

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)
Duke Energy Ohio, Inc. for a Grid)
Modernization Opt-Out Tariff and for)
a Change in Accounting Procedures)
Including a Cost Recovery)
Mechanism.)

Case No. 14-1160-EL-UNC
Case No. 14-1161-EL-AAM

**APPLICATION FOR REHEARING
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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In this proceeding, the Public Utilities Commission of Ohio (“PUCO” or “Commission”) imposed charges on Ohioans who simply choose to retain their existing traditional meters, rather than have an advanced meter installed on their homes.¹ The approved charges for meter reading alone are \$360 per year per customer, which is a significant burden for individual residential customers.

By its application filed June 27, 2014, Duke Energy Ohio (“Duke”) proposed a one-time charge to replace an advanced meter with a traditional meter, and a recurring monthly charge to read the traditional meter. It also proposed an alternative to defer certain one-time costs associated with information technology (“IT”) system improvements. The Office of the Ohio Consumers’ Counsel (“OCC”) timely intervened in this proceeding, presented pre-filed direct testimony, and actively participated in the hearing held October 15, 2015. In an Opinion and Order issued April 27, 2016 (“Order”), the PUCO approved a one-time customer charge for meter replacement of

¹ An advanced meter is one that is capable of either two-way communications (“AMI”) or one-way communications (“AMR”). See Joint Ex. 1 at Stipulated Exhibit B-2, Original Sheet No. 103-12.

\$100 and a recurring monthly customer charge of \$30 for meter reading. Moreover, the PUCO authorized a deferral of \$243,122 for IT system costs associated with advanced meter opt-out service. The costs are in addition to the cost-collection already in base rates for IT systems costs.

OCC files this Application for Rehearing of the Order.² The PUCO's Order is unreasonable and unlawful for the following reasons:

Assignment of Error 1: The PUCO erred by setting opt-out service charges to consumers in this proceeding instead of in Duke's upcoming base rate proceeding in which the unproven costs presented in this proceeding can be given appropriate scrutiny.

Assignment of Error 2: The PUCO erred in determining the one-time charge to replace an advanced meter with a traditional meter.

- A. The PUCO erred by approving an Order that violates R.C. 4903.09 because it fails to explain the reasons for its determination of Metering Services costs to be included within charges to consumers, and because its determinations are not based upon evidence of record. Moreover, Duke has failed to sustain its burden of proof imposed by R.C. 4909.18.
- B. The PUCO erred by approving an Order that violates R.C. 4903.09 because it fails to explain the reasons for its determination of Distribution Maintenance costs to be included within charges to consumers, and because its determinations are not based upon evidence of record. Moreover, Duke has failed to sustain its burden of proof imposed by R.C. 4909.18.
- C. The PUCO erred in approving deferral authority for the costs associated with the IT system improvements related to the opt-out service because Duke is collecting IT systems costs through existing base rates that are charged to consumers.

Assignment of Error 3: The PUCO erred in determining the monthly meter reading charge.

- A. The PUCO erred by approving an Order that violates R.C. 4903.09 because it fails to explain the reasons for its determination of Metering Services costs to be included within charges to consumers, and because its

² This Application for Rehearing is filed pursuant to R.C. 4903.10 and Ohio Adm. Code 4901-1-35.

determinations are not based upon evidence of record. Moreover, Duke has failed to sustain its burden of proof imposed by R.C. 4909.18.

- B. The PUCO erred by approving an Order that violates R.C. 4903.09 because it fails to explain the reasons for its determination of Distribution Maintenance costs to be included within charges to consumers, and because its determinations are not based upon evidence of record. Moreover, Duke has failed to sustain its burden of proof imposed by R.C. 4909.18.

Assignment of Error 4: The PUCO erred by approving an Order that is unreasonable because it fails to order Duke to help consumers avoid meter reading charges through other options to taking service under the proposed opt-out tariff. The Order also violates R.C. 4903.09 because it fails to explain the reasons for its rejection of OCC's proposal for options that could help consumers avoid meter reading charges.

For the reasons more fully explained in the attached Memorandum in Support, the PUCO should "abrogate or modify" its Order,³ consistent with OCC's recommendations.

Respectfully submitted,

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³ R.C. 4903.10.

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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application Not)
for an Increase in Rates Pursuant to)
Section 4901.18, Revised Code, of) Case No. 14-1158-EL-ATA
Ohio Power Company to Establish)
Meter Opt Out Tariff.)

