

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke)
Energy Ohio, Inc. for Approval of a Grid) Case No. 14-1160-EL-UNC
Modernization Opt-Out Tariff and for a) Case No. 14-1161-EL-AAM
Change in Accounting Procedures)
Including a Cost Recovery Mechanism.)

**POST-HEARING BRIEF
OF
OHIO PARTNERS FOR AFFORDABLE ENERGY**

I. Introduction

Ohio Partners for Affordable Energy (“OPAE”) herein submits to the Public Utilities Commission of Ohio (“Commission”) this post-hearing brief in these proceedings considering the applications of Duke Energy Ohio, Inc. (“Duke”) for approval of a grid modernization opt-out tariff and a change in accounting procedures to allow deferrals of costs allegedly associated with the proposed opt-out tariff. The Commission’s Finding and Order in Case No. 12-2050-EL-ORD adopted rules for advanced meter opt-out service to provide residential customers with the option to use a traditional meter instead of an advanced meter. Ohio Administrative Code Rule 4901:1-10-05(J)(5)(f). The Commission should provide for advanced meter opt-out service for residential customers in Duke’s service territory but deny Duke’s applications for charges and deferrals for the service.

Duke filed these applications on June 27, 2014. The hearing was held on October 15, 2015. Justin C. Brown testified on behalf of Duke, James D. Williams testified on behalf of the Office of the Ohio Consumers’ Counsel (“OCC”), and Marchia

Rutherford, David M. Liphtratt, and Barbara Bossart testified on behalf of the Staff of the Commission (“Staff”).

II. There is insufficient evidence to allow for any one-time charges for Duke’s advanced meter opt-out service.

Duke’s witness Brown updated Duke’s claims about the one-time costs to provide opt-out service. According to Duke, these one-time costs are information technology (“IT”) system costs, metering services costs, and distribution services costs. Duke claims its IT system costs were \$243,122. Duke proposes to defer these IT system costs until the next base rate case. Duke Ex. 2 at 4. Metering services costs are costs to repair, test, store, and purchase traditional meters. Distribution maintenance costs are costs to remove advanced meters and install a traditional meter. Duke proposes a one-time fee per customer of \$126.70 if the Commission grants the IT system cost deferral. If the IT system cost deferral is not granted, the one-time fee per customer would be \$462.04. Duke Ex. 2 at 5.

The Staff of the Commission modified Duke’s claim of one-time costs. The Staff recommends the Commission approve a \$38.00 one-time charge without any deferrals.

Staff witness David M. Liphtratt testified that Duke’s one-time charge of \$462.04 is derived from \$243,122 in IT system one-time costs and \$91,858 in non-IT costs and dividing the sum by 725 anticipated customers. Staff Ex. 2 at 2. Duke is proposing to lower the one-time fee to \$126.70 but only if the IT system costs are deferred.

In reviewing deferral requests, Staff considers the following: whether the current level of costs included in the last base rate case is insufficient; whether the costs requested to be deferred are material; whether the problem was outside the utility’s control; whether the expenditures are atypical and infrequent; whether the costs would

result in financial harm to the utility; and whether the Commission could encourage the utility to do something it would not otherwise do through the granting of the deferral authority. Staff Ex. 3 at 5-6.

Staff believes that Duke's request does not meet the deferral criteria. Duke both capitalized and expensed IT costs in its last base rate case. Duke has not shown that IT costs embedded in current base rates are insufficient in comparison to current levels of spending, nor has Duke shown that the \$243,122 in costs is warranted for deferral treatment. Staff believes that the IT costs requested for deferral in these proceedings are neither atypical nor infrequent. Duke is already recovering those costs through base rates, and these costs are not incremental to the amount in current rates. Tr. at 169.

Moreover, as part of its Form 10-K operating income, Duke reported \$187 million of income in 2014 and \$182 million in 2013. Given those levels of operating income, Staff does not believe the \$243,122 associated with IT costs are material or would result in financial harm to Duke. Staff Ex. 3 at 6; Tr. at 170. Staff testified that if financial harm is an issue, the harm would be brought forth and identified by Duke. When an application is filed requesting deferral authority, the utility states that there is financial harm, and the Staff considers and reviews it. Tr. at 168.

