

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke :
Energy Ohio, Inc., for Approval of a Grid : Case Nos. 14-1160-EL-UNC
Modernization Opt-Out Tariff and a : 14-1161-EL-AAM
Change in Accounting Procedures :
Including a Cost Recovery Mechanism. :

POST-HEARING BRIEF
SUBMITTED ON BEHALF OF THE STAFF OF
THE PUBLIC UTILITIES COMMISSION OF OHIO

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TABLE OF CONTENTS

Page

INTRODUCTION	1
STATEMENT OF THE FACTS	3
ARGUMENT	6
A. The Company’s projected number of opt-out customers is inflated because they estimated 725 customers when the evidence only supports 505 customers.....	6
B. The one-time fixed charge for IT system change costs should not be granted deferral because it does not meet the deferral criteria.....	8
C. The Company’s one-time charge should be reduced from \$462.04 to \$38.	10
1. The one-time charge should not include costs for acquiring additional meters.....	11
2. The one-time charge should not include costs for meter testing/repair and labor storage.....	12
3. The one-time charge should be reduced based on a decrease in the timeframe for distribution maintenance from sixty minutes to forty-five minutes.....	12
D. Ongoing costs should be reduced from \$40.63 to \$24.	13
1. Ongoing costs should not include costs for mesh network communication.	14
2. Ongoing costs should not include theft-related investigation costs.	15
3. The timeframe for meter reading should be reduced from 60 minutes to 35 minutes.	15
E. Language in Duke’s opt-out tariff should be changed to avoid confusion among customers.	16
CONCLUSION	18
PROOF OF SERVICE.....	20

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INTRODUCTION

On December 18, 2013, the Commission issued an Order in Case No. 12-2050-EL-ORD, in which it adopted Ohio Adm.Code 4901:1-10-01 and 4901:1-10-05, providing for advanced meter opt-out service. The Commission ordered, “Each electric utility must file a tariff for advanced meter opt-out service 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 one.”¹

¹ In the Matter of the Commission’s Review of Chapter 4901:1-10 of the Ohio Administrative Code (In re O.A.C. 4901:1-10), Case No. 12-2050-EL-ORD (Entry on Rehearing at 3) (Dec. 18, 2013).

In compliance with the Commission’s Entry on Rehearing and Ohio Adm.Code 4901:1-10-05, Duke Energy Ohio (“Duke” or “the Company”) filed an application. Through its application, Duke is seeking approval of a tariff for the advanced meter opt-out service and the deferral of information technology (IT) system costs and ongoing costs related to the integration of traditional meters into the Company’s system.² The Company is also seeking the approval of a one-time fixed charge and ongoing costs associated with the advanced meter opt-out service.³

Staff recommends that the Commission disallow deferral in this case. IT costs incurred as a result of Duke’s opt-out program do not meet Staff’s criteria for deferral.⁴ In response to Staff Data Request 09-002, Duke stated that it does not seek deferral of ongoing costs.⁵ Therefore, deferral should not be granted for IT costs or ongoing costs.

Staff also recommends that the Company’s proposed one-time charge be reduced from \$462.04 to \$38.⁶ Such a reduction is warranted because the one-time charge should exclude costs for purchasing additional meters and meter testing/repair and labor storage;

² Application at 1 (Jan. 27, 2014).

³ *Id.*

⁴ Prefiled Testimony of David M. Liphthratt (Liphthratt Testimony) at 5-7 (Oct. 2, 2015).

⁵ *Id.* at 3.

⁶ Prefiled Testimony of Marchia Rutherford (Rutherford Testimony) at 5 (Oct. 2, 2015).

the charge should also take into account a shorter timeframe for distribution maintenance than that proposed by the Company.⁷

Furthermore, Staff recommends that the Company's proposed ongoing costs be reduced from \$40.63 to \$24.⁸ This reduction takes into account the exclusion of mesh network communication costs and theft-related investigation costs from Duke's ongoing costs calculation.⁹ The reduction also takes into account Staff's recommendation to decrease the timeframe for meter reading from sixty minutes to thirty-five minutes.¹⁰

Finally, below Staff recommends several changes to the tariff's language in order to better describe the new opt-out service and help customers avoid confusion.