MEMORANDUM IN SUPPORT

I. INTRODUCTION

By its Order in this proceeding, the PUCO approved charges to impose upon Duke’s residential customers who choose not to have a smart meter installed on their homes. Specifically, the Order approves burdensome charges of \$100 to have an advance meter replaced with a traditional meter and \$360 per year for meter reading services. In addition, the Order permits Duke to defer \$243,122 related to IT system improvement costs for eventual collection from all customers. The Order is unlawful and unreasonable because Duke has failed in its burden to show that such charges are just, reasonable,⁴ or cost-based.⁵

Because the evidence in this proceeding does not show that the charges are cost-based, the PUCO should consider Duke’s proposed costs and rate structure for the Smart Grid opt-out service in Duke’s next base rate case, which will commence within the next five months. The base distribution rate proceeding is the proper vehicle to verify Duke’s

⁴ R.C. 4905.18; R.C. 4905.22.

⁵ Ohio Adm. Code 4901:1-10-05(J)(5)(b)(ii).

true costs for removing/installing meters and taking a monthly meter reading, as well as Duke's IT system improvements.

Accordingly, the PUCO should grant rehearing for the purpose of further considering these cost-based charges in the next base rate proceeding. The PUCO should abrogate or modify its Order and set the charges for Duke's opt-out service at zero dollars. Once the rate proceeding is concluded, the rider established in this case can be populated based upon verified costs in the rate case as required by Ohio Adm. Code 4901:1-10-05(J)(5)(b)(ii).

If, however, the PUCO does not follow OCC's recommendation and instead decides to set rider charges in this proceeding, it must correct numerous findings in its Order, consistent with this application for rehearing. In this regard, the PUCO should modify its Order and set the one-time charge at a maximum of \$37.12 and the monthly charge at a maximum of \$24.

II. STANDARD OF REVIEW

Applications for rehearing are governed by R.C. 4903.10. This statute provides that any party may apply for rehearing on matters decided by the PUCO within thirty days after an order is issued. An application for rehearing must be written and must specify how the order is unreasonable and unlawful.⁶

In considering an application for rehearing, the PUCO may grant the rehearing requested in an application if "sufficient reason therefore is made to appear."⁷ If the PUCO grants rehearing and determines that its order is unjust or unwarranted, or should

⁶ R.C. 4903.10.

⁷ *Id.*

be changed, it may abrogate or modify the order.⁸ Otherwise, the order is affirmed. Under R.C. 4903.10(B), the PUCO is limited on rehearing to granting or denying a “matter[] specified in such application [for rehearing].”

OCC meets the statutory conditions applicable to an applicant for rehearing pursuant to R.C. 4903.10 and the requirements of the PUCO’s rule on applications for rehearing.⁹ OCC is a party to the case. Additionally, OCC actively participated in this case and, thus, may apply for rehearing under R.C. 4903.10. The PUCO should determine that OCC has shown “sufficient reason” to grant rehearing on the matters specified below and should abrogate or modify its Order.

In this proceeding, the PUCO must ensure that the Duke’s tariffed rates comply with Ohio law requiring utilities to charge customers rates that are just and reasonable.¹⁰ And the tariffed rates also must comply with Ohio Adm. Code 4901:1-10-05(J)(5)(b)(ii), which requires that customers pay only cost-based rates for choosing to keep a traditional electric meter. Duke bears the burden of proof on these issues.¹¹

III. ERRORS

Assignment of Error 1: The PUCO erred by setting opt-out service charges to consumers in this proceeding instead of in Duke’s upcoming base rate proceeding in which the unproven costs presented in this proceeding can be given appropriate scrutiny.

PUCO Staff witness Rutherford recommended that Duke’s proposed costs and rate structure for the SmartGrid opt-out service at issue in this proceeding be reviewed in

⁸ *Id.*

⁹ *See* Ohio Adm. Code 4901-1-35.

¹⁰ R.C. 4905.22; R.C. 4909.18.

¹¹ R.C. 4909.18.

