

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of            ) Case No. 16-1096-EL-WVR  
Duke Energy Ohio, Inc. for a Waiver.        )

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**MOTION TO INTERVENE  
AND  
OBJECTIONS  
BY  
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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June 17, 2016

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The Office of the Ohio Consumers' Counsel ("OCC") moves to intervene in this case involving the rights of Ohioans whose electric service is to be disconnected for nonpayment. OCC is filing on behalf of Duke's 615,000 residential electric utility customers.

The Public Utilities Commission of Ohio ("PUCO") requires electric utilities to provide residential consumers with personal notice on the day their service is to be disconnected for nonpayment.<sup>1</sup> If the customer (or an adult consumer) is not at the home, electric utilities must leave written notice in a conspicuous place at the customer's home prior to disconnection.<sup>2</sup>

The personal notice requirements are important in ascertaining whether shutting off the electricity could cause tragic consequences for consumers in the home. And, the personal notice is that last opportunity for customers to avoid disconnection of electric service. Duke Energy Ohio, Inc. ("Duke") seeks to avoid giving this personal notice of service disconnection to its residential electric customers. With the waiver, Duke could

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<sup>1</sup> Ohio Adm. Code 4901:1-18-06(A)(2).

<sup>2</sup> *Id.*

utilize the remote disconnection function of its advanced metering infrastructure (“AMI” or “advanced”) meters to disconnect residential electric customers for nonpayment.<sup>3</sup>

The reasons the PUCO should grant OCC intervention are further set forth in the attached Memorandum in Support. OCC also submits its initial objections to Duke’s proposal to avoid providing proper notice of disconnection to residential customers whose homes have advanced meters.<sup>4</sup> The PUCO should deny Duke’s request.

Respectfully submitted,

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<sup>3</sup> See Application for a Waiver by Duke Energy Ohio, Inc. (“Application”) (May 13, 2016) at 1-2.

<sup>4</sup> OCC reserves the right to file any additional pleadings the PUCO may allow in this proceeding.

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**MEMORANDUM IN SUPPORT**

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**I.     INTERVENTION**

In its Application, Duke seeks to be excused from providing personal notice of disconnection for nonpayment of electric service to its residential customers whose homes are equipped with advanced meters. Such customers are entitled to receive personal notice under the PUCO’s rules.<sup>5</sup> Instead, Duke wants to disconnect residential customers’ service remotely through the advanced meters without ever having to personally appear at customers’ homes.<sup>6</sup> Duke proposes that the waiver be undertaken as a “pilot” program, to run from “no later than” August 1, 2016 through May 31, 2019.<sup>7</sup>

Through its waiver request, Duke would deprive customers whose homes are equipped with an advanced meter from an additional opportunity to avoid disconnection.<sup>8</sup> OCC has authority under law to represent the interests of all of Duke’s 615,000 residential utility customers, pursuant to R.C. Chapter 4911.

R.C. 4903.221 provides, in part, that any person “who may be adversely affected” by a PUCO proceeding is entitled to seek intervention in that proceeding. The interests of Ohio’s residential customers may be “adversely affected,” especially if the customers

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<sup>5</sup> Ohio Adm. Code 4901:1-18-06(A)(2).

<sup>6</sup> See Application at 2.

<sup>7</sup> *Id.* at 7.

<sup>8</sup> See Ohio Adm. Code 4901:1-18-06(A)(4)(a)-(c).

were unrepresented in this case where Duke is seeking a waiver of a PUCO rule that protects customers from termination of electric service without adequate notice. Thus, this element of the intervention standard in R.C. 4903.221 is satisfied.

R.C. 4903.221(B) requires the PUCO to consider the following criteria in ruling on motions to intervene:

- (1) The nature and extent of the prospective intervenor's interest;
- (2) The legal position advanced by the prospective intervenor and its probable relation to the merits of the case;
- (3) Whether the intervention by the prospective intervenor will unduly prolong or delay the proceeding; and
- (4) Whether the prospective intervenor will significantly contribute to the full development and equitable resolution of the factual issues.

