

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

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

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I. INTRODUCTION

The Office of the Ohio Consumers' Counsel ("OCC") files Reply Comments in this proceeding where Ohio Power Company seeks authority from the Public Utilities Commission of Ohio ("PUCO") to begin Phase 2 of Ohio Power's gridSMART program.¹ If its plan is approved as proposed, residential customers will have to pay \$155 million of the approximately \$250 million that Ohio Power seeks to collect from all of its customers.²

OCC's Initial Comments recommended that the PUCO deny Ohio Power's Application based on the PUCO's decision in Ohio Power's second electric security plan ("ESP") case.³ Specifically, the Application should be denied for two reasons. First, Ohio Power has not met its burden of proof established in the ESP 2 Order for

¹ OCC files these Reply Comments per the Entry in this proceeding issued on October 2, 2013. The absence of discussion regarding an issue raised by others in their comments should not be construed as OCC's acquiescence to the issue.

² Application, Attachment B.

³ *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.14, Revised Code, in the Form of an Electric Security Plan*, Case No. 11-346-EL-SSO, Opinion and Order (August 8, 2012) ("ESP 2 Order").

gridSMART Phase 2.⁴ Second, the Application should be denied because it is premature under the ESP 2 Order.⁵ But if the Application is not denied based on the Comments in this case, then the PUCO should protect consumers by holding a hearing and mandating additional requirements on Phase 2 of Ohio Power’s gridSMART program if it is approved. As indicated in OCC’s Comments, the PUCO should require the following: (1) Ohio Power should be required to levelize the projected savings from gridSMART Phase 2 as an offset to the projected costs of the deployment;⁶ (2) Ohio Power’s customers should not be required to pay for Phase 2 investments that do not provide quantifiable improvements to Ohio Power’s reliability;⁷ (3) Ohio Power should not be allowed to remotely disconnect customers for non-payment without personal contact from Ohio Power (if the PUCO allows such remote disconnections, then any cost savings associated with remote disconnection should be passed along to customers);⁸ (4) Phase 2 deployment should include a strong commitment by Ohio Power to time-differentiated rates for residential customers.⁹ Additionally, the PUCO should reject the \$20 million investment in Volt/VAR optimization (“VVO”) proposed by Ohio Power¹⁰ and Ohio Power’s effort to include efficiency gains from installation of VVO in any distribution lost revenue or shared savings calculations.¹¹

⁴ Comments by The Office of the Ohio Consumers’ Counsel (“OCC Comments”) (November 1, 2013) at 3-7.

⁵ Id. at 7. *See also*, Comments Submitted on Behalf of the Staff of the Public Utilities Commission of Ohio (“PUCO Staff Comments”) (November 1, 2013) at 4.

⁶ OCC Comments at 8-13.

⁷ Id. at 13-17.

⁸ Id. at 17-20.

⁹ Id. at 20-22.

¹⁰ Id. at 22.

¹¹ Id. at 23.

A review of the comments filed in this proceeding on November 1, 2013 shows general agreement regarding the inadequacy of the documentation supporting the Application.¹² But there is also some disagreement regarding other issues. These Reply Comments address both the areas of agreement and disagreement.

II. REPLY COMMENTS

A. **Ohio Power Has Failed To Provide Adequate Documentation To Support Its Application, And Thus Has Failed To Meet The Burden Of Proof Established For Phase 2 Of Gridsmart In The ESP 2 Order.**

The PUCO addressed Phase 2 of gridSMART in the ESP 2 Order. There, the PUCO directed that “[t]he Company shall file its proposed expansion of the gridSMART project, gridSMART Phase 2, as part of a new gridSMART application including **sufficient detail** on the equipment and technology proposed **for the Commission to evaluate the demonstrated success, cost-effectiveness, customer acceptance and feasibility of the proposed technology.**”¹³ In its Initial Comments, OCC pointed out that Ohio Power’s Application lacks sufficient supporting documentation and thus fails to meet its burden in its proposal to institute Phase 2 of the gridSMART Project and to charge customers up to \$250 million.¹⁴

Like OCC, nearly every other party filing comments expressed concern that Ohio Power’s Application is lacking in detail sufficient to justify approval at this time. For

¹² In addition to OCC, comments were filed by the PUCO Staff; Ohio Partners for Affordable Energy (“OPAE”); The Retail Energy Supply Association (“RESA”); FirstEnergy Solutions Corp. (“FES”); Interstate Gas Supply, Inc. (“IGS”); the Environmental Defense Fund, Ohio Environmental Council, and the Environmental Law and Policy Center (collectively, “Environmental Advocates”); Direct Energy Services, LLC and Direct Energy Business, LLC (collectively, “Direct Energy”); and the Ohio Hospital Association.

