

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission’s Review    )  
of Chapter 4901:1-10 of the Ohio                )   Case No. 17-1842-EL-ORD  
Administrative Code.                                )

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**REPLY COMMENTS OF  
THE DAYTON POWER AND LIGHT COMPANY**

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The Dayton Power and Light Company (“DP&L” or the “Company”) hereby submits the following Reply Comments in response to the Public Utilities Commission of Ohio (“PUCO” or “the Commission”) July 17, 2019 Entry and Comments filed by other interested parties related to proposed changes to Chapter 4901:1-10.

**O.A.C. 4901:1-10-01 - Definitions**

The Office of the Ohio Consumers’ Counsel (“OCC”) recommends adding a definition for the phrase “momentary outage” in order to create a new reliability metric under O.A.C. 4901:1-10-10. (Comments on Amendments to PUCO Rules to Better Protect Consumers by the Office of the Ohio Consumers Counsel (“OCC Comments”) at p. 2 (Aug. 16, 2019)). For the reasons more fully explained under that section, DP&L opposes the implementation of a momentary average interruption frequency index; thus, OCC’s recommended definition of “momentary outage” is unnecessary.

**O.A.C. 4901:1-10-05 - Metering**

DP&L supports Ohio Power Company’s (“AEP”) proposed addition to O.A.C. 4901:1-10-05(J)(4) that would give electric utilities the right to refuse to provide advanced meter opt-out service for net meter customers and customers who pose a safety

risk to utility workers. (Initial Comments of Ohio Power Company (“AEP Comments”) at p. 4 (Aug. 16, 2019)). This is also consistent with the waivers that have been granted to both AEP and DP&L under PUCO Case Nos. 16-1773-EL-WVR and 18-1257-EL-WVR, respectively.

DP&L opposes OCC’s proposed amendment to O.A.C. 4901:1-10-05(I)(1), which would require EDUs to obtain an actual read a minimum of four times per year per customer. (OCC Comments at p. 7). DP&L tries to obtain accurate readings for billing to avoid having estimated bills. Additionally, a customer can contact DP&L after receiving a bill with an estimated read and schedule an appointment for an actual reading to be obtained if they feel the estimate is not accurate. Thus, OCC insists upon an unnecessary addition to the rule that will just result in increased costs for those that do not have advanced meter infrastructure. OCC supports the requested change by stating that, “the billions of dollars that the electric utilities want to spend on grid-modernization and advanced metering infrastructure should result in more accurate and frequent meter reads.” (OCC Comments at p. 7). But the Ohio EDUs are in varying stages of grid modernization. Some, like DP&L, have not even commenced grid modernization or the rollout of advanced metering infrastructure. Thus, to the extent the PUCO does adopt a requirement exceeding one actual read per year, it should only apply toward those accounts associated with advanced meters. Moreover, DP&L opposes OCC’s attempt to shift the requirement from, “in service meters” to “per customer.” Any requirement related to reading meters needs to be based on meters as opposed to customers because customers at a premise change throughout the year.

**O.A.C. 4901:1-10-08 - Emergency Plan, Annual Emergency Contact Report and Annual Review of Emergency Plan; Critical Customers; Emergency Exercise; and Coordination**

The Commission should reject OCC's request to have emergency plans kept on site at the PUCO. (OCC Comments at pp 8-10). The rule currently requires the emergency action plan be available for review at the utility's offices and this has worked well. The OCC argues that it is for ease of reference and efficiency in the state regulator's work on emergency issues. (OCC Comments at p. 10). It appears that OCC is trying to solve a problem that does not exist. Thus, OCC's recommended edits appear to be a veiled attempt to make the EDU Emergency Action Plans subject to public records requests to circumvent the Commission's ruling in Case No. 12-2050-EL-ORD. In that case the Commission rejected OCC's attempt to receive a copy of the EDU's Emergency Action Plan because "emergency plans contain critical infrastructure information, and control of that data should remain with the utilities." *In Re the Commission's Review of Chapter 4901:1-10, Ohio Administrative Code, Regarding Electric Companies*, Case No. 12-2050-EL-ORD, Finding at Order at p. 10 (Jan. 15, 2014). The Commission also set forth its belief "that the Commission's outage coordinator and Staff have sufficient authority and oversight to ensure that the utilities maintain proper and effective emergency plans." *Id.* DP&L agrees that the current process with the PUCO Staff has operated appropriately in ensuring that the EDUs have appropriate emergency plans as indicated by the fact that the Staff recommended no changes; therefore, the rule should not be changed.

