

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission's)	
Review of Chapter 4901:1-13 of the Ohio)	Case No. 09-326-GA-ORD
Administrative Code)	

**REPLY COMMENTS OF
DUKE ENERGY OHIO**

I. INTRODUCTION

In its Entry dated April 22, 2009, the Public Utilities Commission of Ohio (Commission) proposed certain changes to its rules in Chapter 4901:1-13 of the Ohio Administrative Code. The Commission sought comments to be filed on May 22, 2009 and reply comments by June 8, 2009.

Although Duke Energy Ohio did not submit initial comments in response to the Commission's proposed rules, it respectfully submits its reply comments below.

II. REPLY COMMENTS

4901:1-13-01(A)

In its Comments, the Ohio Consumer Counsel (OCC) and Ohio State Legal Services Association (OSLSA)(together Joint Advocates) propose to expand the definition of "bona fide dispute" to a complaint made to the OCC's Consumer Services Department. Duke Energy Ohio opposes the inclusion of the suggested definition. The Joint Advocates' request improperly enlarges the definition to individuals who contact the OCC in lieu of contacting the Commission. This definition would thus classify *every* contact to the OCC as a bona fide dispute. But this is not the intended purpose of such a definition, which seeks to strike a fair balance between the rights of the natural gas companies and their customers.

4901:1-13-01(E)

The Joint Advocates propose to expand the definition of “consumer.” But the definition of “consumer” was not proposed to be amended from its current definition and Duke Energy Ohio opposes the suggested change. Significantly, the Joint Advocates suggest that the existing definition *might* imply that the consumer is financially responsible for the natural gas service they receive. No such implication exists in the current definition. Rather, the Joint Advocates’ proposed definition creates confusion in that it refers to individuals who may or may not have a contract with the natural gas utility, may or may not be subject to tariff provisions, and may or may not have an obligation to pay for the services provided. As the existing definition properly defines a consumer as a person who receives service, further revision is not necessary.

4901:1-13-01(H)

Columbia Gas Company of Ohio (Columbia Gas) wants to clarify that the customer premises is where the customer takes service. This proposal, however, may not be consistent with the existing definition of “customer premises,” as unchanged by the Commission here. As the customer may not occupy the premises to which service is provided, it may be incorrect – or confusing – to define the “customer premises” as the location where the customer takes service. Duke Energy Ohio thus suggests that the existing definition remain unchanged.

4901:1-13-01(K)

The Joint Advocates oppose the suggested definition of “governmental aggregator.” But that definition succinctly refers to the definition as set forth in R.C. 4929.01. Providing a definition by reference to another section of the Ohio Revised Code is an accepted and routine practice. And this practice does not reduce an individual’s understanding of the term. Thus, the revisions proposed by the Joint Advocates are unnecessary.

4901:1-13-01 – Alleged Missing Definitions

The Joint Advocates suggest that this Commission erred in excluding definitions for the standard unit of measure for natural gas and tampering. Duke Energy Ohio does not oppose a correct definition for the standard unit of measure for natural gas.

Duke Energy Ohio further suggests that the term “ remote meter index equipment” which is used in 4901:1-13-04(G)(1) be defined in the definitions.

Similarly, if these rules will refer to instances of tamper, a correct definition of that term would be appropriate.

4901:1-13-02(G)

Duke Energy Ohio agrees with Vectren Energy Delivery of Ohio, Inc. (Vectren) and Dominion East Ohio (Dominion) in leaving the brief description in the current rules.

4901:1-13-04(C)(3)

Duke Energy Ohio agrees with Columbia Gas that minor changes be included to encompass all types of notification or communications used by natural gas companies, including emails, text messages or telephone calls. Duke Energy Ohio further agrees with Columbia Gas that reasonable efforts should be made to obtain actual meter readings as outlined in the Power Delivery meter reading plan filed with the Commission and that additional penalties to the company should not apply. The wording needs to discourage the customer from receiving a benefit by not granting the company access to read meters.