First, the nature and extent of OCC's interest is representing Duke's residential customers in this case involving the requisite notice for disconnection of service, as required by Ohio Adm. Code 4901:1-18-06(A)(2). This interest is different from that of any other party and especially different from that of the utility whose advocacy includes the financial interest of stockholders.

Second, OCC's advocacy for residential customers will include advancing the position that Duke's customers are entitled to the protections set forth in Ohio Adm. Code 4901:1-18-06(A)(2), which mandates that on the day of disconnection of service for nonpayment, electric utilities "shall provide the customer with personal notice" or provide personal notice to an adult consumer at the home if the customer is not there. Ohio Adm. Code 4901:1-18-06(A)(2) alternatively provides that if neither the customer

nor an adult consumer is at the home on the day of disconnection, the utility “shall attach written notice to the premises in a conspicuous location prior to disconnecting service.”

OCC’s position is therefore directly related to the merits of this case that is pending before the PUCO, the authority with regulatory control of public utilities’ service quality in Ohio.

Third, OCC’s intervention will not unduly prolong or delay the proceeding. OCC, with its longstanding expertise and experience in PUCO proceedings, will duly allow for the efficient processing of the case with consideration of the public interest.

Fourth, OCC’s intervention will significantly contribute to the full development and equitable resolution of the factual issues. OCC will obtain and develop information that the PUCO should consider for equitably and lawfully deciding the case in the public interest.

OCC also satisfies the intervention criteria in the Ohio Administrative Code (which are subordinate to the criteria that OCC satisfies in the Ohio Revised Code). To intervene, a party should have a “real and substantial interest” according to Ohio Adm. Code 4901-1-11(A)(2). As the advocate for residential utility customers, OCC has a very real and substantial interest in this case where Duke is seeking waiver of the notice of disconnection requirements as they apply to customers whose homes are equipped with advanced meters.

In addition, OCC meets the criteria of Ohio Adm. Code 4901-1-11(B)(1)-(4). These criteria mirror the statutory criteria in R.C. 4903.221(B) that OCC already has addressed and that OCC satisfies.

Ohio Adm. Code 4901-1-11(B)(5) states that the PUCO shall consider the “extent to which the person’s interest is represented by existing parties.” While OCC does not concede the lawfulness of this criterion, OCC satisfies this criterion in that it uniquely has been designated as the state representative of the interests of Ohio’s residential utility customers. That interest is different from, and not represented by, any other entity in Ohio.

Moreover, the Supreme Court of Ohio confirmed OCC’s right to intervene in PUCO proceedings, in deciding two appeals in which OCC claimed the PUCO erred by denying its interventions. The Court found that the PUCO abused its discretion in denying OCC’s interventions and that OCC should have been granted intervention in both proceedings.<sup>9</sup>

OCC meets the criteria set forth in R.C. 4903.221, Ohio Adm. Code 4901-1-11, and the precedent established by the Supreme Court of Ohio for intervention. On behalf of Ohio residential customers, the PUCO should grant OCC’s Motion to Intervene.

## **II. OBJECTIONS TO WAIVER**

### **A. Introduction**

The PUCO’s disconnection rules help protect consumers by requiring utilities to give customers personal notice on the day service is to be disconnected. Ohio Adm. Code 4901:1-18-06(A)(2) provides the following:

On the day of disconnection of service, the utility company shall provide the customer with personal notice. If the customer is not at home, the utility company shall provide personal notice to an adult consumer. If neither the customer nor an adult consumer is at home,

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<sup>9</sup> See *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶13-20 (2006).



the utility company shall attach written notice to the premises in a conspicuous location prior to disconnecting service.

The PUCO has recognized the importance of personal notice to customers on the day of disconnection for nonpayment. In rejecting Duke's previous request for waiver of the personal notice rule, the PUCO stated that "[w]ithout personal notification, or the display of notice, it is possible that customers may be unaware of the pending disconnection, or may believe that the lack of service is the result of an outage."<sup>10</sup> The PUCO also has previously noted that the notice rules are there "to ensure that, during the winter heating season, every effort is made to contact a customer facing disconnection before the disconnection of the customer's service."<sup>11</sup> There is no doubt that living in homes without electricity can have serious health and safety implications for Ohioans.<sup>12</sup>

Duke is asking the PUCO for authority to avoid this requirement of personal notice on the day electric service is to be disconnected for nonpayment for customers who have advanced meters.<sup>13</sup> This would affect nearly all Duke electric customers in Ohio.<sup>14</sup> Instead of personal notice, on the day of disconnection Duke would like to use a

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<sup>10</sup> *In the Matter of the Application of Duke Energy Ohio, Inc. for a Waiver of Certain Sections of the Ohio Administrative Code for SmartGrid Pilot Programs*, Case No. 10-249-EL-WVR, Entry (June 2, 2010) at 7.