Staff also testified that the administrative code rule requiring utilities to file tariffs to allow residential customers an advanced meter opt-out service did not go into effect until December 18, 2014. Duke's claimed IT system changes began in January 2014. Therefore, the IT system changes were discretionary and not outside Duke's control. Duke would have made the IT changes regardless of the deferral authority.

The Staff does not recommend granting Duke's deferral request for one-time IT costs because the costs do not meet the requirements for deferral treatment. The IT costs should also not be allowed as one-time charges because they were sufficiently represented in Duke's last base rate case. Staff Ex. 3 at 7.

Staff witness Marchia Rutherford considered the non-IT one-time costs claimed by Duke for purchasing additional traditional meters, meter testing and repair of traditional meters, labor storage costs for traditional meters, and distribution maintenance costs for traditional meters. Duke proposes that these non-IT charges be charged up front one time to opt-out customers.

Ms. Rutherford testified that Duke would need approximately 950 traditional meters to accommodate the potential 725 opt-out customers if a 30% reserve for meters is used. Staff Ex. 2 at 3-4. Duke already has 3,772 traditional meters on hand and even if only half of those meters test accurately, Staff does not recommend including costs for purchasing additional meters as part of the proposed one-time charge. Id. at 4. Ms. Rutherford also testified that meter testing and repair and labor storage costs for traditional meters are already currently recovered through Duke's distribution base rates. Staff found no indication that the current cost recovery for these activities is insufficient to support the potential 725 opt-out customers. Therefore, the Staff recommends that Duke not be allowed to include costs for testing/repair and labor storage as part of the proposed one-time charge. Staff Ex. 2 at 4. Staff also recommended that Duke waive meter testing costs for opt-out customers for the one-time meter swap/installation in line with Duke's current tariff that allows meter testing charges to be waived for a customer's first meter test request. Staff Ex. 2 at 4-5.

Staff also adjusted the one-time charge relating to distribution maintenance costs which cover travel to remove an advanced meter and install a traditional meter. Duke proposed costs that amount to \$51 for 60 minutes. The Staff reduced the time frame to 45 minutes to recognize the minimum amount of travel that it may take a field employee to perform this function. With its adjustments, the Staff recommended reducing the one-time charge from \$462.04 to \$38. Staff Ex. 2 at 5.

OCC witness James D. Williams recommended that the Commission reject the one-time charge in its entirety. He did not believe that Duke has provided sufficient justification for the one-time fee. Tr. at 198. Duke already renders bills to customers who have objected to an advanced meter so changes to the IT system are not necessary to render bills to customers who object to having an advanced meter. OCC Ex. 3 at 11. There is no indication that the costs to perform billing to opt-out customers are incremental to costs Duke is already recovering from customers through base rates. Therefore, Duke has failed to show the IT system costs to be just and reasonable.

Moreover, Duke's claim that it needs additional funds to purchase, store, repair and test traditional meters is not reasonable. Customers who have refused an advanced meter already have a traditional meter. Duke has no need for additional revenues to purchase, store, test and repair 725 traditional meters. Customers have already paid for traditional meters through base rates. Opt-out customers may have kept their traditional meter and Duke may not need to install a new traditional meter. Duke's claim that it needs additional revenues to perform distribution maintenance on traditional meters is also not reasonable. OCC Ex. 3 at 13. Customers have already

paid for maintenance of their traditional meters through base rates. Meter maintenance costs, regardless of the type of meter, are in base rates and are not unique to traditional meters or to the provision of opt-out service.

III. There is insufficient evidence to allow for any recurring fees associated with Duke's advanced meter opt-out tariff.

Duke claims that the recurring cost per customer to provide the ongoing metering services and distribution maintenance is \$40.53 per month. Duke Ex. 2 at 6. The recurring costs are also metering service and distribution maintenance costs such as the costs to read the traditional meter and physical meter inspections. Duke cites monthly meter reading, off-cycle meter reading and revenue assurance costs. Duke claims that manual efforts will be required to service customers taking opt-out service and those customers are likely to be spread throughout the entire service territory making travel to and from each customer location more time consuming. Duke plans to continue reading each traditional meter on a monthly basis. Meter inspectors will travel to the customer's meter location.

Duke's claims of distribution maintenance costs also involve purchasing, locating, and installing additional communication devices in the Advanced Metering Infrastructure ("AMI") mesh network to read advanced meters that will be stranded when customers opt out. Duke claims that removal of the advanced meter could cause disruption if the customer is part of a mesh network because Duke relies on each meter to build a mesh. Duke also stated that it does not recover the costs for communication devices through the smart grid rider until it has installed and certified the devices.