STATEMENT OF THE FACTS

After Duke filed its application in this case, the Ohio Consumers' Counsel and Ohio Partners for Affordable Energy filed motions to intervene, which the Commission granted. Duke, Staff, and the Ohio Consumers' Counsel prefiled testimony from witnesses in this case. A hearing was held on October 15, 2015.

In its application, Duke projected that its advanced meter opt-out program would cost approximately \$777,997.50 in one-time costs and \$353,468.68 in ongoing annual

⁷ *Id.* at 3.

⁸ Rutherford Testimony at 8.

⁹ *Id.* at 6-7.

¹⁰ *Id.* at 7-8.

costs.¹¹ The one-time costs included changes to the IT systems, which were estimated to cost \$686,140, and non-IT costs.¹² The non-IT costs include costs for acquiring additional meters, meter testing/repair and labor storage, and distribution maintenance.¹³ The annual ongoing costs include costs for mesh network communication devices, monthly meter reading, off-cycle meter reading, and revenue assurance (or theft).¹⁴

Estimating that 725 of its customers would participate in the advanced meter opt-out program, the Company calculated that the costs for the program would result in a one-time charge to opt-out customers of \$1,073.10 and ongoing monthly costs of \$40.63.¹⁵ However, Company Witness Justin Brown testified that the actual costs ended up being much lower than projected.¹⁶ The IT systems project costs only totaled to \$243,122.¹⁷ That is an over-estimation of \$443,018 by the Company. Rather than a one-time charge of \$1,073.10, the Company is now proposing \$462.04.¹⁸ This one-time

¹¹ See Application at 3 (Jan. 27, 2014).

¹² Direct Testimony of Justin C. Brown (Brown Testimony) at JCB-1, p. 2 (Sep. 18, 2015).

¹³ *Id.*

¹⁴ *Id.* at JCB-1, p.3.

¹⁵ Application at 3.

¹⁶ Tr. at 54.

¹⁷ *Id.*

¹⁸ Brown Testimony at JCB-1, p. 2.

charge is calculated by adding the IT systems project costs (\$686,140) to non-IT one-time costs (\$91,857.50) and dividing the sum by the estimated 725 opt-out customers.¹⁹

The ongoing annual costs are expected to be \$352,553.29.²⁰ Duke arrived at the monthly charge by dividing that amount by twelve months, which totaled \$29,379.44.²¹ Duke then divided that amount by the estimated 725 opt-out customers to arrive at \$40.53.²²

Staff has declared that Duke has achieved full deployment of its SmartGrid program.²³ As of today, 105 customers have refused an advanced meter and retained their traditional meter.²⁴ And approximately 400 customers have not received an advanced meter because they were either unresponsive to the Company during deployment of the advanced meters or have hard-to-access meters.²⁵ The sum of these two groups is about 505 customers. However, the 400 customers who were reportedly unresponsive and had hard-to-access meters in this sum is likely to be lower, and could be substantially lower, because the Company relied on data it had not updated since June 2014, when it filed its

¹⁹ Tr. at 9.

²⁰ Brown Testimony at JCB-1, p. 1.

²¹ Id.

²² Id.

²³ In the Matter of the Application of Duke Energy Ohio, Inc. to Adjust Rider DR-IM and Rider AU for 2010 Smart Grid Costs and Mid-Deployment Review, Case No. 10-2326-GE-RDR (Notice of Staff Determination at 1) (Oct. 22, 2015).

²⁴ Tr. at 35.

²⁵ Tr. at 36.

application.²⁶ Whatever sum below 505 that remains from Duke's inflated estimate, these customers will pay the costs associated with both the advanced meter under the Smart Grid Rider and the opt-out meter rider.²⁷

ARGUMENT

A. The Company's projected number of opt-out customers is inflated because they estimated 725 customers when the evidence supports less than 505 customers.

