

**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.)

**REPLY COMMENTS
BY
COMMUNITIES UNITED FOR ACTION,
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL,
AND PRO SENIORS, INC.**

I. INTRODUCTION

In this case, the Public Utilities Commission of Ohio (“PUCO”) will decide whether thousands of Ohioans will lose the essential right to be notified in person on the day their electric service is to be disconnected for nonpayment.¹ The in-person notice required by the PUCO’s rules provides customers and their families with a last opportunity to avoid disconnection of electric service – and the potential for human suffering that can follow loss of heating and other necessities dependent on utility service in the home.

However, Duke Energy Ohio, Inc. (“Duke”) – the utility with the highest rate in the state for disconnecting electric residential consumers for nonpayment² – seeks instead to notify customers by text messages and robocalls that their electric service is about to be shut off.³ Duke seeks a waiver of Ohio Adm. Code 4901:1-18-06(A)(2) (the PUCO

¹ Ohio Adm. Code 4901:1-18-06(A)(2).

² See OCC Motion to Intervene and Objections (June 17, 2016) at 11.

³ See Application for a Waiver by Duke Energy Ohio, Inc. (“Application”) (May 13, 2016); Amended Application for a Waiver by Duke Energy Ohio, Inc. (“Amended Application”) (July 22, 2016). Duke did not explain the reason for amending the Application.

rule requiring in-person notice at the customer's home) as part of a "pilot" program.⁴ The "pilot" apparently would last two years, but the waiver would continue until the PUCO acts (at some undefined point) on a PUCO Staff recommendation concerning extending the waiver.⁵

On August 5, 2016, the PUCO sought comments on Duke's waiver request.⁶ In response, intervenors Communities United for Action ("CUFA"), the Office of the Ohio Consumers' Counsel ("OCC") and Pro Seniors, Inc. ("Pro Seniors") filed joint Comments opposing the Application and its amendment. Comments opposing Duke's waiver request were also filed separately by intervenors Ohio Partners for Affordable Energy ("OPAE") and the City of Cincinnati ("City"). These intervenors expressed concerns about, among other things, the effect of the waiver on the health and safety of consumers,⁷ the low reliability of text messages and robocalls for communicating with low income consumers,⁸ the vagueness of the waiver request including whether or not it applies to combination gas and electric customers,⁹ and the absence of necessity for a second "pilot" before the pilot program of AEP Ohio – which is more than halfway completed – has run its course.¹⁰

Only the PUCO Staff filed comments supporting Duke's waiver request.

Although the PUCO Staff alludes to various aspects of Duke's proposal and AEP Ohio's

⁴ Amended Application at 5.

⁵ *Id.*

⁶ Entry (August 5, 2016) at 2.

⁷ CUFA/OCC/Pro Seniors Comments at 3-7.

⁸ OPAE Comments at 2; City of Cincinnati Comments at 2-4.

⁹ CUFA/OCC/Pro Seniors Comments at 9-14.

¹⁰ OPAE Comments at 3-5; CUFA/OCC/Pro Seniors Comments at 7-8.

current pilot, the PUCO Staff does not address either the necessity for or the goals of Duke's "pilot."

Duke's "pilot" seems to be nothing more than a way for Duke to undermine the essential consumer protections in Ohio Adm. Code 4901:1-18-06(A)(2). Given that AEP Ohio's pilot program has resulted in a disproportionately high number of residential customers being disconnected for nonpayment,¹¹ the PUCO should not grant Duke's waiver request.

II. REPLY COMMENTS

A. The PUCO Staff's comments do not provide a valid basis for supporting Duke's waiver request.

In its three-page comments, the PUCO Staff provides no reasoning for endorsing Duke's waiver request. After a short introduction concerning the in-person notice rule, the PUCO Staff notes that Duke's advanced metering infrastructure ("AMI") is fully deployed.¹² The PUCO Staff then states, "Customers who have an AMI meter can be remotely disconnected and remotely reconnected, thus eliminating the need for a company employee to physically visit the premises to disconnect and reconnect service."¹³ But just because customers who have advanced meters *can* be disconnected remotely, this doesn't mean that they *should* be disconnected remotely without in-person notice at the residence.

