

**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

**THE CITY OF CINCINNATI'S MOTION FOR LEAVE TO FILE SUR-REPLY
COMMENTS**

Pursuant to Ohio Adm.Code Rule 4901-1-12, the City of Cincinnati (the "City") requests leave to file sur-reply comments in response to the Reply Comments filed by Duke Energy Ohio, Inc. ("DEO"). DEO's Reply Comments contain misleading statements regarding the City's policy and practice of disconnecting water service for failure to pay, and in the interests of providing a full and complete record to the Commission, filing sur-reply comments is necessary. A memorandum in support of this Motion, as well as proposed Sur-Reply Comments, are attached hereto and incorporated herein.

Respectfully submitted,

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CITY SOLICITOR**

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**THE CITY OF CINCINNATI'S MEMORANDUM IN SUPPORT OF ITS MOTION FOR
LEAVE TO FILE SUR-REPLY COMMENTS**

On September 2, 2016, Duke Energy Ohio, Inc. (“DEO”) filed Reply Comments in the instant proceeding. Unfortunately, filing sur-reply comments is necessary to correct certain misleading statements made by DEO in its Reply Comments. The Commission deserves a full and complete record from which to render its decision; consequently, the City of Cincinnati (“City”) believes it necessary to address DEO’s misleading statements.

Specifically, DEO represented to the Commission that the City is not required under its ordinance to provide a residential customer of a single-family residence with notice prior to disconnecting water service.¹ What DEO conveniently fails to acknowledge is that the City’s longstanding policy and practice has been (and continues to be) to notify the customer of water disconnection via regular U.S. mail and two phone calls. In addition, the City does not disconnect water service from a remote location like DEO is proposing; instead, the City actually sends its personnel to the customer’s home, thereby providing an in-person point of contact. Therefore, unlike DEO, the City is committed to providing substantive, meaningful notification

¹ See DEO Reply Comments, pp. 6-7.

to its customers of imminent disconnection. It is disingenuous and misleading to suggest otherwise.

The Commission has permitted a party to file a sur-reply brief to correct misleading statements in a reply brief. *In the Matter of the Complaint of Ohio Power Company v. Consolidated Electric Cooperative, Inc.*, Case No. 06-890-EL-CSS, Opinion and Order (July 25, 2007), at p. 2. The City respectfully requests that it be granted leave to file sur-reply comments to rectify DEO's misleading statements. The City's proposed Sur-Reply Comments are attached hereto. As such, the submission of sur-reply comments will not unduly delay this proceeding. To the contrary, the presentation of sur-reply comments on this narrow issue will benefit this proceeding because it will allow the Commission to consider all relevant information when making its decision and avoid the undue prejudice which would result from allowing these misleading statements to remain uncorrected.

Respectfully submitted,

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THE CITY OF CINCINNATI'S PROPOSED SUR-REPLY COMMENTS

I. Introduction

The City of Cincinnati (the “City”) submits its proposed Sur-Reply Comments in response to the Reply Comments filed by Duke Energy Ohio, Inc. (“DEO”) on September 2, 2016. In its Reply Comments, DEO misrepresents to the Commission that the City does not provide *any* notice to residential single-family customers prior to disconnecting water service, and, as such, the City’s arguments against DEO’s proposal to waive the in-person disconnection notification are “paradoxical[],” “ironic”, and “curious.”² As is explained in greater detail below, DEO’s statements are misleading and do not reflect the actual policy and practice of the City as it relates to notifying customers of water disconnection.

II. The City Provides Delinquent Customers Multiple Forms of Notice, Including an In-Person Point of Contact, Before Disconnecting Water Service.

DEO conveniently omits in its Reply Comments that the City (via the Greater Cincinnati Water Works) maintains a longstanding policy and practice of notifying delinquent customers of water disconnection through regular U.S. mail and two telephone calls. More importantly, the City does not disconnect its customers’ utilities from a remote location like DEO is proposing; rather, the City continues to send its water utility workers to the customer’s residence prior to

² See DEO Reply Comments, pp. 6-7.

disconnection, thereby providing an in-person point of contact. Yet, DEO's Reply Comments unfairly suggest that the City's legitimate concerns about DEO's proposed waiver should not be taken seriously. While DEO may not recognize or appreciate the importance of providing in-person notice to its customers prior to disconnection, the City certainly does. To suggest otherwise is misleading to the Commission and prejudicial to the City.

III. Conclusion

WHEREFORE, the City respectfully requests that the Commission, in issuing any order concerning Duke's request for a waiver of Ohio Adm.Code 4901:1-18-06(A)(2), specifically consider and adopt its foregoing comments and concerns.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that the foregoing Motion for Leave to File Sur-Reply Comments, Memorandum in Support, and Proposed Sur-Reply Comments were filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio on this 22nd day of September, 2016. The PUCO's e-filing system will electronically serve notice of the filing of this document on counsel for all parties.

/s/ Mark T. Keaney _____
One of Attorneys for the City of Cincinnati

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

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Case No(s). 16-1096-EL-WVR

Summary: Motion for Leave to File Sur-Reply Comments electronically filed by Mr. Mark T Keaney on behalf of City of Cincinnati