

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

**COMMENTS OF
OHIO PARTNERS FOR AFFORDABLE ENERGY**

Ohio Partners for Affordable Energy (“OPAE”) herein submits these comments to the Public Utilities Commission of Ohio (“Commission”) on the May 13, 2016 application and the July 22, 2016 amended application of Duke Energy Ohio, Inc. (“Duke”) for a temporary waiver of Ohio Administrative Code (O.A.C.) Rule 4901:1-18-06(A), which requires the utility to provide a residential customer with personal notice on the day of disconnection. These comments are filed in accordance with the Attorney Examiner’s Entry dated August 5, 2016.

OPAE moved to intervene in this proceeding on June 2, 2016, and at the same time moved the Commission to dismiss the application. The basis for OPAE’s motion to dismiss was that Duke is seeking in this application the same waiver already denied by the Commission in Duke’s application in Case No. 10-249-EL-WVR (“2010 Waiver Case”).

OPAE was also an intervener in the 2010 Waiver Case, where Duke sought a waiver of the same O.A.C. Rule 4901:1-18-06(A). The Entry issued on June 2, 2010 in Case No. 10-249-EL-WVR makes clear that concerns for the protection of customers are critical. The Commission voiced its support for the vital consumer protection of a personal visit to the resident’s premises on the day of disconnection. The June 2, 2010 Entry in Case No. 10-249-EL-WVR states:

Without 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. Moreover, the Commission agrees with OPAE's concern that customers who have not paid their utility bill may not have immediate access to text or electronic messaging, despite their selection of such means of notification at an earlier date.

Case No. 10-249-EL-WVR, Entry (June 2, 2010) at 8.

The Commission's Entry made clear that just because advanced meter technology now allows for remote disconnections, the use of the technology for disconnection will not satisfy Ohio law, which requires personal notice on the day of disconnection. Without personal notice, a customer may not know why she is disconnected. A customer subject to disconnection may not have immediate access to text or electronic messaging so that these means of notification may fail.

The Commission did leave the door open for future consideration of alternative notice processes. The Commission stated:

Therefore, while the Commission may be willing to discuss alternative notice processes in the future, at this time, the Commission finds that the processes set forth in this rule should remain in force. Id.

The Commission directed Duke to commence discussions with the Staff of the Commission regarding alternative notice procedures.

Duke's application as filed on May 13, 2016 and the amended application filed July 22, 2016 do not state that such discussions with the Staff have occurred as required by the Commission. Nor is there any indication that there is any agreement on alternative notice processes. Duke fails to provide any

justification for filing essentially the same application as in the 2010 Waiver Case, in which the same waiver request was denied.

In the May 13, 2016 application, Duke describes the advanced meter technology and falsely implies that the Commission has endorsed the diminution of consumer protection as set forth in O.A.C. Rule 4901:1-18-06. Duke repeatedly cites to documents filed in Duke's Case No. 10-2326-GE-RDR as justification for what it characterizes as Commission approval. Actually, in Case No. 10-2326-GE-RDR, Duke simply agreed in a stipulation not to seek a waiver of what is now Rule 4901:1-18-06(A)(2) – the personal visit requirement – through 2015. The Commission never mentioned this provision of the stipulation in its Opinion and Order in Case No. 10-2326-GE-RDR (June 13, 2012). What is clear from the Case No. 10-2326-GE-RDR application is that the savings from the waiver Duke proposes here are not included in the operational savings Duke agreed to pass back to customers. Any savings from remote disconnections are not being passed back to customers. What is also clear is that the Commission has not endorsed the waiver it has already denied.

Duke complied with its agreement in Case No. 10-2326-GE-RDR not to request the waiver through 2015. In 2016, Duke requests the same waiver again. However, an intervening act undercuts Duke's argument in favor of a waiver now. In Ohio Power Company, Case No. 13-1938-EL-WVR, the Commission approved a waiver of Rule 4901:1-18-06(A)(2) as a pilot program for Ohio Power Company ("AEP Ohio"). The instant Duke application and amended application mimic the AEP Ohio waiver approved by the Commission as a pilot

program. The AEP Ohio pilot program established a series of metrics that will be analyzed, and which also are included in the Duke filing. Duke's amended filing only adds a few insignificant features.

The important point is that there is no need for two pilots on the same waiver of the same administrative rule. There is no need for Duke's customers to be subjected to a reduction in critical consumer protections, especially when the impact of the waiver is being studied in another utility service territory. Duke provides no compelling reasons why the AEP Ohio pilot is inadequate for the Commission to determine whether Rule 4901:1-18-06(A)(2) should be modified. One pilot is enough.

In conclusion, this Duke application is for a waiver of a fundamental consumer protection: the right of a customer to receive personal notice on the day of disconnection for nonpayment. New meter technology has not diminished the need for this consumer protection. The ease with which customers may now be disconnected using new meter technology should continue to concern the Commission. Low and moderate income Ohioans' electric service may be unreasonably disconnected as a result of the waiver sought by Duke. Because the Commission has already denied the same Duke waiver request, because Duke has not fulfilled the Commission's conditions for an alternative notice process, and because the Commission is already studying the waiver of Rule 4901:1-18-06(A)(2) in a pilot program in another utility's service territory using essentially the same metrics as Duke proposes here, there

is no basis for the Commission to grant this application for a waiver. The application and amended application should be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Comments will be served by the Commission's Docketing Division via electronic mail upon the electronically subscribed parties identified below on this 19th day of August 2016.

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Summary: Comments electronically filed by Colleen L Mooney on behalf of Ohio Partners for Affordable Energy