

**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.)	

REPLY BRIEF OF DUKE ENERGY OHIO, INC.

I. INTRODUCTION

With the filing of the application in this proceeding, Duke Energy Ohio, Inc. (Duke Energy Ohio) sought to comply with a very specific Public Utilities Commission of Ohio (Commission) regulation. After having done so, the Staff of the Public Utilities Commission of Ohio (Staff) the Office of the Ohio Consumers' Counsel (OCC), and Ohio Partners for Affordable Energy (OPAE) seek to supplant their own judgments about how the Company should implement a program to offer residential electric customers the option to be served with a traditional meter rather than an advanced meter, and what costs are associated with making the option available. Duke Energy Ohio worked to create a program to make services available once the Commission's rule became final.¹ The Company is in the best position to know what was required internally to facilitate the program. The Company conducted a detailed analysis to ascertain appropriate costs that needed to be isolated and charged only to opt-out customers pursuant to the Commission's rules. The Company provided an expert witness with knowledge of the necessary facts to support its application. In response, the Staff, OCC and OPAE merely

¹ Rule 4901:1-10-05(J), O.A.C.

guess at what may be needed, and offer alternatives that are unworkable. For the reasons set forth in greater detail below, the Commission should approve the Company's application.

II. DISCUSSION

A. The Company's Projected Number for Opt Out Customers Is Based Upon Experience

Many of Staff's Comments in the Post-Hearing Brief demonstrate a lack of understanding with respect to the Company's application and the testimony submitted to support the application. This misunderstanding begins with the facts and continues as a theme throughout Staff's brief. For example, Staff seems to confuse the significance attached to the various numbers it reports. Staff believes that the Company has miscalculated the number of residential electric customers that may elect to participate in the advanced meter opt out service. However, Staff (and OCC) does not understand the significance of the numbers reported. As explained by Company witness Justin C. Brown, during the course of deployment, over 325 customers have "at any time" refused an advanced meter.² While at present there are only 105 customers who are without advanced meters due to refusal, the Company considers it reasonable to assume that the other 220 customers may wish to participate in the program once it is established. Since these customers voiced opposition to the advanced meter earlier in the deployment, it is reasonable to assume that they represent likely candidates for the opt-out program. Accordingly, the Company included these customers in its estimates. Additionally, there are 400 customers who have been unresponsive during the course of deployment and have hard to access meters. Once an opt-out tariff is approved and the Company is able to communicate the program or otherwise access the hard-to-access meters, these customers may also wish to take advantage of the opt-out program. The Staff's analysis fails to recognize the original 220 customers who

² Direct Testimony of Justin C. Brown, Duke Energy Ohio Exh. 2 at p.7.

expressed a desire not to have an advanced meter, but did not have the option to refuse during deployment.

B. The One-Time Deferral Request Provides a Means for the Company to Recover Costs Incurred to Comply with the PUCO's Opt-out Rule

After the PUCO issued the revised Opt-out Rules in December 2013, the Company needed to make IT system changes in order to make the program available to all eligible residential electric customers in a sustainable manner. And since the IT system changes were made necessary by the Rule and were required to make the program available to all eligible customers, the Company proposed a one-time deferral of those costs. The Staff has explained its novel view as to why the Company should not be granted a deferral for the costs incurred in making programmatic changes to its Information Technology (IT) systems in order to enable the opt-out program that was mandated by the Commission. Staff applies criteria that it believes are appropriate under the circumstances. As explained in the Company's initial brief, this analysis has no legal precedent. This is a means of reviewing a deferral request that has never previously been applied or approved by the Commission and it is ill-conceived in the context of this case, particularly since Staff does not otherwise suggest where costs for this work should otherwise be recovered. Indeed, Staff's criteria represents little more than conjecture and has no factual support at all. Staff witness Liphtratt argues, for example, that the Company "has not shown that IT-related costs embedded in the last rate case are insufficient in comparison to current levels of spending." However, upon cross examination, Mr. Liphtratt admits that he does not recall when the test year was for the last electric base distribution rate case, despite having been involved with a "review of the work papers and support in that case."³ Likewise, Mr. Liphtratt admitted that the test year was 2012, but that the Commission's promulgation of a rule to create the opt-

³ Transcript p. 170.