OCC also recommended unnecessarily prescriptive rules governing what should be in the Emergency Action Plans and how often they should be updated. (OCC Comments at pp. 9-10). OCC first recommends changing the frequency of updating and verifying

critical customers from annually to quarterly. (OCC Comments at p. 9). Updates already occur more frequently than quarterly because customers can contact the EDU throughout the year as conditions change in their household. Adopting OCC's recommended change would quadruple the administrative cost of performing the verifications without any proof annual verifications are insufficient and result in lists that are "outdated and not reflective of the current needs of customers" as suggested by OCC.

OCC also recommends a new rule that requires express indication of circumstances that warrant plan implementation. (OCC Comments at p. 9). Not only is there no evidence such information is omitted from the Emergency Action Plans, but such a rule is overly prescriptive and could be unduly limiting to invocation of the said Plan (after all, one cannot anticipate every disaster scenario that may arise). In fact, OCC has previously requested the same language, which was rejected by the Commission. See, *In Re the Commission's Review of Chapter 4901:1-10, Ohio Administrative Code, Regarding Electric Companies*, Case No. 12-2050-EL-ORD, Finding at Order at p. 10 (Jan. 15, 2014). OCC also suggest edits requiring that the EDUs retain contact information for providers to critical care. (OCC Comments at p 10). Not only is this exorbitantly administratively burdensome on the EDUs but it is likely not within the reasonable limitations of the EDUs. This is compounded by the fact that critical customers may have multiple care providers and HIPAA laws could prohibit the EDUs from acquiring such information. Finally, OCC requests a rule that requires priority response to restore service to critical customers. (OCC Comments at p. 10). This not only needless micromanages the EDUs that are trusted and charged with providing safe and reliable service but has the potential to swallow itself. Critical customers are spread throughout the entire service

territory on many different circuits; therefore, OCC's misguided recommendations could reach the very real conclusion of prioritizing all circuits at the same time and becoming meaningless. While both customers and DP&L would certainly enjoy such a utopian scenario, it does not line up with the realities of restoring service in emergency situations.

#### **O.A.C. 4901:1-10-10 - Distribution System Reliability**

As previously mentioned, OCC suggests that the Commission implement a new reliability metric known as the Momentary Average Interruption Frequency Index ("MAIFI"). To support this argument, OCC acknowledges that the Commission has previously rejected this concept but now claims the issue is ripe for implementation citing to the deployment of smartgrid technology. (OCC Comments at pp. 3-4). This is because smart grid technology is necessary to track and report the granular level of detail to meet the MAIFI standard. But to implement a rule that is applicable to all utilities when some have not even begun to roll out smartgrid technology is putting the cart before the horse. It is well-known that DP&L has filed a Distribution Modernization Plan seeking to implement many of the smartgrid technologies referenced by OCC, but there is no resolution to the case. Until then, DP&L would be unable to comply with the rule. For this reason, DP&L maintains that is still not ripe for consideration during this rule review and should reject OCC's attempt to implement the MAIFI standard.

OCC's attempt to institute a MAIFI standard should also be rejected because it emphasizes form over substance by encouraging utilities to chase the avoidance of momentary outages potentially creating more prolonged outages. DP&L, like most utilities, installs reclosers on its overhead distribution system to reduce sustained outages to customers caused by momentary or transient faults, such as animals impacting distribution equipment and

lightning strikes. The reclosers, while clearing a fault, may operate causing the momentary loss(es) of power to the customer. While DP&L understands that no customer likes a momentary outage because they can be inconvenient, a momentary outage is far more desirable than a sustained outage which requires a line technician to make repairs before electricity is restored.