Staff recommends a \$24.00 monthly meter reading charge. Staff testified that the communication devices support the smart grid system and the costs of the

communication devices that comprise the mesh network are recovered from customers through Rider DR-IM. That Rider should be used for recovering the costs for re-establishing communication for stranded meters as a result of opt-out activity. Tr. at 144. Opt-out customers are currently paying Rider DR-IM so they are paying their share of the Rider costs. Opt-out customers had no opportunity not to pay the Rider. Tr. at 145. If there had been an opportunity for opt-out customers not to pay the Rider DR-IM, the device that was needed to replace the stranded meters might not have been needed. Id.

Another reason that opt-out customers should not pay the cost of the device is that the device needs to be installed in order for the smart grid system to work. Therefore, the cost should be recovered under Rider DR-IM. Tr. at 146. The Staff recommends that Duke not be allowed to include costs for mesh network communication as part of the proposed monthly charge.

Staff also recommended that Duke not be allowed to recover theft-related costs as part of the monthly charge. Duke does not currently charge an investigation fee for fraud or theft cases unless Duke can confirm that tampering has occurred through the investigation. If tampering or fraudulent practice is alleged, Duke personnel visit the premise to determine what is actually taking place. Tr. at 148. If it is determined that fraudulent activity is actually taking place, the costs are imposed on the customer. Tr. at 148. In short, a penalty is only assessed in cases where Duke has proven fraudulent activity. Duke can recover from customers costs associated with meter damage and fraudulent use as it does now, after the fraudulent activities have been confirmed. Staff

recommended that Duke not be allowed to recover theft related costs as part of the monthly charge. Staff Ex. 2 at 7.

Staff also reduced the time for reading opt-out meters from the 60 minutes Duke requested to 35 minutes. Staff Ex. 2 at 6-7. Based on the information provided by Duke and the lack of information, 35 minutes was established as 15-minutes each way, and adding an additional five minutes for the meter reading time. Staff testified that “There are so many unknowns and there are so many variables that exist, that it is more reasonable . . . to take a safe approach in assigning costs to opt-out customers because there is no evidence . . . what . . . the number of customers that choose to take that service, that it actually would warrant the higher timeframe for 60 minutes as opposed to the [3]5.” Tr. at 150. There would be more information available as to the number of customers taking opt-out service and the costs in a base rate case. Tr. at 159.

Ms. Rutherford testified that if costs associated with opting out are imposed on customers, the Staff needs to consider the perspective not only of the utility but also of the customers. Tr. at 142. If the costs of opting out are imposed on customers, it seems to be more reasonable to come in at the lower end of costs as opposed to having a higher level of costs when the higher level of costs are not supported by any data provided. Tr. at 142. Given the lack of information, it is more reasonable to take a low-end approach as opposed to establishing a cost without any support to show why the cost should be higher. Id. at 143.

With the adjustments for mesh network costs, theft related investigation costs and monthly meter reading costs, the Staff recommends reducing the monthly charge from \$40.63 to \$24. Staff Ex. 2 at 8.

OCC witness James Williams recommended that the recurring charge also not be approved at this time. Duke has not substantiated the monthly cost to read the meters of opt-out customers. Tr. at 198. Duke has also not considered any alternatives to a monthly meter read such as a quarterly read or allowing customers to read their own meters and report the reading to Duke. Duke has not demonstrated that the metering service costs are incremental to the costs customers are already paying in base rates. The cost of meter readers is already included in base rates and the number of meter readers has been reduced with smart grid deployment so that the embedded costs in current base rates may be too high. Duke already collects sufficient revenues to perform manual meter reads for the customers who opt out of advanced meters. OCC Ex. 3 at 15.

As for the communication gaps in the AMI system from opt-out service that Duke complains about, there is no evidence that there will be communications gaps because customers opt out of advanced meters. Customers have already refused advanced meters, and Duke has experienced no communications gaps as a result of customers who refused an advanced meter. OCC Ex. 3 at 16.

IV. There are good reasons to provide advanced meter opt-out service without any additional charges to ratepayers at this time.

OCC witness Williams testified that Duke's estimates of the costs for the meter opt-out program appear to be overstated and unsupported. OCC Ex.3 at 5. Duke has not substantiated the costs for either the one-time fee or the recurring fee. Tr. at 198.

