

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Ohio)
Power Company for a Limited Waiver of) Case No. 13-1938-EL-WVR
Ohio Adm.Code 4901:1-18-06(A)(2).)

SECOND ENTRY ON REHEARING

The Commission finds:

- (1) Ohio Power Company d/b/a AEP Ohio (AEP Ohio or the Company) is an electric distribution utility, as defined in R.C. 4928.01(A)(6) and public utility, as defined in R.C. 4905.02. As such, AEP Ohio is subject to the jurisdiction of this Commission.
- (2) By Opinion and Order issued March 18, 2009, the Commission approved, with modifications, AEP Ohio's application for an ESP, pursuant to R.C. 4928.143. *In re AEP Ohio*, Case Nos. 08-917-EL-SSO et al., Opinion and Order (Mar. 18, 2009) (*ESP 1 Case*). As part of the *ESP 1 Case*, the Commission approved the initiation of the Company's gridSMART pilot program (Phase 1) and rider mechanism for the installation of smart grid technologies and equipment, including automated meter infrastructure (AMI) and distribution automation. *ESP 1 Case* at 34-38; Entry on Rehearing (July 23, 2009) at 18-24. Subsequently, the Commission approved, with modifications, AEP Ohio's second application for an ESP, including among other things, the continuation and expansion of the Company's gridSMART pilot program. *In re AEP Ohio*, Case Nos. 11-346-EL-SSO et al., Opinion and Order (Aug. 8, 2012) at 61-63. AEP Ohio has approximately 132,000 customers in the Company's Phase 1 gridSMART program and surrounding vicinity whose residence is equipped with AMI a.k.a. "smart meters."
- (3) On September 13, 2013, as amended on September 5, 2014, and March 5, 2015, AEP Ohio filed an application for a temporary limited waiver for two years of Ohio Adm.Code 4901:1-18-06(A)(2), to establish a remote disconnection pilot program for gridSMART customers in Phase 1. Ohio Adm.Code 4901:1-18-06(A)(2) requires the electric utility provide a residential customer with personal notice on the day of disconnection.

The rule waiver requested is limited to approximately 132,000 customers in the Company's Phase 1 gridSMART program whose residence is equipped with AMI a.k.a. "smart meters." The rule waiver would allow the Company to remotely disconnect customers for nonpayment without a visit to the premises on the day of disconnection.

- (4) By Entry issued March 18, 2015 in the above captioned case, the Commission approved, with certain modifications, AEP Ohio's request for waiver of Ohio Adm.Code 4901:1-18-06(A)(2) for the remote disconnection pilot program. *In re AEP Ohio*, Case No. 13-1938-EL-WVR (*Waiver Case*), Entry (Mar. 18, 2015) at 13-14.
- (5) Pursuant to R.C. 4903.10, any party who has entered an appearance in a Commission proceeding may apply for rehearing with respect to any matters determined by the Commission within 30 days after the entry of the order upon the Commission's journal.
- (6) On April 17, 2015, applications for rehearing were filed by Ohio Consumers' Counsel (OCC) and jointly by Ohio Partners for Affordable Energy and Appalachian Peace and Justice Network (jointly, OPAE/APJN). OCC asserts the Entry in the *Waiver Case* is unreasonable in four respects and OPAE/APJN alleges five assignments of error. AEP Ohio filed a memorandum contra the applications for rehearing on April 27, 2015.
- (7) By Entry on Rehearing dated May 13, 2015, the Commission granted rehearing for further consideration of the matters specified in the applications for rehearing.
- (8) The Commission has reviewed and considered all of the arguments raised in the applications for rehearing. Any argument raised on rehearing that is not specifically discussed herein has been thoroughly and adequately considered by the Commission and should be denied.

Reasonable Prior Notice Requirements Pursuant to R.C. 4933.122

- (9) By Entry issued March 18, 2015, the Commission determined that AEP Ohio providing affected customers with two written notices mailed to the customer, a 10-day notice (by telephone or

mailed), and an automated telephone call approximately 48 hours prior to the scheduled service disconnection constituted reasonable notice pursuant to R.C. 4933.122.

