

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

**DUKE ENERGY OHIO, INC.'S REPLY TO THE OBJECTIONS OF
THE COMMUNITIES UNITED FOR ACTION AND PRO SENIORS**

Comes now Duke Energy Ohio, Inc., (Duke Energy Ohio or Company) and hereby responds to the Objections jointly tendered by Communities United for Action and Pro Seniors (collectively, CUFA/PS). Said Objections were not authorized by the Public Utilities Commission of Ohio (Commission) and, based upon that procedural flaw alone, should be stricken from the record. However, to further support their rejection, Duke Energy Ohio provides a substantive response to the Objections here.

Respectfully submitted,



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RESPONSE TO OBJECTIONS

I. Introduction

The Objections of CUFA/PS are not predicated upon facts. Instead, it is through pure speculation that CUFA/PS hope to convince the Commission that customers will be deprived of “the last...means” of avoiding disconnection.¹ They further surmise that Commission regulation demands adherence to the “best means” of avoiding disconnection, which is personal contact. Without proof, they challenge the Company’s alternate forms of attempted contact as unreliable. CUFA/PS must establish a legitimate, confirmed basis for the Objections they have asserted here. But, as discussed below, they have not done so and the Company’s Application should be granted.

II. Duke Energy Ohio’s Waiver Request Conforms to Commission Regulation.

CUFA/PS have adopted an interpretation of the relevant regulation that cannot be reconciled with the residential disconnection procedures. Indeed, taken to its logical conclusion, CUFA/PS maintain that personal contact must be made on the scheduled day of disconnection as this is the only way to provide customers a last chance to avoid disconnection.

To put the Objections in perspective, it must be noted that the rule from which Duke Energy Ohio seeks a waiver concerns final actions on the day of disconnection. Under the Company’s proposal, prior to that date, residential electric customers would have: (i) not paid a prior bill in full; (ii) not responded to the disconnection notice provided under O.A.C. 4901:1-18-06(A)(5); and (iii), during the winter heating season, not responded to the final notice provided under O.A.C. 4901:1-18-06(B). Duke Energy Ohio is not seeking to eliminate these aforementioned notices and, instead, is proposing to increase the number of notices that

¹ Objection, at pg. 1.

customers would receive outside of the winter heating season.² And it is only after these notifications have been issued and unaddressed that the Company's waiver request is relevant.

On the day of disconnection, the Commission requires only that a utility company notify of the pending disconnection and afford customers a final chance to avoid it.³ Indeed, as the Commission has confirmed, O.A.C. 4901:1-18-06(A)(2) does not mandate actual personal contact before a scheduled disconnection for nonpayment may be completed. Rather, the regulation requires only an attempt at personal contact.⁴ And in those instances where the utility company's presence is unanswered or ignored, the regulation allows for the company to leave a notice at the premises prior to disconnection. There is no requirement, as CUFA/PS infer, that actual contact be made and that, absent such contact, a utility company such as Duke Energy Ohio is prohibited from disconnecting service due to nonpayment. Thus, in assessing the Company's request to deviate from the regulation, the question is whether the Company's suggested, alternate forms at attempting personal contact are reasonable. As discussed herein, they are.

Further, O.A.C. 4901:1-18-06(A)(2) is not as prescriptive as CUFA/PS imply – it does not establish attempted personal contact as the “best” means by which a customer can avoid disconnection for nonpayment. Rather, consistent with general regulatory policy, the Commission's regulation is founded in reasonableness and common sense, requiring that efforts be made to inform a customer of the imminent disconnection and provide them a final opportunity to avoid it. Here, Duke Energy Ohio will provide notice of an imminent disconnection and offer avenues for avoiding same should the customer so elect. And, like the

² Although not required under applicable regulation, Duke Energy Ohio proposes to send a final notice under O.A.C. 4901:1-18-06(B) for the period outside of the winter hearing season.

³ See, generally, *In the Matter of the Application of Ohio Power Company for a Limited Waiver of Ohio Admin. Code 4901:1-18-06(A)(2)*, Case No. 13-1938-EL-WVR, Entry, at pg.12 (March 18, 2015) (AEP Waiver Case).

⁴ Id.

existing regulation, the Company's proposal is similarly reasonable. It increases the number of notices; allows for communication with customers who may, because of business or personal obligations, find themselves away from their residence during the day; and enables customers to efficiently implement measures to have their service restored within as little as one hour's time.

