

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application)	
of Duke Energy Ohio, Inc. for a)	Case No. 19-0187-EL-WVR
Waiver of Ohio Adm. Code)	
4901:1-18-06(A)(2).)	

**REPLY COMMENTS
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL,
PRO SENIORS, INC.,
AND
COMMUNITIES UNITED FOR ACTION
CONCERNING PROTECTIONS FOR CONSUMERS WHEN THEIR ELECTRIC
SERVICE IS TO BE DISCONNECTED**

I. INTRODUCTION

In-person notice on the day residential customers' electric service is to be shut off for nonpayment provides them with an additional opportunity to make a payment or payment arrangements to avoid disconnection. In-person notice is an important consumer protection adopted by the Public Utilities Commission of Ohio ("PUCO").¹ Unfortunately, the deployment of advanced meters allows electric utilities to remotely shut-off consumers' electric service from a utility back office without the requirement of in-person disconnection notice. In-person notice has helped many consumers avoid shut-off of their utility service.

In this case, the PUCO is considering whether Duke Energy Ohio, Inc. ("Duke") should continue a pilot program of notifying residential customers regarding an impending disconnection of their electric service without requiring in-person notice.

¹ Ohio Adm. Code 4901:1-18-06(A)(2).

Under this pilot, Duke uses means other than in-person notice to inform consumers who have advanced meters on their homes that their electric service is about to be disconnected for nonpayment. Almost all of Duke's residential customers have advanced meters on their homes.²

On May 10, 2019, the Office of the Ohio Consumers' Counsel ("OCC"), Pro Seniors, Inc., and Communities United for Action (collectively, "Consumer Groups") filed Comments explaining why the PUCO should halt the pilot and require Duke to provide in-person notice to residential consumers. We demonstrated that Duke has not shown good cause to continue the pilot as required by Ohio Adm. Code 4901:1-18-02(B)(3).³ And we disproved Duke's claim that consumers benefit from having their electric service shut off by remote control.⁴

The PUCO Staff and Ohio Partners for Affordable Energy ("OPAE") also filed separate comments in this case. Duke did not. The Consumer Groups file these Reply Comments to address some of the issues raised by the PUCO Staff and OPAE.⁵

² The latest information shows that approximately 505 Duke residential customers have traditional meters, rather than advanced meters. *See In the Matter of the Application of Duke Energy Ohio, Inc. for Approval of a Grid Modernization Opt-Out Tariff and for a Change in Accounting Procedures Including a Cost Recovery Mechanism*, Case No. 14-1160-EL-UNC, Hearing Transcript docketed October 29, 2016 at 35, 48-49.

³ Consumer Groups Comments at 3-8.

⁴ *Id.* at 6-7.

⁵ If the Consumer Groups do not address a position taken in another party's comments, that should not be construed as the Consumer Groups' acquiescence to the party's position.

II. RECOMMENDATIONS

- A. Fewer customers being disconnected is a good thing, but it is likely tied to the increased scrutiny of Duke's disconnection practices, not the waiver program, and thus the PUCO should not find good cause to continue the waiver.**

The PUCO Staff looked at the raw disconnection data supplied by Duke and concluded that fewer disconnections of residential customers is a sign that customers have been responsive to the alternative means of notification allowed in the pilot.⁶ But the PUCO Staff did not look at the entire picture regarding Duke's disconnection practices.

As the Consumer Groups pointed out, the number of Duke residential customers who were disconnected for nonpayment began to decline in the year *before* the pilot began.⁷ This suggests that the decline was due to factors other than the alternative means of notifying customers regarding disconnection of electric service. The primary factor was likely the increased scrutiny of Duke's disconnection practices resulting from two PUCO cases. The first was the *Pitzer* complaint case, where the PUCO determined that Duke unlawfully disconnected the electric service of a residential customer during cold weather in November 2012.⁸ The second was the PUCO's investigation in Case No. 17-2089, which involved an independent third-party audit of Duke's disconnection policies and practices.⁹ This additional scrutiny was the most likely cause for the decline in the disconnection numbers for Duke's residential electric customers during the pilot.

⁶ See PUCO Staff Comments at 4.

⁷ Consumer Groups Comments at 4-5.

⁸ *Pitzer v. Duke Energy Ohio, Inc.*, Case No. 15-298-GE-CSS, Opinion and Order (August 30, 2017), ¶59. Tragically, two consumers died from hypothermia after Duke shut off their electricity.

⁹ Consumer Groups Comments at 5. See also OPAE Comments at 3-8.

