

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of _____)
Ohio Power Company to Initiate Phase 2) Case No. 13-1939-EL-RDR
of its gridSMART Project and to _____)
Establish the gridSMART Phase 2 Rider.)

**REPLY COMMENTS OF
OHIO PARTNERS FOR AFFORDABLE ENERGY**

I. Introduction

Ohio Partners for Affordable Energy (“OPAE”) hereby submits these reply comments to the Public Utilities Commission of Ohio (“Commission”) in the application of Ohio Power Company (“AEP-Ohio”) to initiate Phase 2 of its gridSMART program. Herein, OPAE replies to the comments of the Environmental Defense Fund, the Ohio Environmental Council, and the Environmental Law and Policy Center (collectively “Environmental Advocates”) specifically with regard to their recommendations that AEP-Ohio should implement a prepaid electric meter pilot program and expand the availability of time-differentiated rates. Environmental Advocates Comments at 6, 11.

II. Prepaid meter service allows for unlawful disconnections of service.

The Environmental Advocates comment that AEP-Ohio should work with the collaborative to design a pilot program to determine whether prepaid service could be an effective use for the new smart grid technology. They advocate that a prepaid meter pilot should be implemented as part of the next grid smart rider update filing.

Prepaid meter service is unlawful in Ohio. Under prepaid service, prepaid account balances decrease as service is delivered, and service is automatically suspended when account balances are depleted. While consumers may receive electronic notification that balances are running low, there may be no obligation on the part of the utility to deliver a shutoff notice through the mail, much less to the consumer's premises on the day of the disconnection of service as required under Ohio law. Ohio Administrative Code ("O.A.C.") Rule 4901:1-18-06(A)(2). Under prepaid service, the utility is also not obligated to continue providing service for some period of time after an original notice of disconnection, if any, is made or after the prepaid account balance is close to exhaustion or is exhausted.

The utility is also not required to work with the customer by offering reasonable payment plans or other means for the customer to retain utility service. Thus, prepayment service allows utilities to sidestep critical consumer notice protections now existing under Ohio law and allows the utility to avoid necessary interaction with consumers to avoid disconnection. Consumer protections including limitations on reconnection fees, late payment fees and security deposits can also be sidestepped. In short, prepayment service effectively guts important consumer protections now established under Ohio law.

Thus, the Environmental Advocates' recommendation for a pilot program for prepaid meter service ignores Ohio law. OPAE has already discussed its concern with the maintenance of Ohio consumer protection laws in the smart grid era in OPAE's comments on the AEP-Ohio waiver application filed in Case No. 13-1938-EL-WVR. OPAE Motion to Intervene and Protest, Case No. 13-1938-EL-WVR (September 23, 2013). Under Ohio law, a utility representative must make a personal visit to a customer's premises and attach notice to the premise on the day of disconnection. Regardless of the smart meter technology, the need for adequate

notice to customers and for means for customers to avoid disconnection remains, and that need is the focus of Ohio law, rules, and policy.

A customer whose prepayment account balance is almost exhausted is going to be disconnected from utility service. A customer whose prepayment account is exhausted is disconnected from utility service. Given that a visit to a customer's premise on the day of disconnection to provide notice and accept payment or make available another means to avoid disconnection is required under Ohio law, prepayment service cannot comply with Ohio law and is therefore unlawful in Ohio. O.A.C. Rule 4901:1-18-06(A)(2).

III. Prepaid electric service is harmful to consumers.

The Environmental Advocates also state that prepaid electric service can be an effective energy efficiency program. They claim that a prepaid electric service program would be an innovative new service that could help consumers save energy. Id. at 7.

OPAE disagrees and strongly opposes prepaid meter service. Prepaid meter service is not only unlawful in Ohio, as discussed above, it is also harmful to consumers. OPAE's Comments herein on the harm to consumers of prepaid service are based on a 2012 report issued by the National Consumer Law Center entitled "Rethinking Prepared Utility Service." This report can be found at www.nclc.org under 2012 Reports at www.nclc.org/issues/prepaid-utility-service.html.

Far from making electric service more affordable, prepayment results in more frequent disconnections and service interruptions for customers on prepayment programs. Prepaid service is often targeted at low and moderate-income consumers, particularly those facing unaffordable security deposit

requirements or reconnection fees. Prepaid service can also be targeted to racial minorities.

Customers on prepaid service may make numerous small payments on a monthly basis to retain service, often incurring transaction fees that add to the total cost for basic service. Households are trapped under prepayment, often paying higher costs and transaction fees while experiencing more frequent, disruptive, and dangerous loss of service.

Prepayment creates a two-tiered service system, favoring wealthier households. Access to electric service should not be compromised by a service model such as prepaid service that leads to the forfeiture of regulatory consumer protections. All households should be able to afford a basic level of uninterrupted electric service and this access should be delivered through bill payment assistance, payment plans considering a household's actual income and the expense of the utility service, energy efficiency programs, and reductions of late payment and reconnection fees and security deposits. Prepayment service puts all these consumer protections in jeopardy.

Increased disconnections that come with prepayment threaten the health and safety of customers, particularly the elderly, disabled, and low-income families with children who may be targeted by prepayment programs. Disconnecting electric service during periods of extreme temperatures can result in illness and death for vulnerable populations.