<sup>11</sup> *In the Matter of the Application of Brainard Gas Corporation, Orwell Natural Gas Company and Waterville Gas and Oil Company for a Waiver of Rule 4901:1-18(B)(1), Ohio Administrative Code*, 09-1970-GA-WVR, Finding and Order (February 11, 2010) at 2; *In the Matter of the Commission's Review of Chapters 4901:1-17 and 4901:1-18, and Rules 4901:1-5-07, 4901:1-10-22, 4901:1-13-11, 4901:1-15-17, 4901:1-24-14, and 4901:1-29-12 of the Ohio Administrative Code*, Case No. 08-723-AU-ORD, Entry (September 23, 2009) at 7-8.

<sup>12</sup> *See Pitzer v. Duke Energy Ohio, Inc.*, Case No. 15-298-GE-CSS.

<sup>13</sup> Duke states that the waiver would apply only to customers who are "served by certified AMI technology...." Application at 4, 5, 6.

<sup>14</sup> Approximately 105 Duke residential customers have traditional meters, rather than advanced meters. *See In the Matter of the Application of Duke Energy Ohio, Inc. for Approval of a Grid Modernization Opt-Out Tariff and for a Change in Accounting Procedures Including a Cost Recovery Mechanism*, Case No. 14-1160-EL-UNC, Hearing Transcript at 35. Approximately 400 other residential customers may still have traditional meters. *See id.* at 48-49. The waiver request apparently does not apply to customers with traditional meters. The PUCO should continue to require personal visits on the day of disconnection for customers who have traditional meters.

single text message and a single automated telephone call to notify the customer whose service is about to be disconnected for nonpayment.<sup>15</sup> Duke would supplement these messages with year-round use of the ten-day notice that is required during the winter heating season and reminders from call center personnel, should a customer facing disconnection call Duke.<sup>16</sup> Duke would also use bill inserts to inform customers that it no longer will provide day of disconnection notice.<sup>17</sup> Duke states that it will continue providing personal visits to the homes of “Critical Care” customers on the day of disconnection.<sup>18</sup>

Duke proposes that the waiver be undertaken as a “pilot” program, to run from “no later than” August 1, 2016 through July 31, 2019.<sup>19</sup> Duke has proposed to gather data regarding seven “topics” for gauging the effect of the “pilot.”<sup>20</sup> Duke claims the timeframe “would enable inclusion of two winter heating seasons,”<sup>21</sup> although the “pilot” would be for three years and include three winter heating seasons.

Duke proposes to provide the data only to PUCO Staff within 30 days after the “pilot” is completed.<sup>22</sup> In addition, after conclusion of the pilot, Duke proposes to continue disconnecting residential customers for nonpayment according to the process

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<sup>15</sup> Application at 5-6.

<sup>16</sup> *Id.* at 6.

<sup>17</sup> *Id.* at 5.

<sup>18</sup> *Id.* at 6.

<sup>19</sup> *Id.* at 7.

<sup>20</sup> *Id.* at 8.

<sup>21</sup> *Id.* at 7.

<sup>22</sup> Any data compiled under a “pilot” should be docketed, and should be provided to intervenors in the case.

outlined above while the PUCO Staff reviews the results of the “pilot,” unless otherwise ordered by the PUCO.<sup>23</sup>

The PUCO’s rules requiring utilities to make personal visits to customers’ homes on the day of disconnection for nonpayment give customers a much-needed opportunity to avoid disconnection. The PUCO should not diminish this essential consumer protection. The PUCO should deny Duke’s request.