Duke's next base rate case.¹² The PUCO, in reaching its conclusions, recognized this recommendation and apparently agrees with it.¹³ Under the stipulation in Case No. 10-2326-GE-RDR, Duke must file a base distribution rate case within one year after the PUCO Staff determines that Duke's SmartGrid is fully deployed.¹⁴ On October 15, 2015, the PUCO Staff made such a determination.¹⁵ Thus, the filing of Duke's next distribution rate case is imminent and will occur within the next five months (by October 15, 2016). Accordingly, because Duke has failed to meet its burden in this case, OCC recommends that the tariff in this proceeding be approved, but the charges be set at zero dollars pending resolution of the rate proceeding in which the costs at issue can be accurately determined.

The advantages of reviewing the costs and rate structure of the opt-out service in a base rate proceeding are enormous. As discussed below, many of the figures presented in this proceeding are estimated and contested, including the number of customers who will take opt-out service,¹⁶ the length of time to install and read meters, the need for additional communication devices, and whether Duke will use its employees or contract labor to perform meter installations and reads. In addition, there is controversy around the true

¹² Staff Ex. 2 (Rutherford Direct) at 8.

¹³ Order at 9. The Order is somewhat confusing and concludes when addressing monthly charges:

Similar to the one-time charge, we find that the approximate amount should be adjusted to an even \$30.00 to simplify customer bills. Further, Staff witness Rutherford testified that the costs and rate structure for the opt-out tariff should be subject to review in Duke's next base distribution rate case.

¹⁴ See OCC Ex. 1 at 6, n. 4.

¹⁵ *In the Matter of the Application of Duke Energy Ohio, Inc. to Adjust Rider DR-IM and Rider AU for 2010 SmartGrid Costs and Mid-Deployment Review*, Case No. 10-2326-GE-RDR, Notice of Staff Determination (October 15, 2015) at 1-2.

¹⁶ Duke's estimates are based on 725 customers taking the service; however, only 105 have affirmatively requested to keep their traditional meters. See OCC Initial Brief at 6-8.

cost of Duke's IT system upgrades related to the opt-out service.¹⁷ All of these issues will be much more distinct now that Duke's SmartGrid system is fully deployed, and the heightened scrutiny of a rate proceeding will provide the PUCO with a clearer picture of Duke's actual costs. Moreover, rate case review will fulfill the PUCO's obligation to assure that Duke's proposed charges are, indeed, cost-based.

An extremely small percentage of Duke's customers have declined advanced meters for years without being assessed a charge. There is no reason to rush to set the charges now, particularly considering the imminent rate proceeding and that Ohio Adm. Code 4901:1-10-05(J)(5)(c) and (d) make it discretionary to impose one-time and recurring charges associated with opt-out service.

Assignment of Error 2: The PUCO erred in determining the one-time charge to replace an advanced meter with a traditional meter.

The PUCO correctly prohibited Duke from imposing a one-time charge for opt-out service on customers who never have had an advanced meter installed, but have chosen to retain their traditional meters.¹⁸ However, the PUCO erred in other respects related to the one-time charge. This one-time charge is made up of two components, Metering Service and Distribution Maintenance. Metering Service is further broken down into three subcomponents: (1) the cost of traditional meters for reserve stock, (2) meter storage labor costs, and (3) meter testing/repair costs.¹⁹ Distribution Maintenance captures the cost to actually remove and install meters, and is based primarily upon the

¹⁷ In its application, Duke asserts the IT system improvement costs were \$686,140 (Duke Ex. 1, attachment, p. 3) and at hearing claimed they were \$243,122. Duke Ex. 2 (Brown Testimony), Attachment JCB-1 at 2.

¹⁸ Order at 7. *See also* Ohio Adm. Code 4901:1-10-05(J)(5)(c), which permits an electric utility to establish a one-time fee specifically "to recover the costs of removing an existing advanced meter, and the subsequent installation of an advanced meter."

¹⁹ OCC Ex. 2.

employee's hourly rate and the time estimated to complete the meter swap or installation.²⁰ The PUCO erred because it failed to consider the various cost components of the one-time charge, and because Duke has failed to sustain its burden that the charges are cost-based.

A. The PUCO erred by approving an Order that violates R.C. 4903.09 because it fails to explain the reasons for its determination of Metering Services costs to be included within charges to consumers, and because its determinations are not based upon evidence of record. Moreover, Duke has failed to sustain its burden of proof imposed by R.C. 4909.18.

