BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke Energy Ohio, Inc., for a Waiver.	)))	Case No. 19-187-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 application of Duke Energy Ohio, Inc. ("Duke") for a 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. In Case No. 16-1096-EL-WVR, the Commission allowed Duke, on a two-year pilot basis, to avoid providing personal notice to customers whose homes are equipped with advanced meters. Those customers receive a text and/or phone message the day of disconnection, a text and/or phone message two business days before disconnection, a mailed 10-day notice year round instead of only during the winter heating season, and the 14-day notice required by Commission rules. The approved pilot is to end on May 1, 2019. Duke has now filed to continue the waiver for an additional five years.

According to Duke, the two-year pilot program has been "a resounding success." .Duke provides data showing that the number of electric disconnections for nonpayment has been reduced and attributes the reduction in disconnections and customers eligible for disconnection to the current waiver.

Duke also states that it has received no complaints with respect to not providing a premises visit on the day of disconnection for nonpayment. Application at 1-2. Duke also claims that a “benefit” of advanced meters is the ability to remotely disconnect electric service so as to eliminate any risks associated with the physical appearance of Duke personnel at the customer’s premises on the day of disconnection. Id. at 2. Duke also claims that the waiver is beneficial to customers because more notices are provided than required by Commission rules and additional information to expedite payment or enter into arrangements to avoid disconnection is supplied. Duke claims the waiver enables efficiency and proper cost alignment. Id. at 3.

The Application contains no support for Duke’s assertions that the waiver is responsible for the reduced number of disconnections or the reduced number of customers eligible for disconnection. These reductions are likely more attributable to other factors, such as lower bills, better economic conditions, and energy efficiency, than the waiver. While Duke claims that it has received no customer complaints, Duke also stresses the importance of its personnel having no contact with customers on the day of disconnection. Calling this a “benefit” is ironic given that advanced meters are touted as improving the engagement of customers with the utility. Using electronics as a barrier between the utility and customers can only result in less engagement. Moreover, the lack of personal contact may be the factor contributing to the lack of complaints. A customer that has been disconnected may face more important tasks than making a complaint to the utility about the lack of personal notice on the day of disconnection.

As for the additional notices provided under the waiver, this is another dubious "benefit". In spite of the commentary provided by Duke in its Application, Duke has a poor record of following Ohio rules when disconnecting residential customers. On October 11, 2017, the Commission issued an Entry in Case No. 17-2089-GE-COI, *In the Matter of the Commission's Investigation of the Disconnection Practices and Policies of Duke Energy Ohio, Inc.* ("COI"). The Commission noted that following an evidentiary hearing in Case No. 15-298-GE-CSS, the Commission had found that Duke failed to comply with the winter heating season disconnection requirements of O.A.C. 4901:1-18-06(B) and that a comprehensive review of Duke's disconnection policies and procedures was necessary. An auditor was selected to undertake the investigation of Duke's disconnection practices and policies for both its gas and electric service.

The Audit Report of NorthStar Consulting Group ("Audit" or "Auditor") was issued on March 14, 2018. The Auditor identified instances where only partial compliance with the disconnection rules was found, and in other instances, the Auditor was unable to verify compliance. In one instance, a disconnection date given on a bill was 13 days from the date of mailing of the bill, so that the required 14-days notice of disconnection was not accomplished. Audit at III-12.

The Auditor also found that Duke's 14-day disconnection notice was not sufficiently clear or prominently identified as a disconnection notice. If a disconnection notice arrives with or on the monthly bill, it should be prominently identified as a disconnection notice. The 14-day notice was entirely black and white with no significant graphics indicating the account was past due and subject to disconnection. The font size was relatively small. The amount of current charges and the past due balance was stated, but the amount required to be paid to avoid disconnection was not shown. The Auditor found that the amount to avoid disconnection was not always a straightforward calculation, and late fees appeared to be included in the minimum amount required when the customer has defaulted on a payment plan. If a customer has defaulted on a payment plan, the entire balance of the payment plan is due, but the customer is not informed that the reason the full amount is due is because of the default on the payment plan.