### **B. Standard of Review**

Under Ohio Adm. Code 4901:1-18-02(B)(3), the PUCO may waive any requirement, standard, or rule in Chapter 4901:1-18 for good cause shown. An application for a waiver must include the specific rule(s) requested to be waived. The waiver request must also provide sufficient explanation, by rule, to allow the PUCO to thoroughly evaluate the waiver request.

As discussed below, Duke has not shown good cause for the requested waiver.

### **C. The PUCO should reject Duke’s request for a waiver because the pilot program in AEP Ohio’s service territory is still ongoing, the nature of Duke’s requested waiver is vague, and Duke’s waiver contains inadequate consumer protections.**

In its Application, Duke cites to the PUCO’s approval of a waiver of the disconnection rules granted to AEP Ohio.<sup>24</sup> The PUCO granted that waiver as a pilot program in March 2015.<sup>25</sup>

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<sup>23</sup> *Id.* at 8.

<sup>24</sup> *See id.* at 4.

<sup>25</sup> *In the Matter of the Application of Ohio Power Company for a Limited Waiver of Rule 4901:1-18-06(A)(2), Ohio Administrative Code*, Case No. 13-1938-EL-WVR, Entry (March 18, 2015) (“AEP Ohio Entry”).

AEP Ohio’s pilot has not even completed its first year; it is scheduled to run from August 1, 2015 through August 1, 2017.<sup>26</sup> The results of AEP Ohio’s program will not be available for PUCO review until after August 1, 2017. Hence, the PUCO cannot yet assess the effect of AEP Ohio’s pilot program on consumers. Until the PUCO determines from the AEP Ohio pilot that the lack of personal notice does not have a negative impact on residential consumers, the PUCO should not eliminate the important protection of personal notice on the day of disconnection for other Ohioans.

The nature of Duke’s requested waiver is vague. Duke states that the waiver would affect residential customers “served by certified AMI technology, except as otherwise provided herein.”<sup>27</sup> But Duke does not specifically identify the types of residential customers with advanced meters who would not be affected by the waiver. Duke later discusses “Critical Care” customers,<sup>28</sup> but apparently does not mention any other customers who would be excluded from the waiver. Ohio law explicitly requires reasonable provisions in the disconnection procedures for the elderly and handicapped.<sup>29</sup> The PUCO should not grant a waiver that is vague and that can jeopardize the health and safety of elderly and handicapped Ohioans.

Duke’s proposal gives consumers less protection than is afforded consumers in AEP Ohio’s pilot. AEP Ohio limited its pilot program to the approximately 132,000 customers in its Phase 1 gridSMART area who have advanced meters.<sup>30</sup> AEP Ohio’s pilot will not apply to any residential customers who receive an advanced meter through

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<sup>26</sup> *Id.* at 13.

<sup>27</sup> Application at 4.

<sup>28</sup> *Id.* at 6-7. OCC addresses the issue of “Critical Care” customers below.

<sup>29</sup> R.C. 4933.122(C).

<sup>30</sup> AEP Ohio Entry at 1.

AEP Ohio's gridSMART Phase 2.<sup>31</sup> Duke, on the other hand, does not specify any particular group of residential customers or portion of its service territory that would be targeted for the "pilot." Hence, Duke apparently would apply its waiver to all of the more than 600,000 Duke residential customers who have an advanced meter.

AEP Ohio's pilot program also has definite parameters. The PUCO stated that should AEP Ohio wish to continue its pilot beyond August 1, 2017 or expand it to other customers, AEP Ohio must seek PUCO approval and notify the parties to the waiver proceeding by June 1, 2017.<sup>32</sup> Duke, however, apparently plans to start the "pilot" even without PUCO approval. In the Application, Duke states: "Duke Energy Ohio proposes here that its waiver request be undertaken as a pilot, with the initial term commencing *upon Commission approval of this application but no later than August 1, 2016...*"<sup>33</sup> This indicates that Duke intends to begin the "pilot" not later than August 1, 2016 regardless of whether the PUCO has approved it.