out requirement was issued in December, 2013.⁴ The Company began working on creating an opt-out program in January of 2014. Mr. Liphtratt then claimed that he believed that this was “representative of the type of expenses that would occur”; although there is no record support other than his opinion for this statement. Mr. Liphtratt based his unsupportable belief that such costs would already be recovered in base rates; upon his speculation that the work performed would necessarily show up in Account 903, although he was not certain that this was true.⁵ And finally, despite Mr. Liphtratt’s belief that such costs would have been captured in test year costs in the last base distribution rate case, Mr. Liphtratt has no specific knowledge of what other billing changes have been required of the Company in the past three or four years.⁶

With respect to materiality, Mr. Liphtratt believes that the costs for program changes necessitated by the opt-out rule are not, in his professional judgment, “material” such that the Company is entitled to recover them. When questioned about the nature of what is “material” in his view, Mr. Liphtratt offered very little guidance. He stated that this is a “judgment call and that each case is unique and needs to be reviewed as a whole.”⁷ Further, Mr. Liphtratt claims that he needs to determine whether the failure to recover the costs would cause financial harm to the Company. But again, Mr. Liphtratt was not in a position to explain what constitutes financial harm in this context, other than to assert that in this instance, through Staff’s eyes, the IT costs that were requested for deferral, would not result in financial harm.⁸ Because Staff’s testimony in this proceeding is utterly speculative and based upon an analysis that has never before been applied by the Commission, and because there is no factual foundation for the conjecture of Staff

⁴ Transcript p. 174.

⁵ Transcript p. 176-177.

⁶ Transcript p. 178.

⁷ Transcript p. 166.

⁸ Transcript p. 169.

with respect to the costs sought to be deferred in this proceeding, the Company's request must be granted.

Where the Staff argues that deferral should not be allowed, the OCC (and OPAE) , in an attempt to obfuscate the issue, persists in alleging that the IT system changes did not create new functionalities. Despite multiple explanations by the Company, the OCC continues to misinterpret the purpose of the IT system changes to be for usage billing. The Company again states for the record, that the IT system changes were required in order to bill the opt-out fee, automate meter swap orders, and continually and sustainably ensure that both opt-out customers and standard customers have the correct meter type installed based upon their participation or non-participation in the opt-out tariff. It is unclear whether the OCC is unwilling or unable to understand that purpose.

The One-Time Installation Charge is Based Upon Experience

In addition to the recovery of costs for changes to the Company's internal systems to manage the opt-out program, the Company also calculated costs necessitated by the opt-out program that included Metering Services and Distribution Maintenance Services.⁹ One element of Metering Services is the requirement to maintain a stock of traditional meters. Staff argues that the Company had 3,772 traditional meters on hand, at one point, and this statement is based upon Staff witness Marchia Rutherford's testimony. However, Staff neglects to recognize that the traditional meters that have been removed due to SmartGrid deployment are salvaged, and the salvage value is returned to customers in the SmartGrid rider proceedings due to a stipulation that was agreed to in the SmartGrid mid-term review.¹⁰ Moreover, the information upon which

⁹ Direct Testimony of Justin C. Brown, Duke Energy Ohio Exh. 2 at p.4.

¹⁰ *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 DR-IM and Mid-Deployment Review of AML/SmartGrid Program* Case No. 10-2326-GE-RDR, Stipulation and Recommendation, (February 24, 2012).

Ms. Rutherford was relying was dated as early as September, 2014.¹¹ Ms. Rutherford admitted that she had no idea how many meters were on hand as of the time of the hearing.¹² Nor did Ms. Rutherford have a specific knowledge as to the average age of the meters that were removed due to SmartGrid deployment. Indeed, Ms. Rutherford further admitted that in fact, she had no knowledge of the disposition of the meters that were removed for SmartGrid deployment. Thus, it is unreasonable for the Commission to assume that the Company has meters on hand that are appropriate for redeployment in an opt-out program. To the contrary, based on Duke Energy Ohio witness Justin C. Brown's testimony, such meters will become increasingly difficult to locate since they are no longer the norm in the industry.¹³ Since these are costs unique to the opt-out program, consistent with the Commission's directives, these are costs that should reasonably be included in the calculation of the one-time upfront costs that a customer should pay in order to have an advanced meter removed and replaced with a traditional meter. Mr. Brown included costs for repairing, testing, storage, purchase and installation of traditional meters. These costs altogether total \$126.70 per customer.

OCC argued that the one-time charge violates the Commission's rules because the charge would be imposed on customers who have never installed an advanced meter. As explained by Duke Energy Ohio witness Brown, the Company sought to provide a tariff that would be uniform. If the Commission deems it improper to charge this one-time charge to a customer who has retained a traditional meter, the Company will incorporate such directives in a compliance tariff to be submitted after the Commission issues its opinion and order in this proceeding. Providing proposed language in any case does not render the proposed rate violative of Commission regulation. The potential cost of swapping out meters remains the same.

