

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of	)	
Duke Energy Ohio, Inc. for Approval	)	Case No. 09-757-EL-ESS
Of Proposed Reliability Standards	)	

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**REPLY COMMENTS  
BY  
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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In the Matter of the Application of )  
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Of Proposed Reliability Standards )

On May 6, 2009, the Public Utilities Commission of Ohio (“PUCO” or “Commission”) issued an Entry on Rehearing modifying the previously adopted Electric Service and Safety Standards (“ESSS”) that govern the quality of electric service for Ohio customers and ordered the electric distribution utilities (“EDUs”) to file proposed new reliability performance standards. The Commission also ordered that the filing of the proposed new standards take place within sixty days following the effective date of the amended chapter.<sup>1</sup> Duke Energy Ohio, Inc. (“Duke” or “Company”) filed an Application proposing new performance reliability standards on August 28, 2009.<sup>2</sup> OCC submitted comments on Duke’s Application on December 14, 2009, in

<sup>1</sup> *In re the Commission's Review of Chapters 4901:1-9, 4901:1-10, 4901:1-21, 4901:1-22, 4901:1-24, and 4901:1-15 of the Ohio Administrative Code*, Case No. 06-653-EL-ORD, Entry on Rehearing (May 6, 2009) ("ESSS case"). The Ohio Administrative Code sections referred to constitute Ohio's ESSS.

<sup>2</sup> The standards measure the frequency and duration of electric outages and consist of:

“CAIDI,” or the customer average interruption duration index, represents the average interruption duration or average time to restore service per interrupted customer. CAIDI is expressed by the following formula:

CAIDI equals sum of customer interruption durations divided by total number of customer interruptions.

“SAIFI,” or the system average interruption frequency index, represents the average number of interruptions per customer. SAIFI is expressed by the following formula:

SAIFI equals total number of customer interruptions divided by total number of customers served.

accordance with the procedural Entry issued in this case.<sup>3</sup> The PUCO Staff's Comments were filed on December 22, 2009. OCC files these Reply Comments in response to the Staff's Comments regarding Duke's Application.

**B. The PUCO Staff Unreasonably Failed To Ensure That The Methodology Duke Applied In Proposing New Reliability Standards Complied With The ESSS Or The PUCO Staff's Guidelines.**

The ESSS require that each electric distribution utility ("EDU") fully support its proposed performance reliability standards. Specifically, Ohio Adm. Code 4901:1-10-10(B)(3) requires that the applications proposing the performance standards contain:

- (a) A proposed methodology for establishing reliability standards.
- (b) A proposed company-specific reliability performance standard for each service reliability index based on the proposed methodology.
- (c) Supporting justification for the proposed methodology and each resulting performance standard.

Ohio Adm. Code 4901:1-10-10(B)(4) requires that certain supporting justification for the methodology must accompany each application and:

- (a) Performance standards should reflect historical system performance, system design, technological advancements, service area geography, customer perception survey results as defined in paragraph (B)(4)(b) of this rule, and other relevant factors.

Finally, Ohio Adm. Code 1-10-10(B)(5) requires that a complete set of workpapers must be filed with the application. The PUCO Staff also developed guidelines for the completion and submission of the applications and supporting workpapers and justification and these guidelines were posted on the Commission's website below the ESSS rules contained in Ohio Adm. Code 4901:1-10.

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<sup>3</sup> OCC was the sole party to file comments regarding Duke's Application.

Duke has the burden of proving that its proposed performance standards are just and reasonable for service to customers and this requires sufficient information to justify its claims.<sup>4</sup> The Commission should require Duke to provide additional, supporting documentation for its proposed standards governing service outages, within the next thirty days. Absent the provision of the information at that time, and as required by the Ohio Adm. Code 4901:1-10-10 and the PUCO Staff's guidelines, the Commission should schedule a hearing to determine the appropriate reliability standards for Duke and the customers it serves.