Duke Energy Ohio's proposal will satisfy the purpose of O.A.C. 4901:1-18-06(A)(6). Customers will be contacted, via text or telephone, regarding the disconnection of their electric service scheduled for later that day. Customers receiving text messages will be provided with a link that, if accessed, would enable prompt payment. Customers will be provided with a telephone number, again expediting their ability to contact the Company and explore arrangements for avoiding disconnections. And, as is always the case, customers will not be deprived of the ability to address their account status via the Company's online services. These efforts, when combined with the two prior notices, "reasonably inform the customer and communicate a sense of urgency regarding the status of the utility account."⁵

CUFA/PS argue that the Company's waiver request, if granted, would run afoul of O.A.C. 4901:1-18-06(A)(4), as there would not be a person at the premises, on the day of disconnection, to accept payment, dispatch another employee to accept payment, or provide to the customer alternate means of payment.⁶ As even CUFA/PS admit,⁷ this rule is directed at establishing means by which a customer can more quickly seek to avoid disconnection by making payment or entering into other arrangements. In this regard, Duke Energy Ohio would be remiss if it did not identify two salient facts: (i) on the day of disconnection, contact is made in only about 7 percent of the premises visits; and (ii) Duke Energy employees conducting those premises visits do not accept payment. Thus, for those few customers who currently engage with

⁵ Id.

⁶ Objections, at pg. 1.

⁷ Id., referencing that the employee is authorized to "address payment in some manner."

Company personnel and affirmatively seek to avoid disconnection, they are advised to contact the Company's customer service group or make payment with an authorized pay agent. The Company's proposal enables this very same outcome – a final means by which to avoid disconnection. The proposal also ensures that customers will be informed of the impending disconnection, the second purpose for O.A.C. 4901:1-18-06(A)(2).

III. Duke Energy Ohio's Proposed Alternate Methods of Contact are Reliable.

CUFA/PS next argue that Duke Energy Ohio's proposal to replace the premises visit with, among other notices, a text message or telephone call is flawed. In advancing this contention, CUFA/PS suggests that the Company uses an antiquated customer information system that cannot possibly contain correct, working numbers. CUFA/PS is wrong.

Duke Energy Ohio regularly updates customer records with contact information provided by the customer. In this regard, customers are asked to provide their telephone number. Subsequently, should a customer contact Duke Energy Ohio from a telephone number that does not match with the telephone number on file, they will be asked to verify their contact telephone number. Finally, in connection with customer-initiated contacts, Duke Energy Ohio will validate telephone numbers annually. Thus, contrary to CUFA/PS's assertions, the Company has a process for maintaining and updating customer contact information.

CUFA/PS argue, using only supposition, that customers will reject automated telephone calls from the Company, terminating such calls immediately upon hearing that the caller is Duke Energy Ohio. CUFA/PS hope to convince the Commission that an automated call would not be an effective means of communication. But if a customer with a past due account and two prior notices of disconnection unilaterally chooses to terminate an automated call from Duke Energy Ohio, what assurance is there that that same customer would have been home and would have

answered a knock on the door by Duke Energy Ohio personnel? CUFA/PS offers none and thus it cannot be concluded that attempted contact via telephone is patently unreliable.

Perhaps anticipating opposition to their contention that a personal visit is the only effective means of final contact, CUFA/PS also suggest that customers are “unlikely” to ignore a knock at the door. But this statement cannot be reconciled with the low percentage of instances in which the door is answered and, further, for certain populations, there is an understandable reluctance to avoid opening the door for an unknown, unfamiliar, or unexpected person. A text message or telephone call is far less imposing yet, here, achieves the same result as a premises visit.

CUFA/PS finally criticize the use of cellular telephone numbers. They maintain, without substantiation, that Duke Energy Ohio’s proposal to use text and telephone messaging will repeatedly and widely fail as customers lose their telephones, run out of pre-paid minutes on the scheduled day of disconnection, and routinely change their telephone number after having purchased a new telephone. But actual contact is not the measure. Thus, just as the Commission did not require utility companies to guarantee actual contact by accounting for every reason why a customer does not answer the door, it should not now force Duke Energy Ohio to account for every reason why a telephone call would go unanswered. Importantly, however, both text and telephone messages remain, readily accessible to the customer until such time as the customer affirmatively deletes the message. Thus, customers will be able to conveniently and quickly retrieve that information necessary to assist them in avoiding disconnection or having their service promptly restored. And, although overlooked by CUFA/PS, throughout the period commencing with a disconnection notice, customers will be informed of and can contact Duke

Energy Ohio to discuss the status of their account and make arrangements to avoid disconnection.

IV. Conclusion

The Company's waiver request is in the public interest and should be approved. Under the waiver, Duke Energy Ohio will substitute one form of attempted contact on the scheduled day of disconnection with other forms of communication. In addition, under the waiver, Duke Energy Ohio will send a final notice to residential customers year-round, thereby providing more notifications than required under existing regulation. The waiver request incorporates appropriate customer protections and the Company's proposal enables a final means by which to avoid disconnection. It is a waiver that is narrow in scope and properly aligns the interests of the Company and all of its residential customers. It should be approved. Duke Energy Ohio therefore respectfully requests that the Commission reject the CUFA/PS's Objections.

Respectfully submitted,

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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 7th day of July 2016, to the following parties.



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Summary: Reply Duke Energy Ohio's Reply to the Objections of The Communities United for Action and Pro Seniors electronically filed by Dianne Kuhnell on behalf of Duke Energy Ohio, Inc. and Spiller, Amy B. and Watts, Elizabeth H.