¹¹ Transcript at p. 133.

¹² Transcript at p. 134.

¹³ Direct Testimony of Justin C. Brown, Duke Energy Ohio Exh.2 at p.5.

Likewise, OCC argues that the one-time charge is based upon incorrect estimates of the various factors included in the proposed charge. Yet, only Duke Energy Ohio provided a witness that had knowledge of the Company's costs and could therefore evaluate and verify the proposed elements of the charges. Duke Energy Ohio witness Brown explained that the Company began investigating and making changes to its systems immediately after the Commission's Entry on Rehearing that approved rules requiring utilities to file a proposed tariff.¹⁴ Mr. Brown has responsibility for planning and regulatory support as it relates to grid solutions.¹⁵ Mr. Brown was undoubtedly the only witness with direct knowledge of the Company's systems, practices, personnel and costs as related to creating an opt-out program. No other witness provided any data analysis, study, or investigation to support the speculative testimony that was offered at hearing.

Mr. Brown worked directly with subject matter experts within the Company to bring the most detailed and accurate information to the Commission in the form of this proposed tariff.¹⁶ In contrast, OCC's argument with respect to the information obtained from subject matter experts is that the numbers are faulty. But OCC offers no expertise in the alternative. Indeed, as an example, despite a lack of knowledge about the facts, OCC too opines that the Company has traditional meters on hand to use for reserve stock. This is mere speculation and not helpful to establishing the proper charges included in the tariff.

Likewise, with respect to meter storage and testing, OCC argues that the Company has overestimated the costs. However, OCC has no specific knowledge of internal labor costs and how they are calculated other than as provided by the Company. Likewise, OCC witness Williams simply responds to the information provided by the Company by recommending that

¹⁴ Direct Testimony of Justin C. Brown, Duke Energy Ohio Exh.2 at p.4.

¹⁵ *Id.* p.1.

¹⁶ Transcript at p. 24, 26, 31, 47, 49, 61, 67, 68, 72, 76, 112

the Commission consider charges in the context of a rate proceeding.¹⁷ Other than that specific explanation of OCC's position in this case, the balance of Mr. Williams' testimony was speculation and conjecture. For example, Mr. Williams has no specific information about costs and benefits included in the Duke Energy Ohio SmartGrid Rider, Rider DR-IM.¹⁸ Mr. Williams has no idea whether the Company had opt-out customers during the time of the SmartGrid mid-term review.¹⁹ Although, despite this lack of knowledge, Mr. Williams did agree that the Company is not currently recovering any incremental costs for providing services to customers who refuse an advanced meter.²⁰ And Mr. Williams agreed that he had not performed any analysis with respect to proposing appropriate costs for customers to pay in order to opt-out.²¹ Additionally, Mr. Williams admitted that he did not even know what the last test year was during the Company's last electric distribution rate case, and he was unaware of the status of deployment during that last case.²² Under the circumstances, it is irresponsible for OCC to opine that costs recovered by the Company through base rates are sufficient to cover the costs of the proposed opt-out program. OCC simply has no basis for such an assertion.

One further example regarding Mr. William's testimony must be included here. Mr. Williams argued, in his direct testimony, that the number of opt-out tariff customers will likely decrease over time "if Duke provides other alternatives to help address customer specific concerns with advanced meters."²³ This statement represents precisely the kind of careless testimony offered by OCC even though its witness is utterly without any means to actually support the assertion. Upon cross-examination, Mr. Williams was unable to provide any

¹⁷ Transcript p. 199.

¹⁸ Transcript p. 203-204.

¹⁹ Transcript p. 206.

²⁰ Transcript p. 210.

²¹ *Id.* at 211.

²² Transcript p. 212.

²³ Direct Testimony of James D. Williams, OCC Exhibit 3 at p.7.

examples of the kinds of “other alternatives” he wanted the Company to offer. After being prompted by the Attorney Examiner, he agreed that one possibility might be to relocate a meter or disable the meter.²⁴ He had no knowledge regarding the potential cost of either of these options. Moreover, Mr. Williams has absolutely no current understanding of what procedures the Company follows when a customer seeks to retain a traditional meter.²⁵ Mr. Williams was willing to opine on many matters and to endlessly speculate about what, in his opinion, the Company should be doing. However, such conjecture and opinion has no place in the hearing room. When an expert testifies, it is expected that such expert will offer expert opinion that is supported with some rigorous prior preparation and study. In this case, none was undertaken or provided. Mr. William’s mere opinions about what should or should not happen under the circumstances, and what is appropriate to charge or not charge, should be rejected as unfounded and unsupportable.