Duke, which has the burden of proof in this case, has not shown that the alternative means of notifying residential customers regarding impending disconnection resulted in fewer residential customers being disconnected for nonpayment during the pilot. Duke has not shown good cause to continue the waiver of in-person notice to residential customers on the day their electric service is to be disconnected for nonpayment.

B. The PUCO should reject the idea that customers “benefit” from remote disconnection of their electric service.

Like Duke,¹⁰ the PUCO Staff claims that there is a benefit to automated remote disconnection. The PUCO Staff’s claimed benefit is in remote reconnection.¹¹ But as the Consumer Groups noted, any benefit from remote reconnection is irrelevant to this case.¹² The waiver addresses only the means to notify customers that their electric service is to be *disconnected*. No waiver of Ohio Adm. Code 4901:1-18-02(B)(3) is needed to remotely *reconnect* residential customers’ electric service. Any information concerning the number of residential customers whose electric service was remotely reconnected should have no bearing on the PUCO’s determination of whether Duke should provide in-person notice to residential customers on the day their electric service is to be disconnected for nonpayment.

Unlike Duke, however, the PUCO Staff does not assert that the benefit accrues to customers. The fact is, consumers do not benefit from remote disconnection,¹³ especially when they lose the last opportunity to avoid disconnection of service, that in-person

¹⁰ Application at 2.

¹¹ PUCO Staff’s Comments at 2.

¹² *Id.* at 6. *See also* OPAE Comments at 9.

¹³ *See* Consumer Groups Comments at 6-7.

notice provides, by making a payment or payment arrangements. The PUCO should not find consumer benefit in remote disconnection of utility service.

C. The PUCO Staff's support of Duke's alternative to in-person notice to consumers on the day their electric service is scheduled to be disconnected is based on a misreading of a passage in Duke's amended application in its original waiver case, and thus is faulty and should not be followed.

In recommending continuation of the pilot, the PUCO Staff stated: "Duke stated in the amended application that prior to the use of any alternative means of notification, less than 20 percent of disconnection work orders were canceled, presumably because the customer made the payment or payment arrangements required to avoid disconnection."¹⁴ Based on this statement, the PUCO Staff concluded that customers are more responsive to the alternative means for notifying customers that their electric service is about to be disconnected approved for the pilot.¹⁵ But the PUCO Staff misread Duke's statement from its amended application, and thus the PUCO Staff's conclusion is faulty.

In fact, Duke's claim regarding cancellation of disconnection work orders was limited to the 8 a.m. to 10 a.m. period on the day of disconnection. Duke's amended application stated: "Indeed, for the period during which [a text and/or telephone message] has been used, the Company has seen a significant increase in the number of disconnection-for-nonpayment work orders canceled on the scheduled disconnection date. Of such cancelations now, almost 50 percent have occurred between the hours of 8 a.m. and 10 a.m. In contrast, before the use of a text and/or telephone message, *less than 20 percent of the disconnection-for-nonpayment work orders were canceled*, on the

¹⁴ PUCO Staff's Comments at 4, citing Case No. 16-1096-EL-WVR, Amended Application (July 22, 2016) at 2.

¹⁵ *Id.* at 5.

scheduled disconnection date, *between 8 a.m. and 10 a.m.*”¹⁶ Duke was only referencing the number of cancellations during that two-hour window, not the entire day customers’ electric service was scheduled to be disconnected.

The PUCO Staff’s support for Duke’s alternative means of notifying customers of an impending disconnection of their electric service is based on a misreading of the amended application in Case No. 16-1096. As the Consumer Groups noted, during the pre-waiver period Duke did not track whether a customer acted to avoid disconnection in response to a written day of disconnection notice.¹⁷ Thus, there is nothing to compare the data Duke provides regarding the number of customers who avoided disconnection by acting in response to a phone call or text message.

The PUCO Staff’s conclusion to continue allowing Duke to not provide in-person notice to consumers on the day their electric service is to be disconnected is flawed. The PUCO should not allow Duke to continue the pilot.

III. CONCLUSION

The PUCO Staff’s comments do not support continuing Duke’s alternative means of notifying customers regarding an impending disconnection of their electric service. Instead, the PUCO should end the pilot and restore the consumer protections in Ohio Adm. Code 4901:1-18-06(A)(2) to Duke’s residential electric customers.

¹⁶ Amended Application at 2 (footnote omitted) (emphasis added).

¹⁷ Consumer Groups Comments at 7.

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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 24th day of May 2019.

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Summary: Comments Reply Comments by the Office of the Ohio Consumers' Counsel, Pro Seniors, Inc., and Communities United for Action Concerning Protections for Consumers When Their Electric Service is to be Disconnected electronically filed by Ms. Deb J. Bingham on behalf of Etter, Terry L.