Duke has estimated that 725 customers will choose to participate in the opt-out program. The Company explained that 325 customers have, at any time, refused an advanced meter.²⁸ However, Company Witness Brown stated that only 105 customers have actually refused an advanced meter and retained their traditional meter.²⁹ Having this information, Duke still based their number on the 325 customers, despite the fact that 220 of them have already accepted an advanced meter. There is no evidence in the record to support the inclusion of those 220 customers, especially given the testimony of Company witness Brown that he has no knowledge of a customer with an advanced meter requesting its removal and replacement with a traditional meter.³⁰

²⁶ Tr. at 97-99.

²⁷ Tr. at 43-45, 48-49, 57-58.

²⁸ Tr. at 35.

²⁹ Tr. at 35.

³⁰ Tr. at 33.

Duke has also included approximately 400 customers that have not received an advanced meter because they were either unresponsive to the Company during deployment of the advanced meters or have hard-to-access meters.³¹ The Company also unreasonably overestimated this number. Brown testified that the 400 customers with contact or access issues may be significantly less today.³² Given that Staff recently declared that Duke's advanced meters are fully deployed,³³ the Company should have updated its data on the number of customers that have retained a traditional meter. Duke has provided no reason for the Commission to consider its inflated numbers when the evidence clearly shows that there are less than 505 potential opt-out customers. Therefore, the number of potential opt-out customers should be no more than 505 customers. Duke's estimate of 725 customers is outdated and inflated.

This reduction in the number of potential opt-out customers does not affect Staff's calculations and recommendations. Staff is recommending the elimination of the one-time IT and metering services costs, and ongoing revenue assurance and Smart Grid distribution costs, which Duke calculated based on its estimate of 725 customers. The one-time charge of \$38 for distribution maintenance costs and the ongoing charge of \$24 for metering services proposed by Staff is based on the amount of time it takes a Duke

³¹ Tr. at 36.

³² Tr. at 97-99.

³³ In the Matter of the Application of Duke Energy Ohio, Inc. to Adjust Rider DR-IM and Rider AU for 2010 Smart Grid Costs and Mid-Deployment Review, Case No. 10-2326-GE-RDR (Notice of Staff Determination at 1) (Oct. 22, 2015).

employee to read a meter or perform a meter swap/installation. These charges are constant and will not vary based on the number of customers in the opt-out program.

B. The one-time fixed charge for IT system change costs should not be granted deferral because it does not meet the deferral criteria.

The Company's accrued actual costs of \$243,122 for IT system changes due to grid modernization.³⁴ Because these costs do not meet Staff's deferral criteria, deferral of the costs must not be granted.

Staff balances six criteria to determine whether deferral of costs should be granted.

Staff will look at:

(1) whether the current level of costs included in the last rate case was insufficient; (2) whether the costs requested to be deferred are material in nature; (3) whether the problem was outside of the Company's control; (4) whether the expenditures are atypical and infrequent; (5) whether the costs would result in financial harm to the company; and (6) whether the Commission could encourage the utility to do something it would not otherwise do through the granting of deferral authority.³⁵

Here, Duke's IT costs do not meet the first criteria because Duke has not shown that the current level of costs included in the last rate case was insufficient. Duke stated that the "Company would have both capitalized and expensed IT costs in last distribution

³⁴ Brown Testimony at 4.

³⁵ Liphtratt Testimony at 5-6.

case.”³⁶ Staff found that Duke “has not shown that IT-related costs embedded in the last rate case are insufficient in comparison to current levels of spending.”³⁷ Although the opt-out program was not part of the test year, the IT costs associated with the program are “representative of the type of expenses that would occur.”³⁸ Base rates are intended to capture a typical year, which includes billing system modifications.³⁹ Because these IT costs were recovered through base rates, Duke has not met the first criteria for deferral.