4901:1-13-04(D)

The Joint Advocates propose that customers receive notification – both periodically and annually – of their ability to request a meter test. These additional notifications would impose unnecessary costs upon the natural gas utility companies. Given that this issue is not predicated

upon safety, the Joint Advocates' request does not justify the costs associated with bill inserts and direct mail to electronic payment customers. Duke Energy Ohio further states that should this Commission require additional customer notifications, it allow for such notifications to be provided electronically.

Duke Energy Ohio opposes the Joint Advocates' suggestion that usage computations include "weather, changes in household size, changes in appliances, and other changes that were made in the energy profile of the dwelling." (See Joint Initial Comments by the Office of the Ohio Consumers' Counsel and Ohio State Legal Services Association, page 10.) These factors are undeniably subjective and would be very difficult to consistently manage and implement. Duke Energy Ohio further opposes the Joint Advocates' comment, which addresses overbilling situation that would require gas companies to pay interest back to the customer. Any overbilling situation is very unfortunate but a requirement to calculate and pay interest would be burdensome and potentially require costly computer system changes. In addition, Duke Energy Ohio does not seek interest from customers when an under billing situation has occurred.

4901:-1-13-04(G)

The Joint Advocates propose that the plan required in 4901:1-13-04(G)(1)(a) should be publicly filed and subject to comments. The publicly-filed plan would necessitate the opening of a formal case, which would be unduly burdensome to both the company and the Commission Staff with regard to time and resources. The Joint Advocates also propose that meter readings be done on the evenings and weekends. This is costly as it would require the payment of overtime to employees of the natural gas utility company.

In subpart (8) of this rule, the Joint Advocates propose assigning financial liability to the landlord where the natural gas utility company is denied access to its equipment. But the

company has a contract with the customer and will rely upon that contract in enforcing the rights and obligations of the customer, including the obligation to allow the company access to its equipment. The language proposed by the Joint Advocates must be stricken.

4901:1-13-05(A)

The Ohio Home Builders propose additional requirements upon natural gas utility companies with respect to main line extensions. Specifically, the Ohio Home Builders seek to impose deadlines and reporting requirements upon the utility companies. But these requirements are overly burdensome and ignore external factors, such as the permitting process, the construction bidding process and emergency work. Duke Energy Ohio asks that the Commission reject the language proposed by the Ohio Home Builders.

Similarly, Duke Energy Ohio requests that the Commission reject the Joint Advocates' suggestion to shorten the length of time for completing new service requests during the winter months. The Joint Advocates propose a three-day reduction in the current requirement, which is impractical. Although Duke Energy Ohio is responsive to new service requests, it is reluctant to agree upon a two-day deadline that ignores external factors, such as weather, community restrictions imposed during the holidays, and emergency work. These factors prevent Duke Energy Ohio from ensuring each new service request made during the winter months is received, processed, and completed within two business days. A five-day compliance period reasonably balances the needs of the customer with the work commitments of the natural gas utility company.

4901:1-13-05(C)

The Joint Advocates propose an overly burdensome and costly method for contacting customers of the Company's imminent arrival for an appointment. In doing so, the Joint

Advocates reject the Commission's language, which assigns reasonable obligations upon both the natural gas utility company and the customer. Indeed, the Commission proposes that a scheduled appointment shall be deemed canceled by the customer where the customer fails to respond to telephonic notification after requesting same. This rule thus requires the company to honor the customer's request for telephonic notification and the customer to respond to the notification. In contrast, the Joint Advocates reject this fair requirement in favor of one that imposes upon the utility company the obligation to make multiple telephone calls. Furthermore, the Joint Advocates propose that the customer be permitted to ignore the multiple attempts at contact and return the utility company's call at the customer's convenience. This proposal is administratively burdensome and unnecessary. If a customer seeks prior notification of a company's imminent arrival, it is reasonable to require that the customer answer the call.

Also objectionable is the Joint Advocates' proposal that customers be credited a monthly service charge where the utility company fails to meet the scheduled appointment. This proposed penalty conflicts with the Commission's requirement that the natural gas utility company attempt to notify the customer of its inability to keep a scheduled appointment. The Commission's rule is more reasonable as the company may be precluded from keeping the appointment to due an emergency. The Joint Advocates would ignore this fact and instead impose monetary penalties upon the company. Their suggested language must be rejected.