The Auditor preferred separating the disconnection notification process from the regular monthly bill. However, if a disconnection notice is provided with a regular bill, the Auditor would modify the 14-day disconnection notice by increasing the font size of the words “Disconnect Notice” and adding additional graphics or colors to indicate clearly that the customer is at risk of disconnection. The minimum amount required to avoid disconnection should also be included as part of the payment coupon. If required, service deposit amounts should be specified, and the reconnection fee should also be on the notice. The earliest date of possible disconnection should also be clearly stated. Audit at III-30.

During the winter season, customers must be informed that sources of federal, state, and local government aid for payment of utility bills and for home weatherization are available. Audit at III-16. Duke provides a 10-day winter notice of disconnection through a phone call or letter if the call is not considered “successful.” There are also 2-day calls or texts and day-of disconnection text messages. The 10-day letter or call, 2-day call or text, and day-of text message inform customers that they are subject to disconnection in a certain number of days and provide a link to payment options and the number of Duke’s contact center. The Auditor found that the 10-day disconnect notice may provide customers with different potential disconnection dates than the 14-day notice. Id. at III-29. Duke’s 10-day winter notice also does not provide information about weatherization as required by Commission rules. Id. at III-20, 26. The Auditor recommended that the10-day winter written notice include additional language about payment assistance and weatherization. The amount the customer must pay to avoid disconnection should also be provided, as opposed to referring the customer to a prior bill for this information. Id. at III-30.

If a customer hangs up on the 10-day call at a point that Duke considers the call “successful”, the customer will not have received information on reconnection fees or security deposits, the availability of payment plans and medical certificates, the availability of the $175 Winter Reconnection Order (“WRO”), or the process to file complaints. A statement regarding the availability of medical certificates should be part of the introduction of the10-day call for both summer and winter as the medical certificate program is offered year-round. Audit at III-27.

The Auditor identified instances where customers did not receive the required 2-day text or phone call prior to disconnection. The day-of-disconnection call was also problematic. Duke’s vendor for the calls does not provide monthly statistics on when customers drop off the call so that the Auditor could not determine what portion of customers listen to all the required information. The call does not provide any substantive discussion of payment plans. If the customer wishes to hear about payment options, the number for Duke's contact center is provided. Audit at III-29.

The amount due given on the day-of-disconnection call may be in excess of the minimum amount needed to avoid disconnection. The customer is not provided with the amount to be paid to avoid disconnection, but is only referred to the last bill. The Auditor recommended that the amount needed to avoid disconnection be given in the 10-day, 2-day, and day-of notices so that the customer does not have to locate a prior bill and attempt to figure out the amount due to avoid disconnection. Id. at III-26-30.

The Auditor found that Duke's disconnection notices do not provide the required information on payment options such as budget billing and a customer-negotiated plan. Duke does not necessarily offer all Commission-required payment arrangements and seldom offers a customer-negotiated arrangement. Id. at III-33. Duke informs customers that they are eligible for one payment agreement in a 12-month period. If a customer defaults on an agreement, Duke does not offer the Percentage of Income Payment Plan ("PIPP") to income-eligible customers who have not defaulted on PIPP. Customers are not offered all payment options nor does Duke discuss the customer's ability to suggest an individually negotiated payment agreement. Id. at III-34. Multiple payment options are not consistently offered. Duke generally offers the one-sixth payment plan as the default payment plan. A customer service representative must change the number of installments to provide the customer with information on the one-ninth plan or another payment option. This accounts for the higher proportion of Duke's customers on the one-sixth plan. Audit at III-35.