- (10) OCC and OPAE/APJN argue it was unreasonable and unlawful for the Commission to conclude that AEP Ohio's remote disconnection notice process constitutes reasonable prior notice pursuant to R.C. 4933.122. OPAE/APJN contend the key requirements of the notice under R.C. 4933.122 are: (a) reasonable prior notice including notice of rights and remedies prior to the termination of service; and (b) a reasonable opportunity to dispute the reason for the pending termination of service. As OPAE/APJN interprets the statute, only a personal visit on the day of disconnection meets the statutory requirement and provides the customer notice of rights and remedies. OCC states that the Commission rules require an attempt to notify the customer in-person. OCC and OPAE/APJN argue, consistent with Commission precedent, that approval of AEP Ohio's waiver request does not ensure the customer will actually receive notice of the disconnection, their rights or remedies, or an opportunity to dispute the bill, as required by Ohio Adm.Code 4901:1-18-06(A)(5). Therefore, OCC and OPAE/APJN contend that AEP Ohio's proposed process provides inadequate notice. Again, OCC and OPAE/APJN proffer that the Company likely does not have the customer's current telephone number and, furthermore, the automated telephone call does not provide the customer with adequate information. In OCC's and OPAE/APJN's opinion, the ten-day notice and the automated call 48-hours prior to disconnection, are an inadequate substitute for the notice on the day of disconnection and do not guarantee a customer will be notified of his or her rights and remedies or given an opportunity to dispute the bill. Accordingly, OCC and OPAE/APJN assert the Commission's decision in the *Waiver Case* is unreasonable, unlawful under R.C. 4933.122(A) and, therefore, should be abrogated, and AEP Ohio's request for waiver denied.
- (11) In response, AEP Ohio notes that R.C. 4933.122(A) requires the customer be afforded "reasonable prior notice," not that the customer receives actually notice. Furthermore, AEP Ohio states the Commission's rules do not apply an "actually

receives" standard, as OCC and OPAE/APJN imply. Ohio Adm.Code 4901:1-18-06(A)(2) allows "if neither the customer nor an adult consumer is at home, the utility company shall attach written notice to the premises in a conspicuous location prior to disconnecting service." Accordingly, AEP Ohio reasons that the "actually receives" standard implied by OCC and OPAE/APJN, is not required by R.C. 4933.122(A) or the Commission rules.

- (12) OCC and OPAE/APJN raise no new arguments that the Commission did not consider in reaching the decision as set forth in the *Waiver Case* Entry. *Waiver Case*, Entry (Mar. 18, 2015) at 7-8. As acknowledged in the *Waiver Case* Entry, R.C. 4933.122(A) requires the utility give the customer reasonable prior notice of pending disconnection of service, notice of rights and remedies, and a reasonable opportunity to dispute the reason for the termination of service. The notice process approved by the Commission in the *Waiver Case* may include two forms of contact, two written notices by mail and a telephone call, which the Commission finds meets the requirements of R.C. 4933.122. Furthermore, the Commission is vested with the authority to waive any provision of Ohio Adm.Code 4901:1-18-06 that is not required by statute. Accordingly, the Commission denies the requests for rehearing.

Waiver of Ohio Adm.Code 4901:1-18-06(A) and Vulnerable Customers

- (13) OPAE/APJN argue that the Entry in the *Waiver Case* is unreasonable and unlawful to the extent that it eliminated the personal notice on the day of disconnection, putting customers at risk of the dangers associated with the disconnection of electric utility service.
- (14) This issue was previously raised by OPAE/APJN and addressed by the Commission. *Waiver Case*, Entry (Mar. 18, 2015) at 11-13. Approval of AEP Ohio's waiver request is not inconsistent with the Commission's policy to prevent injury to residential customers as a result of the disconnection of utility service, as stated in the *Winter Reconnect Cases*. *Winter Reconnect Cases*, Case No. 13-1889-GE-UNC, Finding and Order (Sept. 11, 2013) at 2; Case No. 14-1371-GE-UNC, Finding and Order (Sept. 9, 2014) at 1-2. Further, as discussed above, actual

notice of impending disconnection of service is not required by R.C. 4933.122 nor Ohio Adm.Code 4901:1-18-06. As such, the Commission reasons that granting AEP Ohio's request for waiver to require an additional notice in writing year round, and at least an attempt to reach the customer by telephone, will not increase the risk to customers in the pilot resulting from the disconnection of service. Furthermore, the Commission notes that with AMI, the customer's service can be reconnected in approximately an hour after the customer complies with requirements to restore service. For these reasons, OPAE/APJN's request for rehearing is denied.

