

**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke	)	
Energy Ohio, Inc., for a Waiver related	)	Case No. 18-1683-EL-WVR
to Ohio Administrative Code Rule	)	
4901:1-10-20.	)	

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**APPLICATION FOR WAIVER BY DUKE ENERGY OHIO, INC.**

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1. Duke Energy Ohio, Inc., (Duke Energy Ohio or Company) is an Ohio corporation engaged in the business of providing both electric distribution service and natural gas service in southwest Ohio and, as such, is a public utility as defined by R.C. 4905.02 and 4905.03 and subject to the jurisdiction of the Public Utilities Commission of Ohio (Commission).

2. Under 4901:1-10-02(C), Ohio Administrative Code (O.A.C.), the Commission may, upon an application or motion filed, waive any requirement of O.A.C. Chapter 4901:1-10, other than a requirement mandated by statute, for good cause shown. Duke Energy Ohio hereby requests a limited waiver of paragraph (C)(1) of O.A.C. 4901:1-10-20, regarding the method of delivery of notice of a pending electric disconnection for fraudulent acts.

3. With regard to disconnections for fraud involving electric service, Duke Energy Ohio is bound by O.A.C. 4901:1-10-20. Under paragraph (C) of that rule, before a company may disconnect service for a fraudulent practice, it must “**hand deliver written notice** to the customer . . .”<sup>1</sup> If no adult customer or consumer is present, the company can attach written notice to the premises. It may only resort to mailing the notice in case of danger to employee safety.<sup>2</sup>

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<sup>1</sup> O.A.C. 4901:1-13-09(C)(1) (emphasis added).

<sup>2</sup> *Id.*

4. According to the Company's records, 60 customers received hand-delivered fraud notices in just the last four months of 2017. And in the first nine months of 2018, the Company hand-delivered 501 fraud notices.

5. Typically, these fraud notices result from customers making payments online or by telephone, in order to avoid disconnection for nonpayment, but then canceling the transactions before they are actually paid to the Company. The applicable rule requires such a payment to be immediately credited to the customer's account where feasible or, at latest, as of the date payment was received by the agent.<sup>3</sup> Such actions fall well within the Commission's definition of "fraudulent acts," as they are intentional and they both misrepresent the customer's expectation to pay or not pay the bill in question and conceal the fact that the customer plans to cancel the very transaction on which continued service was based.<sup>4</sup>

6. The Company proposes that, for electric customers who engage in fraudulent behavior, the Company would follow the approach set forth in the rule that applies to fraudulent practices with regard to natural gas service. Under that rule, the initial notice to a customer may be either delivered in person or sent by mail.<sup>5</sup> The customer then has a three-day window in which to contact the Company to contest the claim of fraudulent practice. Notice of the actual disconnection is left at the premises, once that occurs pursuant to the terms of the rule.<sup>6</sup>

7. The waiver will not impact the number of customers who subject themselves to disconnection for fraudulent behavior. If customers do not commit fraud, they will not receive these disconnection notices. Furthermore, because the vast majority of the Company's customers receive

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<sup>3</sup> O.A.C. 4901:1-10-22(E).

<sup>4</sup> O.A.C. 4901:1-10-01(R) ("Fraudulent act" means an intentional misrepresentation or concealment by the customer or consumer of a material fact that the electric utility relies on to its detriment.").

<sup>5</sup> O.A.C. 4901:1-13-09(C)(3).

<sup>6</sup> Notice can be mailed if posting at the premises might jeopardize employee safety.

both electric and natural gas service, moving to a single procedure for initial notices will be easier for customers to understand and comply with.

8. Duke Energy Ohio proposes to add an additional three days to the process outlined in the governing rule for natural gas, to allow sufficient time for mail delivery. Under this proposal, Duke Energy Ohio would mail notice to the customer in question, by first-class mail, providing all of the information mandated by O.A.C. 4901:1-10-20(C)(2). The Company would then terminate service either (a) six days after mailing the notice, if the customer has not contacted the Company, or (b) if the customer does contact the Company to contest the claim, two days after the customer receives the Company's written adverse decision regarding the matter. This process is directly analogous to the requirement in O.A.C. 4901:1-10-20(C)(3), with the additional three days added to the initial notice period.

9. The hand-delivery of notice to the customer prior to disconnection for fraud is prohibitively expensive and an unreasonable financial burden to be socialized among all other customers, who did not make the choice to engage in fraudulent behavior. Duke Energy Ohio respectfully requests that the Commission allow it to comply with the natural gas rule, O.A.C. 4901:1-13-09(C), for both electric and natural gas customers (with the addition of three extra days for mail delivery of the initial notice), thereby waiving the requirements of O.A.C. 4901:1-10-20(C).

Respectfully submitted,

DUKE ENERGY OHIO, INC.

/s/ Jeanne W. Kingery

Rocco O. D'Ascenzo (0077651)

Deputy General Counsel

Jeanne W. Kingery (0012172)

(Counsel of Record)

Associate General Counsel

Duke Energy Business Services LLC

139 East Fourth Street

1303-Main

Cincinnati Ohio 45202

614-222-1334

614-222-1337 (facsimile)

[jeanne.kingery@duke-energy.com](mailto:jeanne.kingery@duke-energy.com)

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Summary: Application for Waiver by Duke Energy Ohio, Inc. electronically filed by Carys Cochern on behalf of Kingery, Jeanne W Ms.