The Company has also not met the second or fifth criteria for deferral because the costs are not material in nature and would not result in financial harm to the Company. Based on information provided by the Company, Staff viewed the IT costs as captured within the test year for the Company’s last rate case and, therefore, not material in nature.⁴⁰ The Company also will not suffer financial harm if deferral is disallowed. The Company has reported an annual income of \$187 million in 2014, \$182 million in 2013, and \$159 million in 2012.⁴¹ While the form used included operating income from Duke Energy Kentucky and Duke Energy Gas, Staff Witness Lipthratt only used the information pertaining to Duke Energy Ohio in making his analysis.⁴² Given the operating

³⁶ *Id.* at 6.

³⁷ Lipthratt Testimony at 6.

³⁸ Tr. at 174

³⁹ *Id.*

⁴⁰ Tr. at 170.

⁴¹ Lipthratt Testimony at 6.

⁴² Tr. at 182.

incomes listed, disallowing the deferral of \$243,122 in IT costs would not cause financial harm to the Company.

The fourth criteria is not met here because IT system costs are not atypical or infrequent. As previously stated, billing system modifications are part of the costs captured in a typical year for base rates.⁴³ Because IT costs are considered a typical cost, they are neither atypical nor infrequent.

Duke has not met the criteria set forth by staff for determining the deferral of costs. Duke has not shown that the level of costs included in the last rate case was insufficient.⁴⁴ Staff did not find the IT costs to be material in nature or to cause financial harm to the Company if not granted deferral. And the costs are not atypical or infrequent. Therefore, the one-time fixed charge for IT system change costs must not be granted deferral.

C. The Company's one-time charge should be reduced from \$462.04 to \$38.

The Company has proposed a one-time charge of \$462.04 to customers choosing to opt out of an advanced meter. The charge should be reduced to \$38 because it should

⁴³ Tr. at 174.

⁴⁴ See OCC Ex. 3, Testimony of James D. Williams (Williams Testimony) at 11-12 (Sept. 18, 2015) (Duke claims information requested by OCC was not available to confirm its total annual costs for billing system changes incurred during the test year for its last electric distribution rate case and what it has incurred each year since its last distribution rate case.).

not include costs for additional meters, testing/repair and labor storage, or first-time testing costs.

1. The one-time charge should not include costs for acquiring additional meters.

The one-time charge should not include costs for acquiring additional meters.

Company Witness Brown stated that the Company would like to keep a thirty-percent meter stock.⁴⁵ Based on the Company's estimate of 725 opt-out customers, it would need to keep a stock of 218 meters.⁴⁶ However, this number should be further decreased by the evidence here, which supports no more than 505 opt-out customers. Based on this lower number of customers, Duke would only need to keep a stock of 152 meters.

The Company has 3,772 traditional meters on hand.⁴⁷ Because about half of the meters will test accurately and be available if a traditional meter needs to be replaced,⁴⁸ there is no need to purchase additional meters. And, as OCC Witness Williams testified, the "customers who have refused an advanced meter already have a traditional meter."⁴⁹ Duke has no evidence that an advanced meter customer has requested the removal and

⁴⁵ Tr. at 24.

⁴⁶ *Id.*

⁴⁷ Rutherford Testimony at 4.

⁴⁸ *Id.*

⁴⁹ Testimony of James D. Williams (Williams Testimony) at 12 (Sep. 18, 2015).

replacement of their advanced meter with a traditional one.⁵⁰ The purchase of new traditional meters is unnecessary, and, therefore, Duke inappropriately included costs for the acquisition of meters in the one-time charge.

2. The one-time charge should not include costs for meter testing/repair and labor storage.

The one-time charge should also not include costs for testing/repair and labor storage. All traditional meters that could potentially be used to replace an advanced meter must be tested for accuracy.⁵¹ Of the 725 customers that Duke has estimated may opt-out of an advanced meter, no more than 505 have retained their traditional meter and continue to use them today. Those 505 customers, then, would not need a replacement traditional meter. Therefore, the costs for meter testing/repair should not be allowed. Furthermore, the Company is currently recovering these costs through base rates, and Duke has not provided evidence that recovery through base rates has been insufficient.⁵²

3. The one-time charge should be reduced based on a decrease in the timeframe for distribution maintenance from sixty minutes to forty-five minutes.