Duke estimates that 725 customers will elect its smart meter opt-out service.²¹ It claims that it will need to have a reserve of stock of an additional 218 traditional meters (or 30 percent of the estimated 725 traditional meters expected). However, the Order accepts the PUCO Staff's testimony that it is unnecessary for Duke to purchase additional traditional meters.²² In making an adjustment based upon its adoption of the PUCO Staff's testimony, the Order reduces the proposed cost for *all* Metering Services by one third, decreasing the total cost from \$54,737.50 to \$36,126.75. The PUCO erred by not applying the reduction to the relevant cost components that comprise Metering Services.

Specifically, of the three components comprising Metering Services, only two – the cost of traditional meters for reserve stock (\$7,612.50) and the cost meter storage labor (\$10,875) – relate to the 218 meters at issue.²³ The costs for these components

²⁰ OCC Ex. 2.

²¹ As stated in OCC's Initial Brief at 6-8, the estimate of 725 opt-out service customers is grossly overstated, considering that only 105 customers have affirmatively elected to retain their traditional meter. The overstatement inflates the *total costs* that Duke could incur under the opt-out service. The PUCO should not be swayed by this tactic into believing that the service's costs are significant and, where appropriate, cannot be recovered under existing base rates.

²² See Order at 8.

²³ OCC Ex. 2.

should be denied in accordance with the Order's adoption of the PUCO Staff's testimony, because these 218 meters are unnecessary.

The third component of Metering Services (meter testing/repair) relates only to the 725 meters that Duke estimates to be necessary to accommodate customers who will take the opt-out service.²⁴ It is unrelated to the 218 reserve meters. However, the Order fails to address whether the costs (\$36,250²⁵) related to testing/repair of these existing traditional meters should be allowed. The overwhelming evidence of record shows that the costs should not be allowed.

Significantly, no customer in Duke's service territory has requested that an advanced meter be replaced with a traditional meter.²⁶ Absent the need to deploy additional traditional meters to replace advanced meters, Duke proposes that its meter testing/repair charge be applied to all traditional meters already installed at customers' homes, even without the customer's request.²⁷ Duke's proposal must be rejected. These meter testing/repair charges are already collected from customers through Duke's base rates,²⁸ and Duke has failed to show that its base rates are insufficient to fully collect the costs associated with meter testing and repair.²⁹

²⁴ OCC Ex. 2.

²⁵ *Id.*

²⁶ Tr. at 33.

²⁷ OCC Ex. 2; Tr. at 40-41.

²⁸ Staff Ex. 2 (Rutherford Direct) at 4.

²⁹ In this regard, the PUCO should note that Duke's total costs for meter testing/repair are grossly overstated. As noted in OCC's Initial Brief, this cost is based on Duke's unrealistic assumption that 725 customers will choose to be served by a traditional meter. However, of the 325 customers who initially requested traditional meters, only 105 continued to be served by them as of the time of hearing. Duke had yet to be able to contact the remaining 400 customers to determine whether those customers wish to retain a traditional meter. OCC Initial Brief at 6-8.

Duke's proposal is nothing more than a thinly veiled attempt to impose additional, unnecessary charges on customers who choose to opt-out of advanced meter service. Accordingly, Duke also should be prohibited charging customers the meter testing/repair charge, resulting in the denial of all of the three cost components for Metering Service.

B. The PUCO erred by approving an Order that violates R.C. 4903.09 because it fails to explain the reasons for its determination of Distribution Maintenance costs to be included within charges to consumers, and because its determinations are not based upon evidence of record. Moreover, Duke has failed to sustain its burden of proof imposed by R.C. 4909.18.

The PUCO's Order fails to explain why it allowed Duke's proposed Distribution Maintenance costs in the one-time charge, in violation of R.C. 4909.03. As stated above, the Distribution Maintenance cost component of the one-time charge captures the cost to actually remove and install meters. It is based primarily upon the employee's hourly rate and the time estimated to complete the meter swap or installation.³⁰ The labor cost is "fully loaded," which means it includes not only the cost of the technician's hourly rate, but also the cost of fringe benefits such as healthcare, vacation, etc.³¹ There are several problems with Duke's calculation of costs for distribution maintenance.³²

First, Duke offers no support for its proposed cost. The charge is based on the "experience" of project managers in changing meters.³³ Duke performed no separate studies or analysis to determine how long it would take to replace an advanced meter with a traditional meter. But no customers in Ohio have asked Duke to replace an

³⁰ See OCC Ex. 2.

³¹ *Id.* at 49.