- (15) OPAE/APJN argue that the Commission decision in the *Waiver Case* unreasonably and unlawfully failed to require AEP Ohio to establish and implement a process to identify vulnerable customers within the pilot and then exclude these vulnerable customers from the notice process approved in the *Waiver Case*.¹ OPAE/APJN propose that the Commission direct the Company to contact senior centers, social service agencies serving persons with mental impairments, community groups, law enforcement, and other social service agencies to identify vulnerable customers. Similarly, OCC argues that approval of the waiver request does not take into account customers who may have become vulnerable customers since their last contact with AEP Ohio. OCC argues that in-person notice on the day of disconnection would permit AEP Ohio to identify vulnerable customers.
- (16) In response to the applications for rehearing, AEP Ohio states OCC's and OPAE/APJN's claims are based on speculation and are not supported by the record. AEP Ohio reasons the Company's technicians conducting day of disconnection notices are not qualified to assess a person's mental or physical health. Furthermore, the Company argues there is no evidentiary justification for an outreach program as proposed by OPAE/APJN. Physicians, social workers, and law enforcement identify vulnerable customers for AEP Ohio and customers may self-report to the Company's customer service

¹ AEP Ohio defines vulnerable customers as persons who are over 60 years of age and have demonstrated difficulty understanding AEP Ohio's disconnection practices or procedures; someone with mental impairments who is unable to comprehend the bill or disconnection process; and persons with life support equipment or verified medical certificates.

representative by telephone. The Company notes that the notice of disconnection will continue to be provided to customers in the pilot program multiple times.

- (17) The Commission finds that OCC's and OP&E/ APJN's requests for rehearing should be denied. The Commission notes physicians, social workers, law enforcement, and other social service agencies may continue to notify the Company of vulnerable customers. In addition, a customer may report to the Company their status as vulnerable, with supporting and verifiable documentation, at which point AEP Ohio is directed to remove the customer from the remote disconnection pilot. Further, the Commission notes, pursuant to Ohio Adm.Code 4901:1-18-06(A)(3)(a), a vulnerable residential customer may designate a third-party to receive notice of the pending disconnection of the customer's service and any other delinquent payment reminder notices sent to the customer. As such, the Commission finds the request for rehearing of this issue is denied. However, the Commission clarifies that the Company shall work with Staff to periodically notify customers within the pilot of the option to notify the Company of vulnerable customers and the ability to designate a third-party to receive notices on behalf of a customer, pursuant to Ohio Adm.Code 4901:1-18-06(A)(3)(a).

Evaluation of the pilot program

- (18) OCC and OP&E/ APJN submit that the Entry in the *Waiver Case* is unreasonable and unlawful in its failure to define the metrics for evaluation or expansion of the pilot or to determine the pilot's effect on residential customers. OP&E/ APJN interpret the Commission's decision in the *Waiver Case* to include two metrics to evaluate the pilot: (a) the number of customers designated as vulnerable; and (b) information regarding automated calls made to customers 48-hours prior to disconnection for nonpayment. OP&E/ APJN argue that neither of the metrics define a successful pilot, identify additional vulnerable customers, or provide information unique to customers with installed smart meters. Similarly, OCC argues the pilot program has no established goals or reporting requirements to determine the effect of the waiver on residential customers.