Further, Duke plans to continue its "pilot" past the July 31, 2019 end date. In its Application, Duke stated: "To minimize customer confusion, inefficiencies, and unnecessary cost, Duke Energy Ohio will continue to adhere to the parameters of the pilot during the review period and, unless otherwise ordered by the Commission, after such review period has concluded."<sup>34</sup> The data review period would not begin until

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<sup>31</sup> See Case No. 13-1938-EL-WVR, Notice of Amended Application (September 5, 2014) ("AEP Ohio Application Amendment").

<sup>32</sup> AEP Ohio Entry at 13.

<sup>33</sup> See Application at 7 (emphasis added).

<sup>34</sup> See *id.* at 8.

approximately 30 days after July 31, 2019.<sup>35</sup> Hence, Duke doesn't really propose an end date to the "pilot."<sup>36</sup>

The notice proposed by Duke is also inadequate to protect consumers. An automated text message and a robocall to customers are a poor substitute for an in-person visit on the day of disconnection. Customers who are facing disconnection of their electric service for nonpayment are often in a dire financial situation. Electricity is usually the last utility service they can do without, so they might not have a working telephone. In such instances, an automated text message or an automated telephone call might not be received by customers whose electric service is about to be disconnected. This could lead to tragic results, especially during cold weather months.

**D. Duke's high percentage of residential customers who have been disconnected for nonpayment raises concerns about the waiver request.**

Duke asserts that "approval of the waiver will not increase the number of eligible disconnections..."<sup>37</sup> The PUCO should not take this claim at face value.

For several years, Duke's percentage of residential electric customers who have been disconnected for nonpayment has been the highest among Ohio's electric distribution utilities.<sup>38</sup> The waiver Duke is seeking can only lead to increased disconnections of Duke's residential electric customers because electric service could then be remotely terminated from a distant Duke office through automated processes.

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<sup>35</sup> *See id.*

<sup>36</sup> Duke also does not explain what "customer confusion, inefficiencies, and unnecessary cost" it is referring to.

<sup>37</sup> Application at 4.

<sup>38</sup> On September 15, 2015, OCC and Citizens United for Action filed a complaint in Case No. 15-1588-GE-CSS regarding Duke's policies and practices concerning disconnection of residential customers' service for nonpayment. The parties in that case are awaiting a PUCO ruling on discovery issues that arose in October 2015. No settlement conference has been scheduled.

Each June, Ohio public utilities file their annual reports of service disconnections for nonpayment, as required by R.C. 4933.123. The report covers the period June 1 of the previous year through May 31 of the year the report is filed. Until 2013, Duke submitted combined disconnection data for electric and gas. Beginning with the June 2013 report, Duke separated the gas and electric disconnection data. The following table contains the data from the reports submitted by Ohio’s electric utilities for reporting years 2013 through 2015:

**Ohio Electric Utility Disconnections of Residential Customers for Nonpayment  
(2013-2015)<sup>39</sup>**

Company	Reporting Year 2013			Reporting Year 2014			Reporting Year 2015		
	Discon	Customers	%Disc	Discon	Customers	%Disc	Discon	Customers	%Disc
Duke	77,165	613,181	13.6	83,199	615,738	14.3	80,317	619,513	13.0
AEP Ohio	98,917	1,273,361	7.8	88,390	1,273,602	6.9	96,456	1,275,815	7.6
DP&L	34,822	454,605	7.7	31,288	457,392	6.8	30,837	458,053	6.7
Ohio Edison	45,685	918,450	5.0	45,124	919,344	4.9	46,561	922,193	5.1
Toledo Edison	8,479	272,006	3.1	9,717	271,717	3.6	8,490	271,719	3.1
CEI	15,970	660,818	2.4	14,736	660,648	2.2	14,594	661,170	2.2

As shown in the table, Duke has disconnected a high proportion of customers for non-payment as compared with the other Ohio electric utilities. Duke’s rate of disconnections has been close to, or more than, double that of Ohio’s other electric utilities. And Duke consistently has disconnected the second-most number of residential customers for nonpayment, even though Duke is fourth in total number of residential electric customers.