Duke Energy Ohio agrees with the comments of Dominion and Vectren that the natural gas utility company cannot be penalized where failure to keep an appointment is due to an emergency or cancellation of that appointment by the customer.

4901:1-13-05(D)

Duke Energy Ohio opposes the Joint Advocates' suggestion that 95% of the repairs to customer service lines be completed on the same day that service was cut off. This requirement is contrary to the Commission's rule, which requires repairs to be made by the end of the following day. This shorter period of time is unsubstantiated and seeks to unjustifiably impose stricter requirements upon natural gas utility companies.

Duke Energy Ohio agrees with Vectren and Dominion that the wording stating that the company shall complete the repair of service-line leaks that require service shutoff by the end of the next day after the service has been shut off does not allow for the fact that it is sometimes necessary to repair or replace services lines to vacant or unoccupied homes where the gas company may not have access. Duke Energy Ohio also agrees that even where the company has access, in certain situations customers may not want the repair completed right away. Duke Energy Ohio also agrees that clarification is needed to understand what it means to "complete the repair" of service line leaks. It also agrees that if a natural gas company completes a service line repair and during the course of testing discovers a houseline leak, that the standard would not become achievable. Further, Duke Energy Ohio agrees that performance standards should be based on objective, verifiable facts and data.

Duke Energy Ohio agrees with Ohio Gas Company's comment that further definition of "customer service lines" is necessary. As more natural gas utility companies are taking ownership of the entire service line, it is important that they have an understanding of what part of that service line is contemplated under this rule. Similarly, Duke Energy Ohio supports the recommendation of Columbia Gas that the Commission provide those relevant factors upon which it relied in arriving at the 95% compliance rate.

4901:1-13-06

Duke Energy Ohio objects to the Joint Advocates' proposal that customers be informed of their rights - annually - via bill inserts or a bill message. Although Duke Energy Ohio supports customer education, the use of annual bill inserts or bill messages is not appropriate. The cost of bill inserts and separate mailings for electronic payment customers is significant and difficult to justify where, as here, the message is not one predicated upon safety. The Commission has recommended the appropriate process for affording customers the necessary information as to their rights and responsibilities. Further revision as requested by the Joint Advocates is administratively burdensome and costly.

4901:1-13-08(D)

In subpart (2) of this rule, the Commission appears to be deleting that language allowing a natural gas utility to disconnect a service because of tamper. Arguably, every circumstance of tamper creates a potential safety issue as the meter's proper functioning has been comprised. But further clarity is needed here. A natural gas utility company must be authorized to disconnect service where tampering has occurred. Duke Energy Ohio thus agrees with Ohio Gas Company in this regard.

4901:1-13-09(A)

The Joint Advocates suggest that they be given an opportunity to comment upon the anti-theft and anti-tamper policies of natural gas companies. This is an unnecessary administrative burden. Anti-theft and anti-fraud plans are intended, in part, to ensure for the safe provision of natural gas service. Furthermore, such plans are predicated upon the Commission's rules, which dictate the circumstances under which a natural gas utility company can disconnect service.

There is no need to impose another layer of administrative review upon natural gas utility companies by requiring them to tailor their plans to the recommendations of the Joint Advocates.

Duke Energy Ohio further objects to the suggestion that any disputes regarding fraud or tamper first be resolved before service can be disconnected. The requirement of prior notification and dispute resolution is inappropriate where meters have been compromised.

4901:1-13-09(B)

The Joint Advocates oppose the suggested revision to this rule, and instead seek to authorize the disconnection of service only where safety reasons exists. But natural gas utility companies must be allowed to disconnect service where the meter has been compromised, whether by accidental damage or intentional misconduct. A compromised meter can undeniably create safety issues, but limiting the right to disconnect to instances where such safety issues do exist is inappropriate. Natural gas utility companies cannot be so limited where meters have been altered.

