

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)
Duke Energy Ohio, Inc., to Adjust) Case No. 13-1141-GE-RDR
Rider DR-IM and Rider AU for 2012)
Grid Modernization Costs.)

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

The Office of the Ohio Consumers' Counsel ("OCC") files Reply Comments in this proceeding where Duke Energy Ohio, Inc. seeks to collect charges from customers for costs associated with its grid modernization (also known as "smartgrid") program.¹ OCC filed Comments in this proceeding on October 31, 2013. Also filing comments were the Staff of the Public Utilities Commission of Ohio ("PUCO"), Ohio Partners for Affordable Energy ("OPAE") and Direct Energy Services and Direct Energy Business (collectively, "Direct Energy").

OCC generally supports the recommendations made by the other commenters and lends specific support to several of the recommendations as discussed herein. However, as explained further below, OCC disagrees with the position taken by Direct Energy regarding Duke's time-of-use pilot programs. The PUCO should ensure that Duke continues to make voluntary time-of-use rates available to standard service offer ("SSO") customers who want them.

¹ These Reply Comments are filed per the procedural schedule set forth in the Entry issued in this case on September 27, 2013. The absence of discussion regarding an issue raised by other commenters in this proceeding should not be construed as OCC's acquiescence to the commenter's position.

The PUCO Staff recommended that the amounts to be collected through Duke's advanced utility rider (Rider AU) and distribution reliability-infrastructure modernization rider (Rider DR-IM) be reduced this year by \$1,211,984. That amount is the total cost of severance payouts for 16 meter readers.² Those costs were incurred by Duke because those employees accepted Duke's offer of a severance package in lieu of continued employment with Duke in another capacity.³ It is the PUCO Staff's position that those costs should be included in the riders in the year when the severance has actually been paid out after the employees' release date.⁴ It is OCC's position that Duke's customers should not have to pay for those severance payouts. Accordingly, the PUCO should order Duke to reduce Rider DR-IM and Rider AU by \$1,211,984.

In addition, the PUCO Staff proposed that Duke provide additional information regarding outages,⁵ that Duke ensure that gas-only customers receive automated meters⁶ and that Duke calculate each rider's rate using the costs applicable to each rider.⁷ OCC agrees with these recommendations by the PUCO Staff. The PUCO should order Duke to implement all of those recommendations in this proceeding.

In its comments, OPAE raised concerns about customers who may have been disconnected from service for refusing to allow Duke to install a smart meter at the customers' premises.⁸ OPAE cited to the testimony of Duke witness Schneider that

² PUCO Staff Comments at 7-8.

³ Id.

⁴ Id. at 7.

⁵ Id. at 3.

⁶ Id. at 6.

⁷ Id. at 9.

⁸ OPAE Comments at 3-4.

indicated three customers were disconnected for refusing a smart meter.⁹ OCC shares OPAE's concerns.

OPAE correctly noted that the PUCO recently adopted a rule (Ohio Adm. Code 4901:1-10-05(I)) that will permit customers to opt-out of advanced meter service.¹⁰ Although that PUCO rule is not in effect at this time, OPAE states that "[n]o customer should be disconnected for refusal to allow installation of an advanced meter."¹¹ OCC agrees. The PUCO should declare a moratorium on the disconnection of customers' electric service for refusal to allow a smart meter to be installed until the rules are finalized.

Direct Energy argues that Duke should terminate its time-of-use pilot programs once Duke has launched its web portal for competitive retail electric service ("CRES") providers and CRES providers begin marketing time of use offers in Duke's territory.¹² Direct Energy's recommendation reduces the benefits available to residential customers. The PUCO should reject this recommendation.

OCC's Comments in this proceeding called on the PUCO to ensure that Duke's residential customers have voluntary (not mandatory) access to time-differentiated rates.¹³ Duke must expand – not diminish – its time-differentiated rate offering for residential customers. Duke's grid modernization program – including the deployment of smart meters – has made it possible for residential customers to have more control over their energy usage and the rates they pay for electricity. But without time-differentiated

⁹ Id. at 3.

¹⁰ OPAE Comments at 3.

¹¹ Id. at 3.

¹² Direct Energy Comments at [3].

¹³ OCC Comments at 2-5.

rates, residential customers will have limited ability to help offset the rate increases they have experienced to pay for Duke's smartgrid system.

It is premature to cease offering time-differentiated rates through Duke's SSO. CRES suppliers have not demonstrated an ability to effectively offer such rates. Thus, the PUCO should require Duke to continue to make time-of-use rates available to SSO customers who want them.¹⁴ The Duke Grid Modernization Collaborative should continue to work on data, privacy and other issues that need to be resolved so that CRES suppliers can effectively make such rate offerings. This would allow residential customers to realize the full potential of this system for which Duke has charged customers.

Respectfully submitted,

BRUCE J. WESTON
OHIO CONSUMERS' COUNSEL

/s/ Terry L. Etter
Terry L. Etter, Counsel of Record
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
Telephone: (614) 466-7964 (Etter direct)
etter@occ.ohio.gov

¹⁴ See also PUCO Staff Comments at 12-13.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Reply Comments was served on the persons stated below via electronic transmission this 14th day of November 2013.

/s/ Terry L. Etter
Terry L. Etter
Assistant Consumers' Counsel

SERVICE LIST

Devin Parram
Thomas Lindgren
Assistant Attorneys General
Attorney General's Office
Public Utilities Section
180 E. Broad St, 6th Floor
Columbus, OH 43215
Devin.parram@puc.state.oh.us
Thomas.lindgren@puc.state.oh.us

Amy B. Spiller
Elizabeth H. Watts
Duke Energy Ohio
1309 East Fourth Street, 1303-Main
P.O. Box 960
Cincinnati, OH 45201-0960
Amy.spiller@duke-energy.com
Elizabeth.watts@duke-energy.com

Colleen L. Mooney
Cathryn N. Loucas
Ohio Partners for Affordable Energy
231 West Lima Street
Findlay, OH 45839-1793
cmooney@ohiopartners.org
cloucas@ohiopartners.org

Jennifer L. Lause
Joseph M. Clark
21 E. State St.
Suite 1950
Columbus, OH 43215
jennifer.lause@directenergy.com
joseph.clark@directenergy.com

Attorneys for Direct Energy Services, LLC
and Direct Energy Business, LLC

Mark A. Hayden
Scott J. Casto
FirstEnergy Service Company
76 South Main Street
Akron, OH 44308
haydenm@firstenergycorp.com
scasto@firstenergycorp.com

Attorney Examiner:
Kerry.sheets@puc.state.oh.us

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

11/14/2013 4:44:40 PM

in

Case No(s). 13-1141-GE-RDR

Summary: Comments Reply Comments by the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Etter, Terry L.