- (19) AEP Ohio notes that the waiver application, as supplemented on September 5, 2014, specifically stated the Company's commitment to work with the Commission Staff to provide data that will allow both the Staff and the Company to analyze the success of the pilot. Further, AEP Ohio emphasizes that in the *Waiver Case*, the Commission directs that following the two-year pilot, the Commission, the Company, OCC, and OPAE/APJN will have the opportunity to evaluate the success of the pilot and to consider revisions to the remote disconnection process if the pilot is continued or expanded. The Company notes that despite OCC's claims regarding the lack of goals or reporting requirements, OCC failed to propose any goals or reporting requirements for the Commission's consideration. As such, AEP Ohio avers the Commission's approach, as stated in the *Waiver Case Entry*, is reasonable.
- (20) This issue was previously raised by OCC and OPAE/APJN and addressed by the Commission. *Waiver Case*, Entry (Mar. 18, 2015) at 11-13. As noted in the *Waiver Case Entry*, the Company set forth nine categories of information to be collected and evaluated as part of the pilot and stated its commitment to continue to work with Staff on this issue.² *Waiver Case* at 12-13. Further, as noted by AEP Ohio, the Entry specifically directs that upon the conclusion of the pilot the Commission, the Company, OCC, and OPAE/APJN would have the opportunity to evaluate the pilot. *Waiver Case* at 13. In their respective applications for rehearing, neither OCC nor OPAE/APJN suggest any specific metric or information to be collected or evaluated as a part of the pilot. Accordingly, the Commission finds, the notice process set forth in the *Waiver Case Entry* is reasonable. For these reasons, the requests for rehearing are denied.

² AEP Ohio will collect data on the remote disconnection pilot including the number of: vulnerable customers exclude from the pilot; automated telephone calls made within 48 hours of disconnection, including calls answered by a person, answered by an answering machine, unanswered calls, calls made where the customer avoided disconnection, and calls made where the customer was disconnected; customers who paid the reconnect charge; customers who paid the reconnect charge that would have otherwise incurred the after-hours reconnect charge; complaints received by the Commission about personal notice or the reconnect charge; complaints received by AEP Ohio about personal notice or the reconnect charge; and instances AEP Ohio was unable to execute remote reconnection due to technical issues.

Opportunity to make last-minute payments

- (21) OCC, in its third assignment of error, alleges that the Commission's decision in the *Waiver Case* is unreasonable on the basis that it eliminates a residential customer's ability to make a last minute payment to avoid disconnection based on two claims by AEP Ohio. OCC argues AEP Ohio basis its need for the waiver on the potential to improve the safety of its employees by avoiding potential contact with hazards at customer premises, irate customers, and vehicle accidents. The Company's other reason for the waiver request, according to OCC, was AEP Ohio's claim that only 5.8 percent of a sampled 10,102 customers facing disconnection responded to the in-person notice on the day of disconnection and requested a brief extension to make payment and avoid disconnection. OCC explains, AEP Ohio's information also demonstrates that hundreds of customers were able to maintain service because of the in-person notice on the day of disconnection. OCC reasons it is not a matter of which method of notice works better but of giving residential customers additional options to maintain service.
- (22) AEP Ohio clarifies the Company's technicians do not accept cash payments. A customer may call AEP Ohio's 24-hour customer service telephone number to enter into payment arrangements. AEP Ohio explains that a customer can make payment to avoid disconnection by cash payment to an authorized agent, or by telephone or online with a credit card or bank account. Further, AEP Ohio explains that cash payment to an authorized agent is immediately entered into the Company's system and payment posted to the customer's account. Once sufficient payment is received, AEP Ohio states the disconnection process is stopped or the reconnection process commences.
- (23) The issue of a customer's ability to make a last-minute payment was raised by OP&E/APJN in the comments and addressed by the Commission. *Waiver Case*, Entry (Mar. 18, 2015) at 4-5. The Commission is not persuaded that the process adopted in the *Waiver Case* is unreasonable on the basis that it eliminates the customer's opportunity to make a last minute payment to avoid disconnection. The Commission's approval of AEP Ohio's waiver does not eliminate any means of making a

payment to avoid disconnection. The Commission notes that customers in the pilot, like any other AEP Ohio customers, may call AEP Ohio's customer service by telephone 24-hours a day to make a payment or payment arrangements. Payments can be made by telephone with a credit card or bank account. The notice process approved by the Commission in the *Waiver Case* Entry includes an additional notice of impending disconnection, reminding the customer of the need to make a payment or to call to make payment arrangements. We therefore affirm our decision and deny the request for rehearing.