Duke has the burden of proof in proposing the new reliability standards and the Commission's rules have established that certain information must be provided in the application process in order for Duke to demonstrate that it applied the proper methodology in determining its proposed standards. In its initial comments, OCC objected that Duke had failed to demonstrate how geographic considerations and the results of customer perception surveys are integrated in the methodology for proposing standards.<sup>5</sup> Neither of these issues was addressed by PUCO Staff.

OCC commends the PUCO Staff for requiring the EDUs to fully support the methodology utilized to develop their proposed performance standards.<sup>6</sup> The technical conferences and comment period are a welcome addition to the prior process which limited participation to the Staff and the electric utility. However, Duke's Application requires significant improvements in order for its proposed performance standards to be accepted by the

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<sup>4</sup> Ohio Adm. Code 4901:1-10-10(B)(6)(e). "If it appears to the commission that the proposals in the application may be unjust or unreasonable, the commission shall set the matter for hearing and shall publish notice of the hearing in accordance with section 4909.10 of the Revised Code. At such hearing, the burden of proof to show that the proposals in the application are just and reasonable shall be upon the electric utility."

<sup>5</sup> OCC Initial Comments at 6.

<sup>6</sup> Ohio Adm. Code 4901:1-10-10(B)(4).

PUCO Staff and the Commission as adequate for protecting the quality of electric service provided to Ohio customers.

## **II. THE PUCO STAFF'S PROPOSED ADJUSTMENTS TO DUKE'S PROPOSED PERFORMANCE RELIABILITY STANDARDS**

### **A. Calculation Of And Variability Around The Historical Average Reliability Performance.**

The Staff disagreed with Duke's methodology of using the most recent five years plus 9 month performance data to calculate the historical average.<sup>7</sup> The Staff instead chose to use the most recent five years (2004 -2008) of system performance as a reasonable basis for calculating the historical average.

The Staff's position is consistent with its own Guidelines. OCC previously raised objections to Duke's use of the "five years plus nine-months" of system outage data to calculate historical average.<sup>8</sup> OCC supports limiting the use of the outage data to the most recent five years and agrees with the Staff's position on this issue.

Staff rejected Duke's methodology of adding two standard deviations to the historical average. The Staff believed "that a more reasonable and uniform approach to account for annual variation in system performance is to use the most recent five year average plus ten percent."<sup>9</sup>

OCC welcomes the Staff's recognition that a statistics-based adjustment (whether it be one, two, or three standard deviations) to the average historical performance baseline is flawed and unreasonable.<sup>10</sup> However, OCC is concerned with the Staff's proposed solution of uniformly adding ten percent to the most recent five-year average performance indices

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<sup>7</sup> Id. at 4.

<sup>8</sup> See OCC Initial Comments at 8.

<sup>9</sup> See Staff's Comments at 4-5.

<sup>10</sup> See OCC's Initial Comments at 10-11.

irrespective of the vastly different levels of historical service performance of the electric distribution utilities (EDUs) in Ohio.

OCC believes that the baseline of minimum performance standard for Duke should be its historical average performance of the most recent five years. No adjustment to account for the so-called “variability of the annual data” is necessary or justified. The Staff’s proposal of “historical average plus ten percent” is flawed and unreasonable.

**B. The Staff’s Proposal Is Void Of Any Supporting Data And Analysis.**

Staff provided inadequate explanation on the choice of the ten percent addition. The Staff’s Comments merely re-stated its decision by saying “This methodology produces a more consistent result across all utilities regardless the range of the variability in the historical data.”<sup>11</sup> One may wonder about the justifications, if any, of a ten-percent addition to the historical average. Why not a five-percent, an eight-percent, or a fifteen-percent addition? The Staff’s Comments did not provide any answer to this critical question and yet, having well defined reliability standards was a significant reason why the Commission abandoned the previous reliability targets and instead, decided to have standards. The Staff has not performed any analysis to ascertain whether such an adjustment is consistent with customers’ expectation of electric service. Without this analysis, there is no meaningful way that future investments in reliability programs and improvements can be adequately assessed. The Staff’s Comments did not even bother to describe and analyze how an ordinary customer would be affected by this ten-percent addition to the minimum reliability standard.