³² Many of these same problems also are relevant to the PUCO Staff's proposed \$38 one-time charge, which is based solely on distribution maintenance costs. See Staff Ex. 2 (Rutherford) at 3-5. Thus, the PUCO Staff's proposed one-time charge also is flawed.

³³ See Tr. at 49.

advanced meter with a traditional meter. Hence, Duke has not had any experience in removing an advanced meter and replacing it with a traditional meter in Ohio.

Second, Duke bases its Distribution Maintenance cost on the fully loaded cost of using a Duke employee to replace an advance meter with a traditional meter. However, Duke might hire independent contractors to replace advanced meters with traditional meters, based on Duke's "business needs."³⁴ Nevertheless, customers would still be charged based on the fully loaded labor costs associated with a Duke employee doing the work, even though Duke does not incur fringe benefit costs when using contractors.³⁵ Thus, customers would pay for costs that Duke would not incur. Because Duke has failed in its burden to show that the Distribution Maintenance charge is cost-based, it should be disallowed in its entirety.

But if the PUCO does not completely disallow the Distribution Maintenance charge (as OCC recommends), it should reduce the charge that was approved in the Order. The record shows that the Distribution Maintenance costs should be reduced. The PUCO Staff recommended that the labor component of the cost be reduced from one hour to 45 minutes, or 25 percent. Although the Order does not reduce *one-time* Distribution Maintenance costs,³⁶ it adopts the PUCO Staff's rationale when subsequently addressing the *monthly* meter reading charge. The Order finds:

One of the ways in which Staff witness Rutherford adjusted Duke's proposed amount was by decreasing the time for meter reading *and replacement* from one hour to 45 minutes. We agree with Staff witness Rutherford, and find that all metering services proposed by

³⁴ *Id.* at 50.

³⁵ *Id.*

³⁶ *See* Order at 8 (table).

Duke should be subject to a 25 percent reduction.³⁷

Although the Order concludes that the time for meter replacement should be reduced by 25 percent, as recommended by Ms. Rutherford,³⁸ the Order fails to capture that reduction, and erroneously applies the reduction only to the monthly meter reading charge. Accordingly, at a minimum, the one-time Distribution Maintenance cost should be reduced by 25 percent from \$37,120.00 to \$27,840.00.

If this minimum adjustment is adopted, and the Metering Services costs properly disallowed, the total one-time replacement charge would be \$37.12 ($\$27,840.00/750$ meters). Although OCC recommends that the one-time charge be set at zero dollars in this proceeding, the \$37.12 charge is considerably more just and reasonable for residential customers than the \$100 charge the Order erroneously imposes.

C. The PUCO erred in approving deferral authority for the costs associated with the IT system improvements related to the opt-out service because Duke is collecting IT systems costs through existing base rates that are charged to consumers.

In this proceeding, Duke seeks to collect from customers \$243,122 in IT system improvement costs related to implementation of the opt-out service by including these cost in the onetime installation charge.³⁹ Alternatively, Duke asked the PUCO to defer these costs for collection in the next base distribution rate case. The Order granted the request for deferral, finding that the costs were atypical of the IT costs currently recovered in base rates.⁴⁰

³⁷ *Id.* at 8 (emphasis added).

³⁸ Actually, the Order confuses the record. PUCO Staff witness Rutherford testified that the time for *replacing meters* should be reduced from one hour to 45 minutes. Staff Ex. 2 (Rutherford Direct) at 5. She testified that the time for reading meters should be reduced from one hour to 35 minutes. *Id.* at 7-8

³⁹ See Duke Ex. 2 (Brown), Attachment JCB-1 at 2.

⁴⁰ Order at 7.

As a threshold matter, requiring all customers to pay the costs related to IT system improvements related to advanced meter opt-out service violates PUCO rules. Ohio Adm. Code 4901:1-10-05(J)(5)(e) requires that costs incurred by an electric utility to provide advanced meter opt-out service shall be borne only by customers who elect to receive advanced meter opt-out service. To the extent that the PUCO considers the costs to be a part of general IT system improvements, as the Order intimates,⁴¹ the costs are properly considered in the next base rate proceeding.

