

**BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of a Motion by The Cleveland)
Electric Illuminating Company for a Waiver)
of Rules 4901:1-10-05(J)(1), (J)(5)(a) and) Case No. 14-1052-EL-WVR
(J)(5)(b), Ohio Administrative Code.)
)

**MOTION OF THE CLEVELAND ELECTRIC ILLUMINATING COMPANY FOR A
WAIVER OF RULES 4901:1-10-05(J)(1), (J)(5)(a) and (J)(5)(b)**

Pursuant to Section 4901-1-12, Ohio Administrative Code, The Cleveland Electric Illuminating Company ("CEI"), by and through counsel, does hereby respectfully move for a waiver of Rule 4901:1-10-05(J)(1) and Rules 4901:1-10-05(J)(5)(a) and (b) (collectively "the Opt Out Rules"). As more fully discussed in the attached memorandum in support, CEI only offers the services contemplated by such rule through a small pilot with terms and conditions already approved by the Commission, thus negating the need for the filing contemplated by the Opt Out Rules. Accordingly, CEI asks that the waiver be granted until CEI's current pilot is expanded in such a manner as to preclude the use of the terms, conditions and procedures already approved and currently in place, or an alternative advanced metering program is developed by the Company and presented to the Commission for consideration.

Respectfully submitted,


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Memorandum in Support of Motion

Background and Procedural History

By Entry issued November, 7, 2012, the Commission, pursuant to Section 119.032, Revised Code, stated its intent to review the rules set forth in Chapter 4901:1-10, Ohio Administrative Code ("O.A.C") ("Rules"), and solicited comments on proposed modifications to these Rules. By Entry issued on July 10, 2013, the Commission issued proposed additional amendments to Rules 4901:1-10-01 and 4901:1-10-05, O.A.C. as those rules pertain to advanced meter opt out service, and solicited supplemental comments and reply comments on the additional amendments. Numerous parties submitted comments and reply comments consistent with the November 7, 2012 and July 10, 2013 Entries. On October 16, 2013, the Commission issued its Finding and Order, adopting Rules 4901:1-10-01 and 4901:1-10-05, O.A.C. as modified by the Order, and directed that these rules as modified be filed with the Joint Committee on Agency Rule Review ("JCARR"), the Secretary of State, and the Legislative Service Commission. In a separate Finding and Order issued on January 15, 2014, the Commission adopted the remaining Rules and ordered that they too be filed with the JCARR, the Secretary of State, and the Legislative Service Commission. The Commission filed the final Rules on May 19, 2014, with an effective date of May 29, 2014.

Pursuant to Rule 4901:1-10-05(J)(5)(a), CEI must file a tariff for advanced metering opt out service within thirty days of the date on which the Rules become effective. For reasons more fully discussed below, this Motion seeks a waiver of this filing requirement, along with the requirements set forth in Rule 4901:1-10-05(J)(1) and Rule 4901:1-10-05(J)(5)(b) (collectively with Rule 4901:1-10-05(J)(5)(a), "the Opt Out Rules"), which CEI respectfully asks be granted consistent with this memorandum in support.

Rules at Issue

Rule 4901:1-10-05(J)(1), O.A.C., provides:

- (1) An electric utility shall provide customers with the option to remove an installed advanced meter and replace it with a traditional meter, and the option to decline installation of an advanced meter and retain a traditional meter, including a cost-based, tariffed opt-out service.

Rules 4901:1-10-05(J)(5)(a) and (b), O.A.C., provide:

- (a) The electric utility shall file a proposed tariff for opt-out service within thirty calendar days of the effective date of this rule.
- (b) Each electric utility shall have on file with the commission an approved tariff offering residential customers the option to remove an installed advanced meter and replace it with a traditional meter, and the option to decline the installation of an advanced meter and retain a traditional meter. Such tariff shall comply with the following requirements:
 - i. In the event special tariff provisions are required due to circumstances not addressed in this rule, the electric utility shall address those circumstances in its tariff application, but shall make its best efforts to maintain consistency with the rules herein.
 - ii. The tariff shall not be available to any customer taking generation service under a time differentiated rate.

An electric utility may establish certain fees for electing not to use an advanced meter. Such fees shall be calculated based upon the costs incurred to provide advanced meter opt-out service as allowed by this rule.