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<sup>11</sup> See Staff’s Comments at 5.

**C. The Staff’s Proposal Rewards Companies That Have Performed Consistently, But Poorly, Over Recent History In Terms Of Their Service Reliability.**

The Staff correctly noted that the use of a one-standard-deviation addition “provided little room for variance for those companies with historically consistence performance. In contrast, those electric utilities whose historical performance varied more widely enjoyed an excessive amount of variance for their performance standards.”<sup>12</sup> The Staff’s Proposal (an adjustment to historical average equal to ten percent) was intended mainly to establish a consistency to the electric service performance standards adopted by the various EDUs. The Staff chose to use a fixed percentage, instead of a standard-deviation-based addition to the historical average performance data to resolve the problem of wide variation in standard deviations of historical performance by different EDUs.

However, the Staff’s Proposal fails to recognize that a fixed percentage adjustment does not necessarily lead to a consistent addition (or variation) to the minimum performance standards. To the contrary, the Staff’s Proposal would reward EDUs with consistently poor performance (i.e. higher CAIDI and SAIFI numbers) with larger additions (adjustments) to their historical average performance indices. There is no justification for this inverted incentive mechanism. This policy is not in the public interest and is not beneficial to Ohio’s residential electric customers.

An example can be provided here. Under the Staff’s proposal, a poorly-performing EDU, such as CEI, is “awarded” a larger addition to its minimum performance standard in comparison to the adjustment “awarded” to a better-performing EDU, such as Duke, in this particular example. A comparison of the adjustments to the baseline minimum performance standards of

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<sup>12</sup> Ibid.



Duke and CEI is shown in Table 1. This example is intended only to illustrate the “unreasonableness” of the Staff’s Proposal, not as a complete evaluation of Duke’s CAIDI performance.

**Table 1: A Comparison of Staff-recommended Additions to Baseline Minimum Performance Standards Of Duke and CEI**

	<hr/> Annual CAIDI <hr/>		
	Historical Average	10% of Historical Average	Staff-recommended Minimum Standard
Duke <sup>13</sup>	88.56	8.86	97.42
CEI <sup>14</sup>	120.65	12.07	132.72

**D. The CAIDI Reliability Standard Proposed By Staff Can Lead To Unreasonably Lax Minimum Reliability Standards.**

The “ten-percent addition to historical average” proposed by the Staff is unreasonably generous to Duke. It will invariably lead to lax minimum reliability standards that should be unacceptable to many utility customers. As stated before, the Staff provided inadequate and insufficient justifications for the selection of the ten percent addition to the average historical performance data.

There are few instances where the annual SAIFI or CAIDI have consistently exhibited wide variations of more than 10% from year to the next or as compared to the historical averages. More importantly, in many instances, the “historical average plus ten-percent”

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<sup>13</sup> See Staff’s Comments at 5.

<sup>14</sup> See Staff’s Comments on FirstEnergy at 5.

methodology can result in an addition to the historical average that is more than the additions associated with the various, discredited standard-deviation-based adjustments.

Based on Duke’s historical performance CAIDI data as revised by the Staff, the Staff’s Proposal of “historical average plus ten percent” will result in an addition of 8.86 to Duke’s historical average CAIDI.<sup>15</sup> The additions based on the one standard deviation of Duke’s revised historical CAIDI is only 6.33, based on 1.5 standards deviation 9.50, and based on two standard deviation 12.67.<sup>16</sup> Duke proposed an addition of two standard deviations to the historical average. This Duke-proposed addition is obviously overly generous to the Company. A comparison of the Staff-proposed adjustment and the additions associated with various standard deviations for Duke Energy Ohio are shown in Table 2.