Moreover, Duke has not shown that these costs were necessary to serve opt-out customers. According to Duke witness Brown, the modifications involved:

- (1) the ability to bill any approved one-time and ongoing charges;
- (2) inclusion of a “special condition” for opt-out customers “so that when customers call in, maybe have bill questions or complaints, you can see that they are traditional customer – using a traditional meter as opposed to an AMI meter”; and
- (3) allowing Duke’s work management system to automatically identify customers who have a traditional meter so that if Duke must do a meter swap, the technician will be able to take the right meter.⁴²

Duke, which has the burden of proof in this case, has not shown that it should be allowed to collect the IT Systems costs from customers. Duke is already collecting IT-related costs through its base distribution rates. In arguing against Duke’s proposed deferral of the IT Systems costs, PUCO Staff witness Liphtratt testified that Duke “has

⁴¹ *Id.*

⁴² Tr. at 55-56.

not shown that IT related costs embedded in the last rate case are insufficient in comparison to current levels of spending....”⁴³ Mr. Lipthrott based his conclusion on Duke’s response to a PUCO Staff data request in which Duke stated that “it would have both capitalized and expensed IT costs included in the last base rate case.”⁴⁴

In addition, Duke is already providing service to, and billing the usage of, residential customers who have a traditional meter.⁴⁵ As OCC witness Williams noted, it appears that the only changes to the billing system are for Duke to be able to bill the one-time and monthly charges it seeks to impose in this proceeding.⁴⁶ Customers should not have to pay for such billing system changes, especially when the PUCO does not require a utility to implement the one-time and recurring charges,⁴⁷ and when Duke has not shown that the IT-related costs already included in base rates is insufficient to make the changes.

Duke has not shown that it should be allowed to collect the IT Systems costs associated with opt-out. The PUCO should not allow the costs, either as a deferral, or part of the one-time charge.

Assignment of Error 3: The PUCO erred in determining the monthly meter reading charge.

The monthly meter reading charge is comprised of two components, Metering Services and Distribution Maintenance. Metering Services has three subcomponents (1)

⁴³ PUCO Staff Ex. 3 (Lipthrott) at 6.

⁴⁴ *Id.*

⁴⁵ See Tr. at 56-57.

⁴⁶ OCC Ex. 3 (Williams) at 11.

⁴⁷ Ohio Adm. Code 4901:1-10-05(J)(5)(c) and (d) allow, but do not require, utilities to impose one-time and recurring charges associated with opt-out.

costs for monthly meter reading for on-cycle reads (\$348,000), (2) costs for monthly meter reading for off-cycle reads (\$290), and (3) revenue assurance (\$725).⁴⁸ An on-cycle read is the monthly meter read; an off-cycle read is generally performed at initiation or termination of service; revenue assurance is related to theft investigations.⁴⁹

Distribution Maintenance is comprised of two subcomponents: (1) communication device installation (\$2,469.18) and (2) the communication device (\$1,957.50). The subcomponents capture the cost of purchasing, locating and installing communication devices to read meters that are “stranded” because of communications gaps that may be caused by traditional meters.⁵⁰

A. The PUCO erred by approving an Order that violates R.C. 4903.09 because it fails to explain the reasons for its determination of Metering Services costs to be included within charges to consumers, and because its determinations are not based upon evidence of record. Moreover, Duke has failed to sustain its burden of proof imposed by R.C. 4909.18.

The Order notes that PUCO Staff witness Rutherford recommends that the costs for revenue assurance and all Distribution Maintenance costs be disallowed, and that the cost for on-cycle and off-cycle meter reading be reduced. However, as noted above, Ms. Rutherford recommended that the time for performing meter reading be reduced from one hour to 35 minutes.⁵¹ However, the Order adopted a 25 percent reduction (from one hour to 45 minutes) for meter reading and applied it to *all* Metering Services, including revenue assurance (i.e., theft investigations).⁵² As stated above, the 25 percent time

⁴⁸ OCC Ex. 2.

⁴⁹ See Tr. at 58-59.

⁵⁰ See Duke Ex. 2 (Brown), Attachment JCB-1 at 3. See also Tr. at 72-73.

⁵¹ Staff Ex. 2 (Rutherford Direct) at 7-8.

⁵² Order at 8.

reduction was Ms. Rutherford's recommended adjustment for the one-time meter replacement charge, not monthly meter reading.⁵³

As a threshold matter, for the reasons listed in OCC's Initial Brief, the PUCO erred by not finding that Duke failed to carry its burden of showing that the Metering Services charges are not cost-based.⁵⁴ However, at a minimum, the PUCO should correct the error of reducing *all* Metering Services costs by 25 percent.