4901:1-13-09(C)

The Joint Advocates suggest that the rules be revised to require natural gas utility companies to expressly identify the department responsible for investigating alleged fraudulent practices. This revision is inappropriate. Duke Energy Ohio's Call Center is intended to receive and respond to all customer inquiries, whether they be routine, critical, or of a sensitive nature. The Call Center representatives are well equipped to refer customer inquiries to the appropriate department, be it Legal or Customer Services. And as each circumstance of alleged fraud may require the engagement of a different department within Duke Energy Ohio, the Joint Advocates' suggestion serves only to create costly and administratively-burdensome revisions that cannot be justified. Indeed, the Joint Advocates do not propose this definition on the basis that customers

have been deprived of the ability to communicate with the natural gas company about the investigation. And that communication should be initiated through a call center.

4901:1-13-11(B)

The Joint Advocates improperly seek to use these rules to force natural gas utility companies to provide detailed information on the percentage of income payment program (PIPP). But this additional information will require extensive modification to billing formats, above that which is already required of natural gas utility companies under Chapter 18, Ohio Administrative Code. The additional billing detail suggested by the Joint Advocates must therefore be rejected as administratively burdensome, costly, and unsubstantiated.

Duke Energy Ohio acknowledges the comment by Ohio Gas Company that the Commission's language may be too broad. Existing bill formats accommodate only a definitive amount of information; therefore, the notification requirements applicable to PIPP must be reviewed with consideration to the existing space limitations.

Duke Energy Ohio agrees with Columbia Gas and Vectren that the wording related to issuing of bills should be referred to "regular" as opposed to "monthly" as proposed. In addition, the Joint Advocates suggestion of requiring bills to be for service during the preceding 28-31 days is more restrictive than it needs to be. It benefits both the customer and the company to keep the billing period to a consistent number of days, however, the varying number of calendar work days by month due to holidays and short/long months can make this difficult to do at this time. A period of 28 – 34 days may be more reasonable for all parties.

4901:1-13-11(E)

Duke Energy Ohio agrees with the comments of Dominion and Vectren that a definition of "signage" is needed.

Duke Energy Ohio also notes that the Joint Advocates' proposed language is unclear, thereby leading to confusion. Specifically, it is unknown whether the proposed requirement to provide information telephonically means that the natural gas utility company implement a system whereby a listing of all payment options can be obtained via telephone at anytime of day. If this is the intended result of the Joint Advocates' proposal, it is objectionable in that it would impose significant cost and administrative burden upon Duke Energy Ohio. Currently, customer service representatives are available during standard business hours to respond to inquiries about payment options. And the website can be accessed 24/7 to obtain similar information.

Alternative Bill Formats

As recognized by the Joint Advocates, Duke Energy Ohio offers alternative formats for billing statements. And Duke Energy Ohio will continue to provide billing statements in these alternative formats. However, it is concerned with the Joint Advocates' proposal that all customer notices be provided in alternative formats. The cost of modifying existing information systems to comply with such a mandate would be significant.

Furthermore, Duke Energy Ohio is concerned with the requirement that customer information – from billing statements to notifications – be provided in a second language. As such a revision would be costly and administratively burdensome, a more appropriate result would be to advise customers on available interpreter service.

Enforcement Rules

Duke Energy Ohio respectfully disagrees with the Joint Advocates' suggestion that Commission Staff erred in not seeking comment on Chapter 4901:1-34, Ohio Administrative Code. Commission Staff elicited comments on the proper rules and the Joint Advocates' attempt to expand the scope of review is not warranted.

4901:1-13-12(D)(1)(b)

Duke Energy Ohio is concerned with the proposal of Columbia Gas that account numbers be provided to “agencies serving low-income customers through Commission-approved energy conservation programs.” This revision carries with it confidentiality concerns.

III. CONCLUSION

Duke Energy Ohio appreciates the opportunity to provide reply comments in this matter. For the reasons stated above, Duke Energy Ohio respectfully requests that the Commission consider the comments provided herein and adopt the changes proposed by Duke Energy Ohio in the afore-referenced code sections.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing Initial Comments of Duke Energy Ohio were E-filed on the Commission's Docketing Information System (DIS) on this 8th day of June, 2009. Parties of Record and other interested parties may access this filing through DIS.

Amy B. Spiller

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Case No(s). 09-0326-GA-ORD

Summary: Reply Comments of Duke Energy Ohio electronically filed by Anita M Schafer on behalf of Ms. Amy B. Spiller