¹¹ CUFA/OCC/Pro Seniors Comments at 4-7.

¹² PUCO Staff Comments at 1.

¹³ *Id.*

Next, the PUCO Staff summarizes the “alternative notification” proposed by Duke.¹⁴ The PUCO Staff’s summary is strictly factual. The PUCO Staff’s comments lack any commentary or explanation why this “alternative notification” is an adequate substitute for in-person notification to residential customers on the day their electric service is to be disconnected for nonpayment.

The PUCO Staff next addresses “critical care customers.”¹⁵ As with its discussion of the “alternative notification,” the PUCO Staff merely restates Duke’s proposal concerning “critical care customers.” The PUCO Staff provides no reasons why this lends support to Duke’s waiver request.

The next section of the PUCO Staff’s comments includes the heading “Pilot Scope and Analysis.”¹⁶ The PUCO Staff describes the “scope” by once again restating Duke’s proposal. However, there is no “analysis.” The PUCO Staff offers no evaluation of the scope and no reasons why the PUCO should approve Duke’s waiver request.

Interestingly, the PUCO Staff does not discuss whether the scope of Duke’s waiver request should be limited to electric-only customers. As CUFA, OCC and Pro Seniors pointed out, combination gas and electric customers faced with disconnection for nonpayment have the option, under the PUCO’s rules, to choose which service to retain.¹⁷ Yet, the PUCO Staff does not address this option for consumers.

Next, the PUCO Staff discusses AEP Ohio’s pilot program, approved by the PUCO in Case No. 13-1938-EL-WVR. Here, the PUCO Staff refers to a “study” of

¹⁴ *Id.*

¹⁵ *Id.* at 2.

¹⁶ *Id.*

¹⁷ Ohio Adm. Code 4901:1-18-09(A). CUFA, OCC and Pro Seniors stated that Duke’s waiver request should not apply to combination gas and electric customers. CUFA/OCC/Pro Seniors Comments at 11-12.

disconnection procedures conducted by AEP Ohio in 2012 that was included with AEP Ohio's application in its waiver case.¹⁸ The validity of the "study," however, is suspect. The "study" was not conducted by an independent organization. Rather, it was done by AEP Ohio for the sole purpose of making a case for a waiver of the in-person notice rules.

Further, the data compiled by AEP Ohio is now four years old. But the PUCO Staff has newer data that was actually collected under AEP Ohio's pilot program using the metrics approved in Case No. 13-1938. In its comments, the PUCO Staff acknowledged that AEP Ohio "has provided and continues to provide monthly data" concerning the use of "alternative methods" of notifying residential customers that their electric service is about to be disconnected.¹⁹

Two of the metrics to be reported by AEP Ohio in its pilot are the number of pilot customers who received the 48-hour phone call and who avoided disconnection by making the required payment, and the number of pilot customers who received the 48-hour phone call and who were disconnected because they did not make the required payment.²⁰ These are the same data categories used by AEP Ohio in its 2012 "study." The fact that the PUCO Staff used stale data, compiled by AEP Ohio for its own purposes – rather than fresh data from an actual pilot – casts doubt on the rationality of the PUCO Staff's support for Duke's waiver request.

Nevertheless, the PUCO Staff failed to recognize that even AEP Ohio's pre-pilot "study" shows that in-person notice may help to keep electric service on for a significant

¹⁸ PUCO Staff Comments at 2.