With regard to OPAE’s arguments regarding the various charges for providing Opt-Out service to customers, none of the matters discussed by OPAE were unique or different from those issues raised by OCC. OPAE did not participate in discovery in this proceeding and offered no witness to support any of its positions. Accordingly, most of OPAE’s arguments are addressed by OCC. OPAE does argue in its Post-Hearing Brief that there has been no opportunity to examine the cost of advanced meter opt-out services.²⁶ This is an amazing assertion given that the Company’s application in this case was filed in June of 2014. The hearing was not held until October 2015. This gave OPAE (and OCC) more than a year in which to issue discovery to the Company. While OCC did engage in discovery, OPAE did not. As a

²⁴ Transcript p.215. It should be noted that the Commission explicitly rejected OCC’s suggestions regarding the option of disabling a meter in its Entry approving the Opt-Out Rules, Case No.12-2050-EL-ORD, Finding and Order, (October 16, 2013) at p.13.

²⁵ Transcript pages 215-216.

²⁶ Post-Hearing Brief of Ohio Partners for Affordable Energy at p. 10

result, it is clear that OPAE failed to avail itself of the opportunity to support its case. It has had more than ample opportunity to examine any costs it chose to review. Thus, OPAE's arguments ring hollow and should be rejected.

C. Ongoing Costs Are Based Upon Experience

In addition to a one-time charge for creating internal programs and IT systems to support the opt-out program, and the one-time charge a customer would pay to have an advanced meter removed and replaced with a traditional meter, the Company also provided cost information with respect to the ongoing costs associated with managing a population of customers who wish to have traditional meters. Benefits associated with SmartGrid included the very real opportunity to cease reading or providing other services on customer meters door-to-door, and instead perform those reads and meter orders remotely. The value of this benefit was returned to customers in each of the SmartGrid rider proceedings since the 2010 mid-term investigation by MetaVu. Due to the need to continue to serve meters in the "old-fashioned way" because of customers opting out, the Company provided data related to each of the operations that would necessarily continue. The costs are referred to in the Company's application as "on-going" costs and they include such categories as metering and distribution maintenance costs. Metering service costs relate to manual meter reads, on and off-cycle, and physical meter inspections that otherwise would no longer occur. Although there was much discussion at the hearing about meter routes and time necessary to travel to and from customer premises for meter read, the truth of the matter is that no one can really know where these customers will be. Additionally, the customers will vary from month to month, thereby complicating the ability of the Company to plan meter routes. As Mr. Brown noted, these customers will be spread throughout the service territory. In order to continue in its efforts to

improve meter accuracy and avoid estimated bills, the Company proposed to read each meter monthly. Staff and OCC may wish to quibble with the Company's estimation of the times necessary for these tasks, as well as for the time for performing a one-time meter swap, but the Company is in the best position to know what will be required. The Company, as explained by Mr. Brown, undertook a detailed study. The Company provided an expert witness and data to support its research and methodology. Staff's response to this was to simply throw out alternative numbers with no basis. Likewise, OCC performed no particular analysis of anything, raised no actual dispute with the legitimacy of the numbers used by the Company for such things as hourly labor, etc. and merely advances its own opinion as to what it will take internally for the Company to provide this service. It is respectfully submitted that the Company complied with the Commission's rule in good faith, and in as detailed a fashion as was possible, and the Company's application should be approved as submitted.

III. CONCLUSION

For the reasons stated above, Duke Energy Ohio respectfully requests that the Commission approve the tariff submitted by the Company and provide charges as set forth in the Company's application to allow the Company to recover costs for services provided to customers who wish to participate in an Opt-Out program.

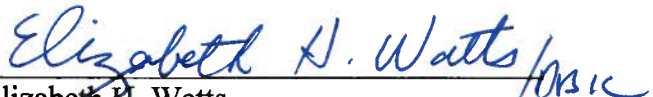
Respectfully submitted,
DUKE ENERGY OHIO, INC.

A handwritten signature in blue ink that reads "Elizabeth H. Watts" followed by a stylized initial "DHC".

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was delivered by U.S. mail (postage prepaid), personal delivery, or electronic mail, on this 15th day of December, 2015, to the following parties.


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Summary: Brief Reply Brief of Duke Energy Ohio, Inc.
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