Rule 4901:1-10-01(A) defines an "Advanced Meter" as:

Any electric meter that meets the pertinent engineering standards using digital technology and is capable of providing two-way communications with the electric utility to provide usage and/or other technical data.^[1]

¹ In its December 18, 2013 Entry on Rehearing (at page 2), the Commission indicated that it believes "that it is appropriate for the definition of advanced meter to exclude meters with ERT [Encoder Receiver Transmitter] and AMR [Advanced Meter Read] technology that communicate a meter reading on a one-way basis." Notwithstanding, CEI will work with customers who have these types of meters on a case-by-case basis consistent with the Commission's directive set forth on page 3 of this same entry.

Argument in Support of Motion

- A. There is no need for CEI to file an advanced meter opt out service tariff at this time because it only offers advanced metering through a small pilot consistent with terms and conditions already approved by the Commission in Case No. 09-1820-EL-ATA, and which already allow for advanced meter opt out and meter removal services without charge.

CEI only offers advanced metering through its Consumer Behavior Study ("CBS") as part of its Ohio Site Deployment program. The Ohio Site Deployment Program is a three-year pilot that is part of FirstEnergy's three-state Smart Grid Modernization Initiative, which is being funded in part through the U.S. Department of Energy Smart Grid Investment Grant. Phase I of the CBS included an initial deployment of advanced meters to approximately 5,000 customers within a geographical area located within CEI's service territory.

On October 19, 2012, the Companies filed a request for a directive from the Commission that would allow for Phase II of the Smart Grid Modernization Initiative to proceed. As part of this initiative, the scope of the second phase of the CBS was expanded from approximately 5,000 potential customers to 44,000 potential customers. Each of the potential CBS participants received a *customized invitation* with explicit directions on how to join the program, and an explanation of the terms and conditions of the program, including the fact that *participants have the opportunity to opt out of receiving an advanced meter, or could request removal of the advanced meter at any time, without charge*. In its May 15, 2013 Finding and Order in Case No. 09-1820-EL-ATA et al., the Commission authorized the Companies to proceed with Phase II of their Smart Grid Modernization Program.

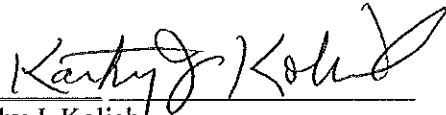
Inasmuch as (i) CEI currently has no plans to offer advanced metering on a grand scale; (ii) CEI offers only a small group of customers an option to receive an advanced meter through a pilot with limited participation and explicit instructions; (2) the terms and conditions of the pilot have already been approved by the Commission; (3) the terms and conditions of the pilot currently allow customers to refuse the installation of an advanced meter without charge; and (4) the pilot participants currently can request removal of an advanced meter received through the pilot at no cost, the development of an advanced meter opt out service tariff is unnecessary and would serve no useful purpose. Further, the development

of such a tariff could create customer confusion given that all potential pilot customers are contacted directly through mailings and other targeted marketing materials with all terms and conditions set forth in such materials. Should CEI expand its advanced metering program to a point where the current terms, conditions and/or procedures no longer apply, CEI will either submit an opt out tariff as contemplated in the Opt Out Rules, or an alternative solution for the Commission's consideration at that time.

Conclusion

In light of the foregoing, CEI respectfully asks that the Commission grant its Motion for a waiver of the provisions set forth in Rule 4901:1-10(J)(1), Rule 4901:1-10-05(J)(5)(a) and Rule 4901:1-10-05(J)(5)(b) consistent with this memorandum. Should the Commission deny the Company's Motion, CEI alternatively asks that it be granted thirty days from the issuance of the Entry making such a ruling to comply with the Opt Out Rules.

Respectfully submitted,

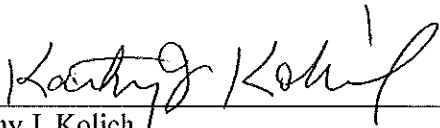


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CERTIFICATE OF SERVICE

The foregoing *Motion for Waiver of Rules 4901:1-10-05(1), (J)(5)(a) and (J)(5)(b) and related Memorandum in Support* of The Cleveland Electric Illuminating Company was filed with the Commission through its Docketing Information System on this 9th day of June, 2014.


Kathy J. Kolich

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

6/9/2014 5:14:57 PM

in

Case No(s). 14-1052-EL-WVR

Summary: Motion for a Waiver of Rules 4901:1-10-05(J)(1), (J)(5)(a) and (J)(5)(b) electronically filed by Ms. Kathy J Kolich on behalf of The Cleveland Electric Illuminating Company