¹⁹ *Id.*

²⁰ See Case No. 13-1938-EL-WVR, Reply Comments of Ohio Power Company (January 20, 2015) at 4-5.

number of residential customers. As the PUCO Staff noted,²¹ AEP Ohio conducted its survey using a sample of approximately 10,000 customers who were facing disconnection. Of those 10,000 customers, about 5.8 percent responded to the in-person notice by requesting a one-hour extension to pay their bill at the time of disconnection. Not all of those customers were able to pay and avoid disconnection, but some did. AEP Ohio did not have data concerning the percentage who avoided disconnection with the one-hour extension. Nevertheless, more than 500 customers in AEP Ohio's small sample took advantage of that one last opportunity to prevent disconnection by making a payment.

Duke has stated that it makes contact with customers in about seven percent of premises visits on the day of disconnection.²² Duke offers no explanation as to the reasons for its failure to make contact with the remaining 93 percent. Duke's 2016 report on disconnections shows that it disconnected 78,234 residential customers in the 12 months ending May 31, 2016.²³ Thus, more than 5,500 Duke residential customers had that one last opportunity to avoid disconnection. And although some likely were unable to avoid disconnection, others likely were able to keep their electric service connected. Given the tragic consequences that can result from disconnection of electric service at customers' homes,²⁴ the PUCO should do everything in its power to ensure that residential customers have every opportunity to keep their electric service on.

²¹ PUCO Staff Comments at 2.

²² Duke's Reply to Objections of CUFA and Pro Seniors (July 7, 2016) at 4.

²³ See *In the Matter of the Annual Report of Service Disconnections for Nonpayment Required by Section 4933.123, Revised Code*, Case No. 16-1224-GE-UNC, Duke Energy Ohio Report (June 28, 2016). This amounted to 12.42 percent of Duke's residential electric customers, the highest percentage of any electric distribution utility in Ohio.

²⁴ See, e.g., *Pitzer v. Duke Energy Ohio, Inc.*, Case No. 15-298-EL-CSS.

The PUCO Staff has demonstrated limited basis for its support for Duke's waiver request. It has also addressed none of the objections raised by the intervening parties in prior filings in this case. Given the flaws in Duke's waiver request pointed out in the comments opposing the request, the PUCO should deny Duke's Application and its amendment.

B. By taking customer payments over the phone or by text, Duke could inadvertently place Ohioans at risk for scams.

The City noted problems concerning the use of a link embedded in a text message for making payments. The City noted that not all customers have access to the Internet via a cell phone or otherwise.²⁵ The City also pointed out that many customers may not have access to a credit card or other means of electronic payment.²⁶ This, of course, may be especially true of low income and elderly customers. And, the City stated, many customers may be uncomfortable giving sensitive financial information through a link embedded in a text message on their cell phone.²⁷ CUFA/OCC/Pro Seniors also pointed out that Duke's proposal to accept payments by phone or the Internet run counter to Duke's anti-fraud efforts, and may actually aid scammers.²⁸

The problem of scams involving payments for electric service reared its head in Ohio again just last week. The Columbus Dispatch reported that a long-time businessman and former mayor fell victim to con artists.²⁹ The scammer had not only "spoofed" the victim's caller ID to make it look like the call was coming from his electric

²⁵ City of Cincinnati Comments at 3.

²⁶ *Id.*

²⁷ *Id.*

²⁸ CUFA/OCC/Pro Seniors Comments at 8-9.

²⁹ "Callers pretend to represent utility provider in phone scam," Columbus Dispatch, August 26, 2016 (available at <http://www.dispatch.com/content/stories/business/2016/08/26/1-phone-scam.html#>).

utility, but the scammer also used the same on-hold music as the utility. This highlights one of the problems associated with relying on customer payments over the phone.

Duke's waiver request does not adequately protect Ohio consumers. The PUCO should deny Duke's Application.

III. CONCLUSION

The comments filed in this proceeding demonstrate that Duke's waiver request would harm consumers. The PUCO should deny Duke's waiver request.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Reply Comments was served on the persons stated below via electronic transmission this 2nd day of September 2016.

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