Adequacy of information supporting the request for waiver

- (24) OPAE/APJN avers that the Commission unreasonably and unlawfully relied on the limited amount of data offered by AEP Ohio in support of its request for waiver. Other information, available only to AEP Ohio according to OPAE/APJN, would allow the Company to evaluate the impact of the waiver of personal notice on the day of disconnection, thus eliminating the need for a pilot. Further, OPAE/APJN states the savings and avoided costs do not justify approval of the waiver of personal notice on the day of disconnection.
- (25) Similarly, OCC submits approval of the Company's waiver request was unreasonable given that the deployment of AMI has resulted in huge increases in the number of residential electric service disconnections. OCC admits that the purpose of the waiver may not be to increase disconnections; however, OCC states that the experience of other Ohio utilities and in other jurisdictions has been that AMI leads to an increase in the number of residential customers disconnected. Furthermore, approval of the waiver request and AMI makes it possible to disconnect more customers than feasible previously.
- (26) AEP Ohio contends that OCC's evidence to support the argument that deployment of AMI will increase the number of residential disconnections does not withstand scrutiny. AEP Ohio argues that OCC's reliance upon disconnection rates in Duke Energy Ohio's (Duke) territory is misplaced, as the Commission did not grant a waiver of the personal notice requirement. Therefore, AEP Ohio reasons that any increase in disconnection rates in Duke's territory cannot be due to a

revised notice procedure. AEP Ohio further notes that the waiver will not affect the number of customers who fail to pay their bill and, thus, become subject to disconnection, as AEP Ohio is not proposing to change its policies regarding which customers receive notice.

- (27) OCC and OPAE/APJN restate the same arguments raised in their comments, considered by the Commission and rejected. *Waiver Case*, Entry (Mar. 18, 2015) at 5-7. In the *Waiver Case* Entry, the Commission also took into account the claims of OCC and OPAE/APJN, that hundreds of customers avail themselves of the opportunity to make payment up until just prior to disconnection. The remote disconnection notice process approved in the *Waiver Case* warns the customer repeatedly of the pending disconnection and provides sufficient time for the customer to make payment or payment arrangements. As also noted in the *Waiver Case* Entry, the Commission previously expressed a willingness to consider a remote disconnection notice process. *In re Duke Energy Ohio, Inc.*, Case No. 10-249-EL-WVR, Entry (June 2, 2010) at 8. This pilot will allow the Company, the Commission, OCC, and OPAE/APJN to get information on affected customers' perspective via the metrics for evaluation of the pilot. Accordingly, the Commission denies OCC's and OPAE/APJN's requests for rehearing.

It is, therefore,

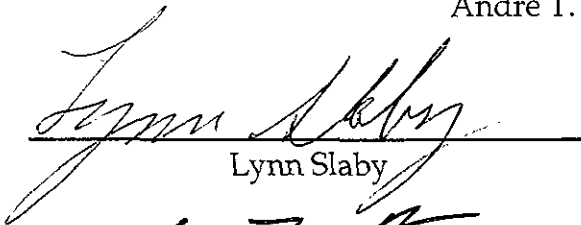
ORDERED, That OCC's and OPAC/APJN's applications for rehearing be denied.
It is, further,

ORDERED, That a copy of this Second Entry on Rehearing be served upon all interested persons of record in this case.

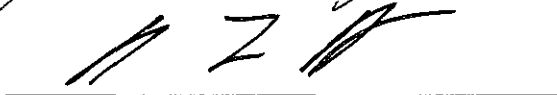
THE PUBLIC UTILITIES COMMISSION OF OHIO



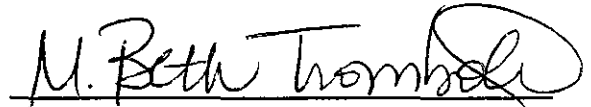
Andre T. Porter, Chairman



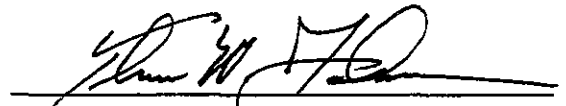
Lynn Slaby



Asim Z. Haque



M. Beth Trombold

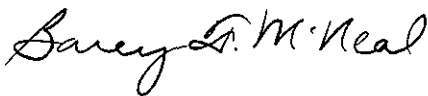


Thomas W. Johnson

GNS/vrm/dah

Entered in the Journal

SEP 09 2015



Barcy F. McNeal
Secretary