Commission's rules require customers on the one-ninth plan to sign up for budget billing, which may be a deterrent to the one-ninth plan or a source of confusion. Duke offers two budget billing plans, a quarterly plan and an annual plan. On the quarterly plan, the installment amount can change after 3 months, but the customer remains on the budget billing plan for one year. Commission rules require that customers with arrearages on the nine-month payment plan remain on the budget billing plan for the nine-month duration. This is a source of confusion when a quarterly budget billing plan is offered with a one-ninth payment plan that lasts nine months.

The Auditor recommended that customer service representatives be required to offer customers all payment arrangements including customer-negotiated agreements. Customers who have defaulted on one of the Commission-required payments plans should be offered PIPP (assuming they have not defaulted on PIPP) and, in the case of combination gas and electric customers, the separation of service option. Audit at III-37.

The Auditor would modify the pink winter bill insert included with the disconnection notice to include a discussion of budget billing, to add a statement that customer-negotiated payment plans are available, to indicate that payment assistance or financial assistance may be available to income-qualified customers, and to state clearly that customers using the $175 WRO must immediately contact Duke to make an extended payment arrangement.

The Auditor made recommendations to assure that Duke's disconnection notices provide customers with all required information; that customers are informed of the WRO and their options under it; that customers with medical certification are informed of pending disconnection and their options; that active-duty military customers are informed of their rights; that customers are offered all required payment plans, and that combination customers are informed of their options to separate gas and electric service.

The Commission has not yet addressed the Audit Report. OPAE filed Comments in the COI that support the Commission's adoption of the recommendations of the Auditor to assure that Duke is providing customers with all opportunities to avoid disconnection. The Commission should adopt the Auditor's recommendations. After adopting the recommendations, the Commission should order follow-up audits to assure that the Auditor's recommendations have been implemented and that compliance with the Commission's rules and the Auditor's recommendations is verified. The Commission should not renew the waiver requested in this Application until the Commission has addressed the COI and the Auditor's recommendations.

Duke first sought this waiver of O.A.C. 4901:1-18-06 in an application in Case No. 10-249-EL-WVR ("2010 Waiver Case"). The Commission's Entry issued on June 2, 2010 in Case No. 10-249-EL-WVR denied the waiver and made clear that concerns for the protection of customers were 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 found that just because advanced meters allow for remote disconnections, the use of the meters for disconnection would not satisfy Ohio law, still in effect, which requires personal notice on the day of disconnection.

In conclusion, this Duke application is for a five-year waiver of a fundamental consumer protection currently provided by Ohio law: 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 concern the Commission. Viewing not having to send personnel into a particular neighborhood as a "benefit" of the waiver is troubling. Personnel will still be required for natural gas disconnections, so the waiver will not stop truck rolls or "protect" utility personnel from utility customers. The notice requirements for disconnection of residential customers are complex, and there is no indication in the Application that Duke has complied with the additional notice requirements of the waiver. In fact, the Commission's COI Audit Report casts doubt that Duke is consistently complying with even the basic notice requirements for disconnection of residential customers, much less the additional notice requirements of the current waiver.

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. At the least, the Commission should defer any ruling on a continuation of the waiver until the Commission has addressed the issues raised by the Auditor in the COI.

Respectfully submitted,

/s/Colleen Mooney
Colleen L. Mooney
Ohio Partners for Affordable Energy
PO Box 12451
Columbus, OH 43212-2451
Telephone: (614) 488-5739
cmooney@opae.org
(willing to accept service by email)

CERTIFICATE OF SERVICE

A copy of these Comments will be served by the Commission's Docketing Division on the persons stated below who are electronically subscribed on this 10th day of May 2019.

/s/ Colleen L. Mooney
Colleen L. Mooney
Ohio Partners for Affordable Energy

SERVICE LIST

Rocco.DAscenzo@duke-energy.com
Elizabeth.watts@duke-energy.com
Terry.etter@occ.ohio.gov
Amy.botschner.obrien@occ.ohio.gov
William.wright@ohioattorneygeneral.gov