Of the three Metering Services subcomponents, only the on-cycle and off-cycle meter reading subcomponents involve time to read meters. Accepting Ms. Rutherford's recommendation, the time to read those meters should be reduced from one hour to 35 minutes (approximately 40 percent), and the meter reading costs reduced accordingly.⁵⁵

The Order does not specifically address revenue assurance (theft investigations). The PUCO should disallow the revenue assurance costs because they are not functions that occur monthly. Revenue assurance involves sending out a technician to examine whether a meter has been tampered with.⁵⁶ This does not occur with each customer on a monthly basis; in fact, Duke assumes that it will conduct theft investigation for approximately one percent of meters,⁵⁷ which would involve fewer than seven traditional meters per year.

⁵³ Staff Ex. 2 (Rutherford Direct) at 5.

⁵⁴ OCC Initial Brief at 19-21.

⁵⁵ On-cycle costs would be reduced from \$348,000 to \$208,000; and off-cycle costs would be reduced from \$290 to \$174.

⁵⁶ *See id.* at 69-70.

⁵⁷ *See* OCC Ex. 2, p. 7.

Duke does this strictly for its own edification. It is not a function that the customer has requested. Customers should not be charged for this. Indeed, Ms. Rutherford recommends that this cost be disallowed under Duke's current tariff.⁵⁸

B. The PUCO erred by approving an Order that violates R.C. 4903.09 because it fails to explain the reasons for its determination of Distribution Maintenance costs to be included within charges to consumers, and because its determinations are not based upon evidence of record. Moreover, Duke has failed to sustain its burden of proof imposed by R.C. 4909.18.

The Order fails to explain why it allowed Duke's proposed Distribution Maintenance costs, in violation of R.C. 4909.03. As stated above, the Distribution Maintenance cost component of the monthly charge to consumers captures the cost of purchasing, locating and installing communication devices to read meters that are "stranded" because of communications gaps that may be caused by traditional meters.⁵⁹ Duke has not shown support for these estimated costs. As OCC witness Williams noted, Duke stated in a discovery response that no communications gaps have been caused by traditional meters.⁶⁰ Thus, Duke has not shown the accuracy of its estimated need for communication devices. The cost is purely speculative, and until Duke shows an actual need for the communication nodes, customers should not pay for them.

Moreover, as the PUCO Staff recognizes, these communication nodes are used to support the SmartGrid service and should not be collected as a monthly charge from customers who opt out of SmartGrid service.⁶¹ Thus, these communication nodes should

⁵⁸ Staff Ex. 2 (Rutherford Direct) at 7.

⁵⁹ See Duke Ex. 2 (Brown), Attachment JCB-1 at 3. See also Tr. at 72-73.

⁶⁰ OCC Ex. 3 (Williams) at 16.

⁶¹ Staff Ex. 2 (Rutherford Direct) at 6.

be a capital investment and should be collected from customers through Duke's base rates. This issue is best reserved for Duke's next base rate proceeding, as discussed above.

If these Distribution Maintenance costs are disallowed, and the Metering Services costs properly adjusted, the total monthly charge would be approximately \$24. Although OCC recommends that the monthly charge be set at zero dollars, the \$24 charge is considerably more just and reasonable to residential customers than the \$30 charge the Order erroneously imposes.

Assignment of Error 4: The PUCO erred by approving an Order that is unreasonable because it fails to order Duke to help consumers avoid meter reading charges through other options to taking service under the proposed opt-out tariff. The Order also violates R.C. 4903.09 because it fails to explain the reasons for its rejection of OCC's proposal for options that could help consumers avoid meter reading charges.

At hearing and on brief, OCC proposed that the PUCO order Duke to work with its customers to provide options to taking service under the opt-out tariff. However, the Order does not address the issue and provides no explanation for its rejection, in violation of R.C. 4903.09.