While there should be an opt-out tariff in place for customers who choose to opt out, the tariff should be set at zero at this time for both the one-time fee as well as the recurring fee until there is a base rate proceeding. Tr. at 199. Duke is already providing opt-out service and has been providing the service for at least 725 customers since the smart grid deployment began. Tr. at 199. This same process should continue until there is a base rate proceeding and an opportunity to look at revenues and expenses in a broader context. Tr. at 199.

Duke's advanced meter deployment has just reached completion and authorization for cost recovery from customers for the opt-out service should only occur in an appropriate regulatory proceeding where all of Duke's expenses and revenues are examined to ensure that rates and charges are just and reasonable. There has not been an opportunity for a full evaluation of the impact that advanced meter deployment has on Duke's operating expenses.

The deployment should reduce operating costs, but there has been no opportunity to examine those reduced costs or the cost of advanced meter opt-out service. There is no evidence to support the contention that Duke is not already sufficiently recovering its costs through existing rates to provide customers with the ability not to have an advanced meter. Duke is continuing to perform meter reads for customers who have requested not to have an advanced meter. Customers may also provide meter reads directly to Duke. OCC Ex. 3 at 5-6. As of May 2015, only 105 residential customers had refused an advanced meter and are being served with a traditional meter. OCC Ex. 3 at 17. Providing opt-out service to this small number of customers has not been demonstrated to impact Duke financially.

Duke is required to file an electric distribution rate case in the first year after completing its smart grid deployment. The deployment has now been completed. The test year to be used in the base rate application should reflect the reduced operating expenses that are attributable to the smart grid deployment. These reductions in operating expenses can be evaluated concurrent with the revenues Duke is collecting from customers in the test year to enable a more reasonable assessment of the costs involved in providing the advanced meter opt-out service. Therefore, separate new charges on customers to opt out of the advanced meter should not be allowed at this time. OCC Ex. 3 at 7. Staff also recommends that the costs and rate structure for the smart grid modernization opt-out tariff be reviewed in the next base rate case. Staff Ex. 2 at 8.

Mr. Williams also testified that the new charges may force customers to accept advanced meters against their will. Duke should not use the advanced meter opt-out charges as a way to coerce customers into having an advanced meter if they do not want one. OCC Ex. 3 at 9. Duke should instead work with customers to address their concerns about advanced meters and alternatives.

V. Conclusion

The Commission should allow for advanced meter opt-out service for residential customers in Duke's service territory but delay the implementation of any charges associated with the service until Duke's upcoming electric base rate case considers all the expenses associated with the opt-out service in the test year. Both the one-time and recurring charges should be rejected because there cannot be enough information to support the charges until a base rate case is considered. As the Staff points out, the

criteria for deferrals have not been met; therefore, deferral authority should be denied. Duke should work with customers who have concerns about advanced meters instead of attempting to over-charge them for preferring to keep their traditional meters.

Respectfully submitted,

/s/Colleen L. Mooney

Colleen L. Mooney
Ohio Partners for Affordable Energy
231 West Lima Street
Findlay, OH 45839-1793
Telephone: (419) 425-8860
or (614) 488-5739
FAX: (419) 425-8862
e-mail: cmooney@ohiopartners.org

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Post-Hearing Brief was served on the persons stated below via electronic transmission, this 30th day of November 2015.

/s/Colleen L. Mooney
Colleen L. Mooney

SERVICE LIST

John Jones
Natalia Messenger
Public Utilities Section
Attorney General's Office
180 East Broad Street, 6th Floor
Columbus, Ohio 43215
John.Jones@puc.state.oh.us
Natalia.Messenger@puc.state.oh.us

Amy B. Spiller
Elizabeth H. Watts
Duke Energy Ohio, Inc.
139 E. Fourth Street
Cincinnati, Ohio 45201-0960
Amy.Spiller@duke-energy.com
Elizabeth.Watts@duke-energy.com

Terry L. Etter
Assistant Consumers' Counsel
Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
Terry.Etter@occ.ohio.gov

Dane Stinson
Bricker & Eckler
200 East State Street
Columbus, Ohio 43215
dstinson@bricker.com

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

11/30/2015 3:31:19 PM

in

Case No(s). 14-1160-EL-UNC, 14-1161-EL-AAM

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