<sup>39</sup> *In the Matter of the Annual Report of Service Disconnections for Nonpayment Required by Section 4933.123, Revised Code, Case No. 15-882-GE-UNC; In the Matter of the Annual Report of Service Disconnections for Nonpayment Required by Section 4933.123, Revised Code, Case No. 14-846-GE-UNC; In the Matter of the Annual Report of Service Disconnections for Nonpayment Required by Section 4933.123, Revised Code, Case No. 13-1245-GE-UNC.*

The PUCO should be concerned about Duke’s recent history of disconnecting customers for nonpayment. If Duke is allowed to remotely disconnect residential customers for nonpayment, more Ohioans will likely lose their electric service.

**E. Duke’s waiver request is inadequate to protect at-risk customers.**

AEP Ohio exempted “vulnerable customers” from its pilot.<sup>40</sup> “Vulnerable customers” were described as customers who are over 60 years of age and have demonstrated difficulty understanding AEP Ohio’s disconnection practices or procedures, someone with mental impairments who is unable to comprehend the bill or disconnection process, and persons with life support equipment or verified medical certificates.<sup>41</sup> Duke, on the other hand, proposes to continue providing day of disconnection personal visits to “residential customers who are classified as Critical Care customers pursuant to the Commission’s regulations.”<sup>42</sup> Duke does not define “Critical Care” customers, and contrary to Duke’s statement the term is not contained in PUCO regulations.

The PUCO’s rules do include the term “critical customer,” which is defined as “any customer or consumer on a medical or life-support system who has provided appropriate documentation to the electric utility that an interruption of service would be immediately life-threatening.”<sup>43</sup> This definition, however, is not as broad as the term “vulnerable customers” used by AEP Ohio; for example, it does not include persons who

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<sup>40</sup> See AEP Ohio Entry at 1.

<sup>41</sup> *Id.*

<sup>42</sup> Application at 6.

<sup>43</sup> Ohio Adm. Code 4901:1-10-01(H).



have difficulty understanding the bill and disconnection process.<sup>44</sup> Such individuals should continue to receive personal visits on the day of disconnection.

Further, Duke's proposal inadequately protects consumers who should be identified as "Critical Care" customers, but who aren't. Duke states that if it learns that it has remotely disconnected a residential customer who meets the "Critical Care" definition but is not on the list of "Critical Care" customers, Duke will restore the customer's service "as soon as practicable...."<sup>45</sup> Duke does not explain what it means by "as soon as practicable." Delay in restoring electrical service to a consumer with a serious medical condition could have grave consequences. Because Duke would not have to send personnel to such a customer's home to restore service, the customer's service should be reconnected immediately.

**F. Duke's request for waiver does not include a reduction in distribution rates to account for the savings that would result from eliminating the in-person disconnection notice requirements of Ohio Adm. Code 4901:1-18-016(A)(2).**

Duke seeks to reap the benefits of waiving the requirements of Ohio Adm. Code 4901:1-18-06(A)(2) while failing to properly adjust its rates to account for the cost savings associated with remote disconnection. The ability to remotely disconnect a customer's electric service without in-person notice would greatly reduce Duke's cost associated with disconnection and reconnection.

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<sup>44</sup> OCC raised concerns about privacy issues involved with AEP Ohio's definition of "vulnerable," which was limited to customers over 60 years of age who have difficulty understanding the disconnection process. Case No. 13-1938-EL-WVR, OCC Motion to Intervene and Objections (October 18, 2013) at 6-8. In order to avoid the privacy concerns raised in the AEP Ohio waiver case, the PUCO should include customers who have difficulty understanding the disconnection process, regardless of age.

<sup>45</sup> Application at 7.

In its pilot, AEP Ohio committed to waiving overtime reconnection fees for the customers in the remote disconnect pilot area.<sup>46</sup> Duke, meanwhile, has not committed to waiving, or even reducing, any disconnection or reconnection fees. Duke claims that its waiver would enable efficiency and proper cost alignment.<sup>47</sup> Yet Duke does not offer to pass those efficiencies on to customers through reduced disconnection and reconnection charges.

Duke's reconnection charges vary between \$25 and \$65 depending upon accessibility of the meter. Additionally Duke charges customers \$50 to reconnect service on the same day if the request is made after 12:30 p.m.<sup>48</sup> Duke apparently would continue collecting these reconnection charges from customers even though the cost for providing the services is far less than was justified in previous rate proceedings.