In its Entry on Rehearing where it established opt-out rules, the PUCO stated:

The Commission believes that the EDUs should work with customers on a case by case basis, regardless of whether their meter is an advanced meter, and should arrive at a mutually agreeable solution to the customer's concerns. The EDUs should recognize advanced meter opt-out service as one of many solutions to customer concerns regarding their meters.⁶²

Duke, however, offers no alternatives to its proposed opt-out tariff. Residential customers can either take the opt-out service dictated by Duke – with its exorbitant one-

⁶² See Case No. 12-2050-EL-ORD, Entry on Rehearing (December 18, 2013) ("Opt-Out Entry on Rehearing") at 3.

time charge and unavoidable monthly meter reading charge – or the customers must have an advanced meter installed at their homes against their wishes. This runs counter to the PUCO’s directive in the Opt-Out Entry on Rehearing. In furtherance of its directive, the PUCO should require Duke to work with customers in developing more options for opting out of having an advanced meter.

One simple option would be for customers to be allowed to avoid the additional charge associated with the monthly meter reading charge. To avoid this charge, customers should have the option of reading their own meters during most months and reporting the reading to Duke. As OCC witness Williams pointed out, Duke already has this capability.⁶³ This was confirmed at hearing by Duke witness Brown.⁶⁴

Allowing customers to read their own meter and report it to Duke is consistent with the PUCO’s rules. Ohio Adm. Code 4901:1-10-05(I)(1) requires that utilities read meters only once a year, and provides for utilities and customers to make other arrangements for meter reading:

The electric utility shall obtain actual readings of all its in-service customer meters at least once each calendar year. Every billing period, the electric utility shall make reasonable attempts to obtain accurate, actual readings of the energy and demand, if applicable, delivered for the billing period, except where the customer and the electric utility have agreed to other arrangements.

The PUCO should require Duke to make this option available to customers who choose not to have an advanced meter at their homes.

Another alternative would be for Duke to waive charges for installing an advanced meter at a different location from where the traditional meter is currently

⁶³ OCC Ex. 3 (Williams) at 5-6.

⁶⁴ Tr. at 38.

installed. Duke gives customers the option of installing an advanced meter in a location different from the traditional meter – but at the customer’s expense. This was discussed during the cross-examination of Duke witness Brown:

Q. [By Mr. Stinson] Now, isn’t it true that if a customer expresses a concern about having an AMI meter installed, the customer has two options, the first being to have a traditional meter?

A. [By Mr. Brown] I believe that’s what this tariff was filed for.

Q. And is another option to have the AMI meter located further from the customer’s residence?

A. The customer can have their meter base moved, and we will install a meter base somewhere else – or, excuse me, a meter and that meter base somewhere else on their property.

Q. And isn’t it true that the customer pays for that relocation?

A. Yes.⁶⁵

Duke has also not shown a willingness to work with customers who have concerns about the communications functions of advanced meters. Duke has alleged that PUCO rules prevent it from shutting off the communications function.⁶⁶ But that is simply not the case. In the Opt-Out Entry on Rehearing, the PUCO specifically mentioned turning off the communications function as an alternative to opt-out:

The Commission notes that the electric utility may continue to work with customers on alternatives to opt-out, such as turning off the communication function of the meter or moving the meter to another area of the property, but the customer shall have the option to request full advanced meter opt-out service for replacement of the advanced meter with a traditional meter.⁶⁷

⁶⁵ Tr. at 78-79.

⁶⁶ *Id.* at 79.

⁶⁷ Opt-Out Entry on Rehearing at 3.

The Order errs by not requiring Duke to work with customers regarding their concerns over traditional meters. This also includes providing customers with alternatives to monthly meter readings that Duke already makes available to customers.

IV. CONCLUSION

Duke has the burden of proof in this case to show that its proposed charges for customers who choose a traditional meter are just and reasonable. Duke has failed to meet this burden and the PUCO should reverse its Order and deny Duke's application.

Because Duke has failed to sustain its burden in this proceeding, its costs should be examined in the rate proceeding that will commence within the next five months. In that event, the PUCO should approve the Application with both the one-time charge and the monthly recurring charge set at zero dollars. The charges then would be populated once the rate proceeding has concluded.

But if the PUCO does not follow OCC's recommendation and instead determines to set the opt-out service charges in this proceeding, it must revise its determination of various costs consistent with this application for rehearing. The one-time charge should be set at no more than \$37.12 and the monthly charge at a maximum of \$24, as discussed above. The PUCO should also order Duke to develop more alternatives to opt-out for customers.

To protect consumers, the PUCO should grant OCC's application for rehearing in this proceeding.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Application for Rehearing was served on the persons stated below via electronic transmission, this 27th day of May 2016.

/s/ Terry L. Etter

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