**Table 2: A Comparison of Staff-proposed and Various Standard- Deviation-Based Additions to Minimum Performance Standards of Duke Energy Ohio**

<b>Additions to Annual CAIDI</b>			
Staff-proposed	Duke-proposed (2 S.D.)	(1 S.D.)	(1.5 S.D.)
8.86	12.67	6.33	9.50

**E. Staff’s Proposal May Result In Performance Standards That Are Even Less Stringent Than The Currently-In-Place Reliability Targets.**

Given the serious deficiencies of the Staff’s Proposal, it is no surprise that the minimum service standards proposed for Duke in the Staff’s Comments are no more than a continuation of the status quo. The Staff’s proposed minimum standards are not likely to encourage more reliable service to Duke’s customers. Specifically, the Staff’s proposed minimum CAIDI performance standard for Duke is a retreat even from the currently-in-place performance target.

<sup>15</sup> See Staff’s Comments at 5.

<sup>16</sup> These figures are calculated from the Staff-revised CAIDI at 3 of Staff’s Comments.

It is less stringent than the current reliability target of historical performance plus one standard deviation.

Clearly, the intent of the new minimum performance reliability standards is to impose more stringent standards on the EDUs and improve distribution service. The Staff is quite aware of this and has stated repeatedly that “The Amended O.A.C. 4901:1-10-10 (B) changes the previous requirement that each electric utility have performance targets to the more stringent requirement that each electric utility shall have minimum performance standards.”<sup>17</sup>

Staff needs to provide convincing evidence that doing so (proposing a minimum reliability standard that is less stringent than the current reliability targets) is in the public interest and is also beneficial to Duke Energy Ohio’s customers. The Staff’s Comments in this proceeding fail to make this case. A comparison of the Staff-proposed minimum CAIDI service standards and the Current Targets for Duke are shown in Table 3.<sup>18</sup>

**Table 3: Comparison of Current CAIDI Targets and Staff-proposed Minimum Performance Standards for Duke Energy Ohio**

<b>Annual CAIDI</b>									
	<b><u>Current Target</u></b>	<b><u>Staff-proposed Standards</u></b>							
	2008	2009	2010	2011	2012	2013	2014	2015	2016
<b>Unadjusted</b> <sup>19</sup>	94.89	94.89	97.42	97.42	97.42	97.42	97.42	97.42	97.42
<b>Adjusted</b> <sup>20</sup>	99.39	99.39	101.92	106.42	110.92	115.42	119.92	123.47	124.37

<sup>17</sup> Staff Comments at 1, Staff Comments on AEP at 1, Staff Comments on DP&L at 1.

<sup>18</sup> The “Current Target” is defined as the historical average plus one standard deviation. But it should be noted that the historical average is calculated by using Duke’s revised CAIDI performance data which have been adjusted for new definition of major events and transmission outages and revised by the Staff. So the “Current Target” may be different from the reported reliability targets that rely on previous definition of major events and reporting requirements.

<sup>19</sup> The unadjusted annual CAIDI refers the performance indices proposed by the Staff before making any adjustment to account for the increase in CAIDI due to the SmartGrid deployment. See Staff’s Comment at 5.

<sup>20</sup> The adjusted annual CAIDI refers to the performance indices proposed by the Staff after making adjustment for the increase in CAIDI due to the SmartGrid deployment. See Staff’s Comments at 6-7.

**F. The CAIDI Reliability Standard Proposed By Staff Is Less Stringent Than The Eight Year Average CAIDI Performance The Company Has Demonstrated.**

Staff has proposed a reliability standard for CAIDI of 97.42 minutes as shown in Table 4 which is significantly greater than the reliability performance that the Company has demonstrated since 2000. The less stringent CAIDI means that the potential exists for Duke customers to incur longer duration outages without Duke incurring any additional consequences or compliance oversight by Staff. However, even though the potential exists for longer duration outages, Duke customers are receiving no relief in distribution rates.