¹³ ESP 2 Order at 62 (emphasis added).

¹⁴ OCC Comments at 3.

example, the PUCO Staff expressed “a number of concerns about the Company’s application as filed,” because it “provides a generalized approach and plan for moving forward,” but is “less than definitively detailed and lacks essential elements and information that would enable Staff to support moving forward at this time.”¹⁵ Direct Energy criticized Ohio Power’s Application on a number of aspects; including that “the Application does not provide any details on how AEP Ohio will work with CRES providers to enable the information sharing that is essential to the development and marketing of smart-meter enabled products,”¹⁶ and because “AEP Ohio did not outline a proposed schedule for [AMI] deployment.”¹⁷ RESA likewise pointed out that “AEP’s application omits important details about the gridSMART expansion.”¹⁸

The paucity of documentation supporting the Application means that Ohio Power has not met the burden of proof established for its gridSMART Phase 2 program by the PUCO in the ESP 2 Order. Accordingly, the Application should be denied.

But if the PUCO does not deny the Application outright, then, as both OCC and OPAE recommended, there should be a hearing on the Application.¹⁹ The PUCO should not approve any Application that does not contain the same level of detail as Duke Energy Ohio filed during its mid-term deployment.²⁰

¹⁵ PUCO Staff Comments at 3.

¹⁶ Initial Comments of Direct Energy (November 1, 2013) at 2.

¹⁷ Id. at 4.

¹⁸ Initial Comments of RESA (November 1, 2013) at 4.

¹⁹ OCC Comments at 7; Comments of OPAE (November 1, 2013) at 2-3.

²⁰ *In the Matter of the Application of duke Energy Ohio, Inc. to Adjust and Set Its Gas and Electric Recovery Rate for 2010 SmartGrid Costs Under Riders AU and Rider DR-IM and Mid-Deployment Review of AMI/SmartGrid Program*, Case No. 10-2326-GE-RDR.

B. Competitive Retail Electric Service Suppliers Should Be Permitted To Offer Time-Differentiated And Dynamic Pricing Once It Is Shown That Customers' Privacy Interests Will Be Protected.

FirstEnergy Solutions' ("FES") Comments accept Ohio Power's invitation to take the lead role in offering time-differentiated and dynamic pricing.²¹ While OCC is not philosophically opposed to the idea of competitive retail electric service ("CRES") suppliers offering time-of-use rates and dynamic pricing, certain issues must first be resolved. For instance, in order to offer time-differentiated rates, CRES suppliers will need to have access to a level of detailed customer energy usage data that is not currently provided with the pre-enrollment or other data that is provided to CRES suppliers.²² The risks associated with disclosure of this information and methods to mitigate these concerns necessitate that it must be done in a manner that complies with privacy protocols.²³

The PUCO has already recognized the need for further development of procedures and standards regarding the disclosure of energy usage data, and has directed the PUCO Staff to form proposals recommending appropriate next steps to address privacy protections and customer access issues.²⁴ Therefore, before allowing CRES suppliers to offer such pricing, minimum privacy protections must be in place to prevent the disclosure of detailed energy usage information without customer consent.

²¹ FES Initial Comments (November 1, 2013) at 1; *See also*, Application, Attachment A at 6 ("AEP Ohio envisions that DR or CRES will take the lead role in these enhanced customer program offerings").

²² Ohio Adm. Code 4901:1-10-29(E).

²³ *In the Matter of the Commission's Investigation of Ohio's Retail Electric Service Market*, Case No. 12-3151-EL-COI, OCC Reply Comments (April 5, 2013) at 23-24.

²⁴ *In the Matter of the Commission's Review of Chapter 4901:1-10, Ohio Administrative Code, Regarding Electric Companies*, Case No. 12-2050-EL-ORD, Finding and Order (October 16, 2013) at 16.