If the PUCO were to waive the requirements of Ohio Adm. Code 4901:1-18-06(A)(2) and allow Duke to remotely disconnect residential customers without personal notice (even on a pilot basis), it must first adjust Duke's disconnection and reconnection fees to rates that are determined to be just and reasonable.<sup>49</sup> Because Duke's waiver would eliminate all trips for disconnection and reconnection purposes to homes of customers with advanced meters, Duke should be required to eliminate all such

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<sup>46</sup> AEP Ohio Application Amendment.

<sup>47</sup> Application at 7.

<sup>48</sup> Duke Tariff, P.U.C.O. Electric No. 19, Sheet No. 92.3, page 1 of 1.

<sup>49</sup> R.C. 4909.15(C).

associated charges to such customers.<sup>50</sup> Moreover, to the extent that Duke is able to reduce its credit and collection costs through remote disconnections (through waiver of the personal notice requirement), its customers should immediately realize the benefit of the reduced operating and maintenance costs with lower distribution rates as well.

**G. Duke’s assertions regarding eliminating public and employee safety issues are pure conjecture.**

Duke claims that granting the waiver would resolve “public and employee safety issues....”<sup>51</sup> Duke asserts that personal visits on the day of disconnection can create “underlying tension” or “hostility” that is directed toward Duke personnel.<sup>52</sup> Duke notes, however, that such incidents are “not typical....”<sup>53</sup> Nevertheless, Duke contends that granting the waiver “will necessarily eliminate any threats posed by such appearance, whether such threats emanate from persons, animals, or other hazardous conditions.”<sup>54</sup>

Duke has not provided data or other information regarding any actual public and employee safety issues raised in the Application. In order to determine whether the public interest is served by allowing Duke to avoid personal visits on the day of disconnection, even on a “pilot” basis, the PUCO should have more information. Duke should provide information concerning public and employee safety issues associated with day of disconnection personal visits by Duke employees. Specifically, Duke should

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<sup>50</sup> Duke states that it has reduced the amount in its smart grid rider by the operational benefits associated with remote disconnection and reconnection. *Id.* at 3-4. To be clear, Duke did not provide the reduction unilaterally. The reduction was the result of a settlement in the case involving the mid-deployment review of Duke’s smart grid. *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, Stipulation and Recommendation (April 24, 2012) at 5-7. In return, Duke has collected hundreds of millions of dollars from customers.

<sup>51</sup> Application at 5.

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> *Id.*

provide information regarding the number of such incidents during the past year, whether the incidents involved only threats or actual harm to either employees or the public, and the costs Duke incurred regarding the incidents.

### **III. CONCLUSION**

OCC has met the criteria for intervention in this proceeding. The PUCO should grant OCC's motion to intervene.

The PUCO previously denied Duke's request to forgo the personal notice requirements of Ohio Adm. Code 4901:1-18-06(A)(2) for residences equipped with advanced meters.<sup>55</sup> In that 2010 case, Duke sought to avoid providing personal notice of disconnection of service on the date of service termination to residential customers whose homes have advanced meters. In denying Duke's request, the PUCO ruled that "[w]ithout personal notification, or the display of notice, it is possible that customers may be unaware of the pending disconnection, or may believe that the lack of service is the result of an outage."<sup>56</sup> The PUCO should follow its sound reasoning from the June 2010 Duke decision and similarly deny Duke's current request to waive the requirements of Ohio Adm. Code 4901:18-16(A)(2).

Duke has not shown good cause for its waiver request. Hence, Duke should not be allowed to eliminate personal notice on the day of disconnection for nonpayment to residential electric service customers who have an advanced meter.

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<sup>55</sup> *In the Matter of the Application of Duke Energy Ohio, Inc. for a Waiver of Certain Sections of the Ohio Administrative Code for SmartGrid Pilot Programs*, Case No. 10-249-EL-WVR, Entry (June 2, 2010) .

<sup>56</sup> *Id.* at 7.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of this *Motion to Intervene and Objections* was served on the persons stated below via electronic transmission this 17<sup>th</sup> day of June 2016.

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