p.m. Moreover, the current rule prevents the imposition of additional “after hours” charges for service reconnection. OCG would preclude any reconnection charge from being assessed. Again OCG would have the customer take no responsibility for the costs imposed on the utility. While concern should be shown for customers who unfortunately qualify for a medical certification, the Commission should keep in mind that the customer has known that payments were not being made and has

received a disconnection notice. That the medical certification is not provided until after service has been disconnected should not result in the utility having to reconnect service to that customer on the same day on which it received virtually no notice to reconnect, i.e. *after* 3:30 p.m., and the utility not receiving even the basic charges associated with service reconnection. These proposals should be rejected.

Finally, on the medical certification form included in OCG's comments, OCG would delete the sentence advising the certifying party not to sign the form if an especially dangerous situation does not exist. This sentence should be retained to emphasize the importance of reserving certification for only limited situations.

4901:1-18-06 (E): OCG suggests that in all instances the utility must inform customers that it will provide an opportunity for review of the initial decision to disconnect service. This would be changed from the obligation to review the decision when requested to do so by the customer. If customers believe that the decision to disconnect is inappropriate they should be responsible for requesting a further review. If the proposed modification were adopted customers likely would request such further review if for no other reason than to delay the service disconnection. OCG's suggestion should be rejected.

4901:1-18-06 (F) and (G): In these divisions, OCG would insert OCC into the equivalent regulatory role as the Commission. This attempt to elevate OCC's role in the regulatory process should be rejected. Further, in (F), OCG would reduce from two business days to one business days the time in which the utility must respond to an inquiry regarding an actual service disconnection. AEP Ohio realizes that getting service restored is a high priority. The Commission must remember, however, that customers whose service actually has been disconnected received prior notice and an adequate time

to resolve the issue. The utility should not be further pressed for a timely response once service actually is disconnected. This suggestion should be rejected.

4901:1-18-07 (A): OCG does not agree that there should be a different time standard for reconnecting service to customers whose service has been disconnected for more than ten business days than for other customers whose service has been disconnected for ten or fewer business days. The reference in this rule to Rules 4801:1-10-09 (A) and 4901:1-13-05 (A) and (C) should be retained. Once service has been disconnected for more than ten business days, service to those customers is appropriately placed in the queue for service to new customers.

Further, OCG's proposal that the amount sufficient to cure the default would be the amount due and owing at the time of disconnection should be rejected. OCG's proposed deletion of reference to extended payment plans will increase the amount that must be paid (the full amount due and owing) in order to get service reconnected. The only amount that should be required is the amount that would have been paid under an extended payment plan absent default.

4901:1-18-07 (B) (2): OCG proposes that the utility cannot require prior payment of the reconnection charge as a condition for restoring service. Instead, the charge would have to be included on the next monthly billing. Particularly because these customers' service was disconnected for nonpayment, it is reasonable to require prior payment for reconnection of service. Simply adding this charge to the next monthly bill will put the utility at risk for actually collecting that charge and at best, merely postpones the customer's need to make the payment. Further, these issues would be exacerbated

because more “after hours” reconnects likely will be requested, thus costing the customer even more money. OCG’s proposal should be rejected.

Related to the topic of reconnection charges, OCA argues that no fees should be imposed for service disconnection or reconnection if the utility is using automated meter reading (AMR). OCA is confusing AMR with advanced metering infrastructure (AMI). While OCA’s argument might warrant consideration in the context of AMI it must be rejected in the context of AMR. AMR still requires manual disconnect and reconnect activities and fees associated with those activities appropriate.

4901:1-18-08 (M): In this new division OCG proposes that for purposes of the notice requirement under division (K) there should be a rebuttable presumption that the utility knows that residential tenants reside in premises for which the customer’s mailing address is different from the service address. AEP Ohio opposes the creation of any assumption regarding the many customers who use a billing address which differs from the service address. Rule 4901:1-18-08 is crafted to apply to multi-unit dwellings which receive master metered service. Adding unrelated situations to this rule is inappropriate. OCG’s proposed should be rejected.

4901:1-18-10 (C): Once again, OCG would elevate OCC to a regulatory role. This proposal should be rejected.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Marvin I. Resnik", is written over a horizontal line.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of Columbus Southern Power Company's and Ohio Power Company's Reply Comments was served by U.S. Mail upon the individuals listed below this 14th day of October, 2008.

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