**Table 4: Eight Year Average CAIDI Compared to Staff's Proposal<sup>21</sup>**

Reliability Measure	Value
2008 CAIDI (MS Excluded)	98.31
Eight Year Average CAIDI	90.53
Staff Proposed CAIDI	97.42

**G. Additional Adjustments To The Historical Performance.**

Duke proposed an adjustment for reduced circuit lockouts to its historical performance for CAIDI.<sup>22</sup> The Staff agreed with OCC and rejected Duke's proposed "to-account-for-hypothetical-future-efforts" adjustments to its historical CAIDI.<sup>23</sup> Duke also proposed several similar "hypothetical" adjustments to its baseline historical performance in consideration of the

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<sup>21</sup> Obtained through a PUCO Staff public records involving Ohio Adm. Code 4901:1-10-10, annual report submitted to Staff.

<sup>22</sup> See Amended Application at 2-4, and Staff's Comments at 5-6.

<sup>23</sup> See Staff's Comments at 5-7, and OCC's Initial Comments at

effects of future SmartGrid deployment. The Staff did allow a gradual seven-year “phase-in” of these adjustments in setting the CAIDI performance standard.<sup>24</sup>

OCC agrees with the Staff’s position on this issue. OCC sees absolutely no justification to adjust historical performance data to account for yet-to-be-implemented SmartGrid deployment. OCC concurs with the Staff’s gradual phase-in approach regarding the alleged increase in CAIDI due to SmartGrid deployment. However, OCC continues to believe that Duke needs to provide more concrete evidences to back up this claim.<sup>25</sup>

Duke proposed to use the SAIFI performance standard set forth in the 2008 Duke ESP case.<sup>26</sup> The Staff agreed with Duke and recommended the same SAIFI standard.

OCC does not propose an alternative SAIFI standard. However, OCC is of the opinion that Duke Energy Ohio is still required to provide relevant information as specified in Ohio Administrative Code 4901:1-10-10(B)(3)-(5) and the PUCO Guidelines for Reliability Standard Applications.<sup>27</sup>

### **III. THE PUCO STAFF’S COMMENTS FAIL TO ADDRESS MANY ASPECTS OF DUKE’S PROPOSED PERFORMANCE RELIABILITY STANDARDS**

OCC, in its initial comments, noted that Duke’s Application was deficient because it failed to address certain requirements of the ESSS and also failed to address aspects of the PUCO Staff’s Guidelines.<sup>28</sup> Ohio Adm. Code 4901:1-10-10(B)(4)(a)-(c) require, amongst other things, that supporting justification for proposed standards:

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<sup>24</sup> Id., at 6-7.

<sup>25</sup> See OCC Initial Comments at 8-9.

<sup>26</sup> See Application at 2.

<sup>27</sup> See OCC Initial Comments at 6.

<sup>28</sup> OCC Initial Comments at 14-19.

should reflect historical system performance, system design, technological advancements, service area geography, customer perception survey results as defined in paragraph (B)(4)(b) of this rule, and other relevant factors.<sup>29</sup>

The PUCO Staff's comments neglected to address:

- The flaws in Duke's customer perception surveys and how such results were reflected in the proposed standards;
- How Duke's Application failed to adequately address system design and its effect on the standards;
- Duke's flimsy arguments regarding service restoration times for rear-lot facilities; and
- Duke's failure to adequately relate service area geography to its proposed performance reliability standards.

The Commission should recognize that neither Duke's Application nor the PUCO Staff's Comments addressed most of the requirements of the ESSS or Staff's Guidelines concerning the establishment of performance reliability standards. The ESSS and Staff's Guidelines posted on the internet with the ESSS were the tools OCC used to measure the appropriateness and adequacy of Duke's proposed performance reliability standards. Duke failed to follow the ESSS or the Staff's Guidelines in its Application and OCC is disappointed that the PUCO Staff is not adhering to those considerations – at least in their comments.