FES raised similar concerns stating, “there are still issues that need to be resolved regarding privacy and security of customer data.”²⁵ Thus, despite Ohio Power’s vision that “CRES providers will take the lead role in these enhanced customer program offers,”²⁶ Ohio Power failed to provide any specificity regarding how this transition should take effect and what measures have been or will be taken to protect customers’ privacy rights.²⁷

RESA also advocates for Ohio Power’s request to terminate time-of-use rates for customers who are on the standard service offer (“SSO”).²⁸ However, as stated in OCC’s Initial Comments, it is premature for Ohio Power to cease offering time-differentiated rates on the SSO.²⁹ CRES suppliers have not demonstrated an ability to effectively offer such rates. Thus, the PUCO should require that Ohio Power continue to make optional time-of-use rates available to SSO customers who want them.³⁰

Moreover, OCC agrees with the Environmental Advocates and IGS that an Ohio Power gridSMART Phase 2 Collaborative should be established.³¹ The Collaborative should work through deployment, pilot tariffs and other similar issues that include addressing data and privacy concerns in order to allow CRES suppliers to effectively

²⁵ FES Initial Comments at 1. *See also*, Comments of IGS (November 1, 2013) at 2; Initial Comments of Direct Energy at 2.

²⁶ Application, Attachment A at 6.

²⁷ *See*, Initial Comments of Direct Energy at 2 (stating “the Application does not provide any details on how AEP Ohio will work with CRES providers to enable the information sharing that is essential to the development and marketing of smart-meter enabled products”).

²⁸ Initial Comments of RESA at 8.

²⁹ OCC Comments at 20-22.

³⁰ *See*, PUCO Staff Comments at 5.

³¹ Initial Comments of Environmental Advocates (November 1, 2013) at 2-3, 5, 7; Comments of IGS at 3.

offer time-of-use rates and dynamic pricing. This would, in turn, allow residential customers to realize the full potential of the gridSMART system.

C. The PUCO Should Ensure That Adequate Consumer Safeguards Are In Place Before Any Prepaid Electric Meter Program Is Authorized.

The Environmental Advocates encourage the adoption of a prepaid electric service pilot program.³² To the extent Ohio Power seeks approval to institute a prepaid electric service pilot program, the PUCO should only authorize such a program on a voluntary basis. Moreover, approval must be contingent upon a showing that customers electing to enroll in a prepaid electric service pilot program are assessed a reasonable price for the cost of electricity that accurately accounts for the reduced costs that Ohio Power incurs to provide the service.³³ In addition, a prepaid service will have to address the existing consumer protections in the Ohio Revised Code and the Ohio Administrative Code, some of which may have been developed without consideration of prepaid technology.

For example, there are health and safety considerations, and existing consumer protections set forth in Ohio Adm. Code Sections 4901:1-10 and 4901:1-18 that cannot be diminished if Ohio Power seeks to institute a prepaid pilot program.³⁴ Other considerations include those that require advanced notice prior to disconnection,³⁵ and the associated remedies available to avoid disconnection.³⁶ Moreover, the institution of a prepaid electric meter program must provide protections to the at-risk and vulnerable

³² Initial Comments of Environmental Comments at 6-7.

³³ R.C. 4928.02(A).

³⁴ Access to Utility Service, National Consumer Law Center, 2010 Supplement, at 22.

³⁵ R.C. 4933.122; Ohio Adm. Code 4901:1-18-16.

³⁶ R.C. 4933.121.

customer population (e.g., advanced-age customers, customers on life support and/or medical certificates, customers with disabilities, and income challenged, etc.) that choose to avail themselves of such a prepaid program.³⁷

D. Ohio Power Should Be Required To Use The \$20 Million Once Intended For The Turning Point Solar Project To Offset Deferred Storm Costs That It Now Seeks To Charge Customers In Case No. 12-3255-EL-RDR. But If The \$20 Million Is Used For Volt/Var Optimization Technology, Then The PUCO Should Ensure That The Money Is Not Collected From Customers.

In Ohio Power’s 2009 Significantly Excessive Earnings Test (“SEET”) proceeding (Case No. 10-1261-EL-UNC), Ohio Power committed to provide \$20 million in funding to the Turning Point solar project.³⁸ In that proceeding, the PUCO directed that if Ohio Power did not expend the funds for Turning Point in 2012, the \$20 million was to be spent on a similar project.³⁹

In this regard, in Case No. 10-501-EL-FOR (the AEP Ohio 2010 Longterm Forecast Case), the PUCO again directed AEP Ohio “to expend the \$20 million to the extent it had not already done so.”⁴⁰ But more importantly, the PUCO concisely explained that AEP Ohio was to “ensure that the benefits of the \$20 million investment **flow through to the Company’s ratepayers.**”⁴¹ The PUCO also stated that if AEP Ohio were unable to make the \$20 million investment in Turning Point or a similar project by

³⁷ R.C. 4928.02(L).

³⁸ *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Administration of the Significantly Excessive Earnings Test under Section 4928.143(F), Revised Code, and Rule 4901:1-35-10, Ohio Administrative Code*, Case No 10-1261-EL-UNC, Opinion and Order (January 11, 2011) at 26.