The one-time charge should also be reduced based on the timeframe for distribution maintenance. In response to Staff Data Request 08-001, Duke stated that travel

⁵⁰ See Tr. at 33.

⁵¹ Tr. at 33.

⁵² Rutherford Testimony at 4.

times could range from fifteen to ninety minutes.⁵³ Duke proposes to recover for sixty minutes at a cost of \$51 for the removal of an advanced meter and installation of a traditional meter.⁵⁴ The Company failed to provide data to support a high average time of sixty minutes.⁵⁵ Staff found that forty-five minutes, rather than sixty, recognizes the minimum amount of time that it may take for travel and meter swapping.⁵⁶

With the exclusion of costs for additional meters, testing/repair and labor storage, and first-time meter testing costs, the one-time charge must be reduced. The charge is also reduced by adjusting the amount of time required to install a traditional meter in place of an advanced meter. Therefore, Staff recommends that the one-time charge be reduced from \$462.04 to \$38.

D. Ongoing costs should be reduced from \$40.63 to \$24.

Ongoing costs should not include mesh network communication costs or theft-related investigation costs. The ongoing costs should also be reduced due to a decrease in the timeframe for meter reading.

⁵³ Tr. at 141.

⁵⁴ OCC Ex. 2.

⁵⁵ Tr. at 142.

⁵⁶ Rutherford Testimony at 5.

1. Ongoing costs should not include costs for mesh network communication.

Ongoing costs should not include costs for mesh network communication. The replacement of an advanced meter with a traditional meter may cause a gap in the mesh network needed for communication with the advanced meters.⁵⁷ Should that occur, a communication device will have to be installed. However, Duke has not experienced any communication gaps,⁵⁸ and “no additional communication devices have been needed for the customers who have already requested not to have an advanced meter.”⁵⁹ Given that Duke’s deployment of advanced meters is now complete, there is no reason to believe that communication gaps are certain to occur.⁶⁰ Again, Company witness Brown testified that he has no knowledge of a customer with an advanced meter requesting its removal and the installation of a traditional meter.⁶¹ Additionally, these communication devices support the Smart Grid system and, therefore, should be recovered through the Smart Grid rider, not paid solely by opt-out customers.⁶² There is no evidence in the record that this cost will be or is likely to be incurred.

⁵⁷ Rutherford Testimony at 6.

⁵⁸ Tr. at 73-76.

⁵⁹ Williams Testimony at 13.

⁶⁰ *Id.* at 16.

⁶¹ Tr. at 33.

⁶² Tr. at 146.

2. Ongoing costs should not include theft-related investigation costs.

The Company has proposed to recover ongoing costs related to revenue assurance. These costs are related to theft investigations,⁶³ and should not be included in the calculation of ongoing costs. Currently, the Company does not charge a penalty for a theft-related investigation unless tampering has been confirmed.⁶⁴ The Company should continue to only assess a penalty in cases where it has proven that fraudulent activity has occurred.⁶⁵ The Company's current practice will not prevent it from recovering costs for meter damage or fraudulent use when it occurs.⁶⁶ Because the Company does not charge all customers for these investigations, it should not impose such a charge on opt-out customers. For that reason, Staff recommends that the ongoing costs exclude theft-related investigation costs.

3. The timeframe for meter reading should be reduced from 60 minutes to 35 minutes.

The timeframe for meter reading should be reduced from 60 minutes to 35 minutes. As is the case with the timeframe for meter swap/installation, the Company has not provided evidence to support the use of a longer timeframe versus a shorter one.⁶⁷

⁶³ Tr. at 59.

⁶⁴ Rutherford Testimony at 7; Tr. at 148.

⁶⁵ *Id.* at 7.