The reasons OPAE strongly opposes prepaid meter service are clear. First, prepaid service is unlawful in Ohio. Prepayment sidesteps regulatory consumer protections, especially the notice requirements prior to disconnection, the requirement for customer access to utilities to work out affordable payment plans, and the establishment of transparent, cost-based fees for electric distribution

service, reconnection, late payments, and security deposits. Prepayment increases health and safety risks, targets vulnerable populations, increases costs for prepaid customers, increases fees for prepaid customers, allows for costs and fees that are not transparent, and denies access to payment plans and other regulatory payment programs. When prepaid utility service exists, low and moderate income customers who struggle to pay their bills end up paying more while receiving second-class utility service.

Access to essential life-supporting electric service should not be compromised by a service option that allows utilities to sidestep important consumer protections. Payment issues should be addressed through effective regulatory programs that account for a household's actual income and expenses. Prepaid programs are simply unlawful, unfair, and punitive.

III. Time-of-use rates should not be mandatory.

The Environmental Advocates also argue for the expansion of time-differentiated rates. Advanced meter technology can enable customers to participate in time-differentiated pricing tariffs that might be offered by competitive retail electric service ("CRES") providers. The Environmental Advocates support allowing CRES providers access to the information needed to provide time-differentiated rates.

Low-income residential customers should not be subject to mandatory time-of-use rates. While there are always references to "savings" from these rates, these savings only occur if the customer is able to react to price signals and monitor her usage on practically an hourly basis. This is an unrealistic requirement for many low-income customers who may end up paying far more when they are unable to monitor and control their usage. Data indicates that, with the exception of low-

income customers who are elderly and disabled, 90% of all low-income customers work, often at multiple jobs with varying work times. Time-of-use rates may be appropriate for customers who are willing and able to purchase certain equipment and appliances and expend the time necessary to control their time of use so as to benefit from these rate offerings. The risks imposed by these rate designs are not acceptable for other customers.

IV. Conclusion

The Commission needs to act to assure that the consumer protections of Ohio law will be maintained with the implementation of advanced meter technologies. Practices such as prepaid meter programs and mandatory time-differentiated rates stand to harm consumers and should be minimized. OPAE discussed the violations of Ohio law from the improper use of smart grid technology in its Motion to Intervene and Protest, Case No. 13-1938-EL-WVR (September 23, 2013). The problems presented by prepayment programs are discussed in the 2012 Report of the National Consumer Law Center at www.nclc.org/issues/prepaid-utility-service.html.

Respectfully submitted,

/s/Colleen Mooney
Colleen L. Mooney
Ohio Partners for Affordable Energy
231 West Lima Street
Findlay, OH 45840
Telephone: (419) 425-8860
or (614) 488-5739
FAX: (419) 425-8862
cmooney@ohiopartners.org

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Reply Comments was served electronically upon the following parties identified below on this 18th day of November 2013.

/c/Colleen Mooney

Colleen L. Mooney

Steven T. Nourse
Yazen Alami
American Electric Power
1 Riverside Plaza, 29th Floor
Columbus, Ohio 43215
stnourse@aep.com
yalami@aep.com
mjsatterwhite@aep.com

Terry L. Etter
Michael J. Schuler
Office of the Ohio Consumers' Counsel
10 W. Broad Street, 18th Floor
Columbus, Ohio 43215-3485
terry.etter@occ.ohio.gov
michael.schuler@occ.ohio.gov

Samuel C. Randazzo
Frank P. Darr
Joseph E. Olikier
Matthew R. Pritchard
McNees Wallace & Nurick LLC
21 East State Street, 17th Floor
Columbus, Ohio 43215
sam@mwncmh.com
fdarr@mwncmh.com
joliker@mwncmh.com
mpritchard@mwncmh.com

Trent Dougherty
Ohio Environmental Council
1207 Grandview Avenue, Suite 201
Columbus, Ohio 43212
tdougherty@theoec.org

Ryan P. O'Rourke
Devin Parram
Attorney General's Office
Public Utilities Commission Section
180 E. Broad Street, 6th Floor
Columbus, Ohio 43215-3793
ryan.orourke@puc.state.oh.us
devin.parram@puc.state.oh.us

Mark A. Whitt
Andrew J. Campbell
Gregory L. Williams
Whitt Sturtevant LLP
88 East Broad Street, Suite 1590
Columbus, Ohio 43215
whitt@whitt-sturtevant.com
campbell@whitt-sturtevant.com
williams@whitt-sturtevant.com

Nicholas McDaniel
Environmental Law & Policy Center
1207 Grandview Avenue, Suite 201
Columbus, Ohio 43212
NMcDaniel@elpc.org

M. Howard Petricoff
Gretchen L. Petrucci
Vorys, Sater Seymour and Pease
52 East Gay Street
Columbus, Ohio 43216-1008
mhpetricoff@vorys.com
glpetrucci@vorys.com

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

John T. Finnigan
Senior Regulatory Attorney
128 Winding Brook Lane
Terrace Park, Ohio 45174
jfinnigan@edf.org

Vincent Parisi
Matthew White
Interstate Gas Supply, Inc.
6100 Emerald Parkway
Dublin, Ohio 43016
vparisi@igsenergy.com
mshite@igsenergy.com

Jennifer L. Lause
Direct Energy
21 E. State Street, 19th Floor
Columbus, Ohio 43215
Jennifer.lause@directenergy.com

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

11/18/2013 1:47:19 PM

in

Case No(s). 13-1939-EL-RDR

Summary: Reply Comments electronically filed by Colleen L Mooney on behalf of Ohio Partners for Affordable Energy