³⁹ *Id.*

⁴⁰ *In the Matter of the 2010 Long Term Forecast Report of the Ohio Power Company and Related Matters*, Case No. 10-501-EL-FOR, Opinion and Order at 28 (January 9, 2013).

⁴¹ *Id.* (emphasis added).

the end of 2013, then “the Company should submit a proposal for another appropriate use for the \$20 million investment, such as applying the amount to offset major storm damage costs that are deferred under the Company’s recently approved storm damage recovery mechanism.”⁴²

Ohio Power now seeks to collect storm costs⁴³ from its customers in Case No. 12-3255-EL-RDR. OCC agrees with the PUCO’s finding in Case No. 10-501-EL-FOR that an appropriate use of the \$20 million is to apply that amount to offset major storm costs. Reducing Ohio Power’s deferred storm costs by \$20 million will undoubtedly allow customers to benefit now from Ohio Power monies not yet expended. The PUCO Staff echoed these sentiments in their Initial Comments in this proceeding when they explained that they would prefer see the funds “used in a manner that does not create an additional burden on ratepayers [such as offsetting deferred costs].”⁴⁴ OCC agrees.

Most recently, in its Opinion and Order in Ohio Power’s 2010 SEET proceeding (Case No. 11-4571-EL-UNC), the PUCO again reiterated its expectation that AEP Ohio “expend \$20 million, to the extent it has not already done so, on Turning Point or another investment in a similar project subject to Staff approval by the end of 2013.”⁴⁵ It is now nearly 2014, and Ohio Power has not yet spent the \$20 million for the benefit of its customers. The PUCO should order Ohio Power to use the \$20 million to offset major storm damage costs that Ohio Power now seeks to collect from its customers in Case No. 12-3255-EL-RDR.

⁴² Id.

⁴³ In Case No. 11-346-EL-SSO, Ohio Power proposed a storm damage recovery mechanism be created to recover any incremental expenses incurred due to major storm events.

⁴⁴ PUCO Staff Comments at 8.

⁴⁵ Case No. 11-4571-EL-UNC, Opinion and Order (October 23, 2013) at 18-19.

Ohio Power proposed in this proceeding to spend the \$20 million on Volt/VAR Optimization (“VVO”) technology. But Ohio Power’s Application lacked specificity as to 1) whether the installation of the VVO equipment will be cost effective for customers and 2) whether Ohio Power would be seeking to collect the \$20 million from customers.

The PUCO Staff also discussed Ohio Power’s proposal in this case to satisfy its obligation from the 2009 SEET Order by investing the \$20 million in VVO equipment.⁴⁶ Although the PUCO Staff does not object to the proposition that the \$20 million could directly benefit customers, the PUCO Staff believes that Ohio Power’s plan should be to install all the VVO that is cost effective.⁴⁷ But Ohio Power’s Application lacks specificity in this regard; therefore, it is not clear that investing the money in VVO equipment is cost effective and in the best interest of customers.

Finally, as the PUCO Staff points out,⁴⁸ Ohio Power’s proposal to spend the \$20 million on VVO equipment is problematic because it is unclear whether Ohio Power would try to collect the expenditure from customers. OCC agrees with the Staff that these funds – however they are spent – should not be collected from customers. The PUCO has been clear in past orders that customers are to benefit from the \$20 million that Ohio Power had committed to invest in Turning Point.⁴⁹ Accordingly, if the PUCO permits the \$20 million once designated for the Turning Point project to be used for VVO Technology, then the PUCO should ensure that this money is not collected from Ohio Power’s customers.

⁴⁶ Id. at 6-9.

⁴⁷ Id. at 7.

⁴⁸ Id. at 8.

⁴⁹ See, notes 39 & 41, *supra*.

III. CONCLUSION

The majority of the commenters agree that Ohio Power's Application fails to provide adequate information. Ohio Power has not met its burden, and thus the PUCO should deny the Application. If the PUCO does not deny the Application based on the comments filed in this case, then PUCO should hold a hearing on Ohio Power's proposal.

Any consideration of Phase 2 of the gridSMART project must include the development and enhancement of privacy protections, policies and procedures regarding prepaid metering and Ohio Power's disclosure of the more detailed energy usage data that is available from advanced meters. In addition, the PUCO should require Ohio Power to reduce the amount of storm costs that Ohio Power seeks to collect from customers in Case No. 12-3255-EL-RDR by the \$20 million Ohio Power once designated for the Turning Point project.

Respectfully submitted,

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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 18th day of November 2013.

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