⁶⁶ *Id.*

⁶⁷ Tr. at 150.

OCC agrees, stating that “Duke has not substantiated the hour required for each meter read.”⁶⁸ And that Duke may be able to make routes more effective by including multiple reads in an hour.⁶⁹ Duke knows the location of the 505 customers that have retained a traditional meter.⁷⁰ Yet, the Company has not done any route analysis to determine an effective way to accomplish monthly meter reads among opt-out customers.⁷¹ Given that fact, Duke should not be entitled to such a high average time for meter reading.

For the reasons stated above, the ongoing costs should not include costs for mesh network communication or theft-related investigations. The ongoing costs should also be reduced by decreasing the average timeframe estimated for meter reading from sixty minutes to thirty-five minutes.

E. No party disputes Staff’s position that language in Duke’s opt-out tariff should be changed to avoid confusion among customers.

Staff recommends that Duke change some language in its proposed tariff to be uniform with the terminology used in Ohio Adm.Code 4901:1-10-05(J). Staff Witness Bossart’s testimony regarding this recommendation is unopposed by the Company and Intervenors. As proposed, some of the language in Duke’s tariff may be confusing to

⁶⁸ Williams Testimony at 14.

⁶⁹ Williams Testimony at 14.

⁷⁰ Tr. at 92-93.

⁷¹ *Id.*

customers.⁷² For example, the tariff is titled “Non-Standard Meter Option (NSMO) – Residential,” but the Company uses “traditional meter” and “advanced meter” throughout the tariff to refer to the meter options.⁷³ The use of “non-standard meter” in the title refers to a traditional meter; the use of both terms in the tariff may confuse customers.⁷⁴ For that reason, Staff recommends that the title be changed to “Advanced Meter Opt-Out (AMO) – Residential,” and any reference to “Rider NSM” be changed to “Rider AMO.”

Staff also recommends that the tariff’s provision on customers with a history of tampering or theft be modified. The Commission has stated that “if a utility chooses not to provide opt-out service to a customer with a history of tampering or theft, and the customer contests the EDU’s denial of advanced meter opt-out service, then the burden is on the utility to demonstrate that such a history of tampering exists and that advanced meter opt-out service should be denied.”⁷⁵ Staff, therefore, proposes that the tariff state, “Pursuant to the Commission’s Order in Case No. 12-2050-EL-ORD, Rider AMO is not available to customers with a history of tampering.”⁷⁶

Finally, staff recommends that language be added in order to give customers notice that a different product or service may be required if they opt for a traditional

⁷² Prefiled Testimony of Barbara Bossart (Bossart Testimony) at 2 (Oct. 2, 2015).

⁷³ Id.

⁷⁴ Id.

⁷⁵ *In re O.A.C.* 4901:1-10, Case No. 12-2050-EL-ORD (Entry on rehearing at 6,) (Dec. 18, 2013).

⁷⁶ Bossart Testimony at 4.

meter. The Commission requires that a customer be given notice prior to the installation of the traditional meter.⁷⁷ Therefore, Staff proposes the following language: “Customers enrolled in a product or service requiring an advanced meter as a condition of enrollment will be notified that the customer must choose a different product or service prior to the installation of a traditional meter. This opt-out provision is not available to any customer taking generation service under a time differentiated rate.”⁷⁸

CONCLUSION

Staff recommends that the Commission disallow deferral of ongoing costs and IT system costs, reduce the charge for one-time costs from \$462.04 to \$38, reduce the monthly charge for ongoing costs from \$40.53 to \$24, modify the language in the tariff to avoid customer confusion, and decrease the number of potential customers from 725 to 505.

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⁷⁷ *Id.* at 4.

⁷⁸ *Id.*

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PROOF OF SERVICE

I hereby certify that a true copy of the foregoing **Post-Hearing Brief** submitted on behalf of the Staff of the Public Utilities Commission of Ohio, was served by regular U.S. mail, postage prepaid, or hand-delivered, upon the following Parties of Record, this 30th day of November, 2015.

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