#### **IV. REQUEST FOR HEARING**

The ESSS contemplate a hearing when "it appears to the commission that the proposals in the application may be unjust or unreasonable,"<sup>30</sup> The requirement for a hearing when the utility's proposed performance standards are unjust or unreasonable is a welcome and necessary ingredient to achieving success in the establishment of new CAIDI and SAIFI measures for the

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<sup>29</sup> Ohio Adm. Code 4901:1-10-10(B)(4)(a).

<sup>30</sup> Ohio Adm. Code 4901:1-10-10(B)(6)(e).

EDUs.<sup>31</sup> The Commission, in determining whether to hold a hearing, should keep in mind that the burden is on the EDU to support its proposed performance standards. (Emphasis added.) Duke has not met its burden in supporting its new performance reliability standards. The PUCO Staff's comments reflected little or no consideration of the factors that the Staff itself stated was essential to the granting of an Application for new reliability standards.<sup>32</sup> Consumers pay for and are entitled to reliable, safe, and efficient service.<sup>33</sup> Such reliable, safe and efficient service can only be ensured if the Commission Staff and the Commission ensure that all of the factors required by the ESSS are weighed and considered before Duke is permitted to implement new performance reliability standards.

## **V. CONCLUSION**

On behalf of the residential customers in Ohio, OCC respectfully requests that the Commission reject the proposed CAIDI targets proposed by the PUCO Staff as well as those proposed by Duke. The Commission should ensure that the nearly 600 thousand Duke customers are afforded the adequate and reliable electric service that customers are paying for and entitled to in the existing distribution rates. OCC's request for a hearing should be granted.

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<sup>31</sup> Ohio Adm. Code 4901:1-10-10(B)(6)(e).

<sup>32</sup> See Attachment 1. Attachment 1 is a WORD version of the Staff Guidelines posted on the PUCO's website which outlines Staff's expectations for Applications. <http://www.puco.ohio.gov/PUCO/Rules/Rule.cfm?id=9562>

<sup>33</sup> R. C. 4928.02.

Respectfully submitted,

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### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the Reply Comments was served on the persons stated below via regular U.S. Mail Service, postage prepaid, this 12th day of January, 2010.

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## Attachment 1

### Staff's Guidelines for Reliability Standards Applications

Rules 4901:1-10-10(B)(2), (3), (4), and (5) of the Ohio Administrative Code (O.A.C.) require each electric utility in the state to file with the Commission an application to establish company-specific minimum reliability performance standards, and prescribe what should be included in the application's supporting justification and work papers. The following are Staff's guidelines for electric utilities to use in developing their reliability standards applications, supporting justification, and supporting work papers.

1. Service reliability performance standards for CAIDI and SAIFI should be calculated by averaging historical performance and using the average as a baseline for adjustments that would result in a proposed standard.
2. Historical system performance should include at least five years of reliability performance data or an explanation of why that is not possible. Such performance data must reflect the exclusion of major events and transmission outages as defined in Rules 4901:1-10-1(Q) and (AA), O.A.C., respectively.
3. The application should separately quantify the adjustment that the electric utility proposes for each factor it believes should be considered in adjusting the average historical performance to develop the standard. All factors listed in Rule 4901:1-10-10(B)(4)(a), O.A.C., should be addressed, including those for which no adjustment is made.
4. Work papers should include the following:
  - Supporting rationale, methodology, analysis, calculations, underlying assumptions, and documentation for each adjustment used to arrive at the proposed reliability standards.
  - The methodology used to exclude major events and transmission outages from historical performance data.
  - A description of how major event day thresholds were calculated, including a description of and justification for any adjustments to any data used for such calculations.
  - The results of the customer perception survey conducted under Rule 4901:1-10-10(B)(4)(b).
  - The status in implementing and an updated schedule for completing any grid modernization program which the Commission has approved under Section 4928.143(B)(2)(h), Revised Code.

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