

**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

**REPLY COMMENTS OF
OHIO PARTNERS FOR AFFORDABLE ENERGY**

I. Introduction

Ohio Partners for Affordable Energy (“OPAE”) herein submits to the Public Utilities Commission of Ohio (“Commission”) these reply comments to the initial comments filed on August 19, 2016 in this proceeding considering the application and the 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 of service for nonpayment. These reply comments are filed in accordance with the Attorney Examiner’s Entry dated August 5, 2016. Herein, OPAE replies to the initial comments filed by the Staff of the Commission (“Staff”), the Joint Comments of the Office of the Ohio Consumers’ Counsel (“OCC”), Citizens United for Action, and ProSeniors, Inc., (together, “Joint Consumers”), and the City of Cincinnati.

II. Staff’s Comments Provide the Commission No Basis upon which to Grant Duke this Waiver.

Staff filed comments giving the Staff’s recommendation. Staff believes that Duke’s proposed alternative methods of notification (i.e., additional ten-day notice, automated phone call and/or text message two business days prior to the

scheduled disconnection) are appropriate for review on a two-year pilot basis as a replacement for the rule's personal notice on the day of disconnection. Staff recommends that Duke collaborate with Staff on the text of notices to be sent to customers as well as the text of notifications to be included on disconnection notices. Staff also recommends that Duke collaborate with Staff on the content of text messages and automated voice messages prior to implementation of the pilot. Staff recommends that Duke collaborate with Staff on the substance, format, and timing of data to be provided monthly to the Staff.

Staff noted the AEP Ohio waiver of the same administrative code rule granted by the Commission by Entry on March 18, 2015. *Ohio Power Company*, Case No. 13-1938-EL-WVR. AEP Ohio had also proposed replacing the personal notice of pending disconnection with a ten-day notice as well as an automated phone call forty-eight hours before the scheduled disconnection date. Staff stated that AEP Ohio's pilot program with its approved alternative methods of notification commenced in September 2015. Staff also noted that AEP Ohio has provided and continues to provide monthly data to Staff demonstrating performance of the alternative methods of notification.

Staff gives no reason why another pilot program waiving the same rule with the same alternative notifications and the same data collection is needed. Staff is already collecting data from the AEP Ohio pilot program waiving the same rule. Staff claims to have data from the AEP Ohio pilot program since September 2015, but uses none of this data to inform the parties or the Commission of the pilot program's performance in the AEP Ohio service territory.

Staff does not explain how the data already collected in the same pilot program for another utility supports this pilot program requested by Duke. Staff provides no substantive comment on the performance of the AEP Ohio pilot program.

If the AEP Ohio data already available to Staff supports the approval of this same pilot program for Duke, Staff should have discussed it. From its comments, it is apparent that Staff has not analyzed the data it has from the AEP Ohio pilot program to determine the number of customers with advanced meters being disconnected, whether those customers received adequate notice prior to disconnection under the alternative notification procedures, or any other results derived from the AEP Ohio pilot program data. Rather than rushing into a second, unnecessary pilot program, Staff should be analyzing the data it already has in order to make recommendations on the same waiver for Duke.

Recent data provided in the Prefiled Testimony of OCC witness James D. Williams in the AEP Ohio smart grid cost recovery proceeding, Case No. 13-1939-EL-RDR, show that more customers in the AEP Ohio smart grid pilot area are being disconnected and for much smaller amounts than customers without smart meters. The data indicates that disconnections of customers with smart meters are too easily and quickly made. This is the kind of data Staff should be analyzing before it rushes to recommend a second pilot program with the same waiver.

III. The Comments Demonstrate Why the Commission Should Reject this Waiver Application.

The City of Cincinnati commented that the personal notification requirement of O.A.C. 4901:1-18-06(A)(2) protects the City's most vulnerable residents from having their electric service disconnected without sufficient notice and without a final opportunity to avoid disconnection. Text messages and automated phone call notifications do not adequately provide necessary protections or opportunities to avoid the deleterious consequences that invariably attend the disconnection of a vital public utility service. City of Cincinnati Comments at 1. Text messages and automated phone calls are not dependable means of reaching customers, especially low-income and vulnerable and elderly populations. As the Commission noted when denying Duke this waiver previously, customers who have not paid their utility bill will not necessarily have immediate access to text or electronic messages. Communication with low-income customers is much less reliable by text message or automated phone call than by an in-person or on-site notification. At the time of disconnection, many low-income customers will be struggling not only to pay their utility bills, but also to pay their cell phone bills. There may be no adequate cell phone service at the very moment when electric service is to be disconnected.

The City of Cincinnati also points out that Ohio law allows the utility's on-site representative on the day of disconnection to accept payment in lieu of disconnection or provide other options to avoid disconnection. O.A.C. 4901:1-

18-06(A)(4). A customer may be able to tender payment to avoid disconnection to the on-site representative.

The written notice attached to the premises at the time of the on-site visit also provides information as to the reason for disconnection, as well as how to avoid disconnection, or restore service after disconnection. O.A.C. 4901:1-18-06(A)(4) requires that this information be given at the time of the on-site visit. It is not clear that the provisions of this rule will be satisfied by the alternative notice methods.

The Joint Consumers discuss additional reasons why this application should be denied. Duke has not provided any documentation to support its assertions about the effectiveness of using automated means to contact customers on the day of disconnection. The Commission has only Duke's assertions about the adequacy of the alternative notice methods upon which to base its approval of the waiver. Joint Consumers' Comments at 16. The Commission needs to evaluate Duke's claims that alternative notice methods actually work.

The Joint Consumers also correctly point out that Duke continues to charge a fee to customers whose electric service is reconnected by remote control even though the fee is based on the cost of an on-premise reconnection. Joint Consumers' Comments at 14-15. Duke intends to keep its current reconnection charge in place during the pilot program. But Duke should not be charging for reconnecting service to customers who have advanced meters under any circumstances. Advanced meters allow for disconnection and

reconnection without sending a technician to perform the work, so there is no need for the reconnection charge. Continuing the reconnection charge unjustly enriches Duke at the expense of customers whose service is being reconnected. Customers are already paying for advanced meters and should not have to pay additional charges that are not cost-based. *Id.* at 15.

OPAE agrees with the comments of the City of Cincinnati and the Joint Consumers. There are many reasons why this waiver application should be denied.

IV. Conclusion

The Commission should deny this Duke application because Duke is seeking the same waiver already denied by the Commission in Duke's application in Case No. 10-249-EL-WVR. The Commission has already found 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 the reason for disconnection. A customer subject to disconnection may not have immediate access to text or electronic messaging so that these alternative means of notification may fail. *Duke*, Case No. 10-249-EL-WVR, Entry (June 2, 2010) at 8.

Duke's application mimics the AEP Ohio waiver already approved by the Commission as a pilot program. 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. Neither Duke nor Staff provides any reason 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. Staff should analyze the data from the AEP Ohio pilot before it rushes to recommend the same pilot program waiving the same rule.

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. The application should be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of these Reply Comments will be served by the Commission's Docketing Division via electronic mail upon the electronically subscribed parties identified below on this 2nd day of September 2016.

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