OCC also requests that the Commission modify language that would require the EDU to publicly file an action plan if the EDU fails to miss a reliability standard for a year as opposed to submitting the action plan to PUCO Staff. DP&L urges the Commission to reject OCC's recommendation because it could require the EDUs to publicly divulge confidential and potentially critical infrastructure information. Requiring EDUs to publicly file remedial plans to address already tenuous reliability situations seems precisely the type of information that would be of interest to those that are trying to attack distribution grids for nefarious purposes. There are well established more appropriate ways to share confidential and sensitive information that is communicated as part of Ohio's regulatory paradigm.

#### **O.A.C. 4901:1-10-11 - Distribution Circuit Performance**

The current version of O.A.C. 4901: 1-10-11(F), which has remained unchanged for the last ten years, provides that if a circuit is listed for three consecutive years on the 8 worst performing circuit list then it is rebuttable presumption of a violation of the rule. The OCC suggests that electric utilities should be required to take corrective action to make sure that customers are not being served by a circuit that is on two consecutive reports. DP&L works diligently to eliminate repeat circuits and invests a significant amount of time and resources in addressing any current or potential reliability concerns. OCC should recognize that it may take

longer than a year to improve a circuit's performance. For example, a circuit may appear on the list and the corrective action plan developed could take 9 months or more to fully implement with planning, engineering and construction, which gives only 3 months for a circuit to improve. It is unreasonable for OCC to suggest that a circuit that appears on the list two years in a row is a violation of the rule and the Commission should reject the OCC's proposal. Moreover, OCC's recommended edits "to make sure that customers are not being served by a circuit that is listed on two consecutive reports," creates a confusing paradigm. (OCC Comments at p. 12). The rule F reports are filed by circuit, not by which customers were affected by circuit outages. At a minimum, OCC's recommended changes create confusion, and the potential for unduly burdensome, if not impossible, reporting.

OCC also suggests that these reports should be filed at the Commission rather than submitted to Commission Staff. (OCC Comments at p. 11). For the reasons previously explained in response to O.A.C. 4901:1-10-08 and 4901:1-10-10, these reports should be held confidentially. Making such information publicly available will almost certainly result in inappropriate comparisons and incorrect conclusions between the EDUs.

#### **O.A.C. 4901:1-10-12 - Provision of Customer Rights and Obligations**

DP&L objects to OCC's recommendation for the utility to provide the customer rights and obligations in written form to all customers in an annual bill insert (OCC Comments at pp. 12-13). While DP&L certainly agrees that the document helps customers better understand their rights as utility customers, there are more efficient ways to get this information to customers. In addition to upon request, DP&L already makes the document readily available for download from its public website. An annual bill insert is a costly and unnecessary addition to the utility's requirements.

OCC also recommends edits to O.A.C. 4901:1-10-12(D)(2) that would require the EDUs to proactively inform all customers about “alternative rates and service options” without inquiry. But neither OCC nor the O.A.C. define what constitutes a “service option.” Without further definition, this rule is ambiguous and puts the EDUs in a precarious position of informing customers about options that are vague and undefined and could result in increased costs, wait times, and confusion for customers. Therefore, OCC’s recommended edit should be rejected.

#### **O.A.C. 4901:1-10-15 - Reasons for Denial or Disconnection of Nonresidential Service**

DP&L supports AEP’s proposed deletion to 4901:1-10-15(H) because it is unclear. (AEP Comments at pp. 10-11). An electric utility should be permitted to disconnect service when a customer moves out of a service location if a new party has not met requirements and established service.

#### **O.A.C. 4901:1-10-17 - Payment Schedule and Disconnection Procedures for Nonpayment by Nonresidential Customers**

DP&L supports AEP’s proposed amendments to O.A.C. 4901:1-10-17 for the reasons provided by AEP. (AEP Comments at p. 11).

#### **O.A.C. 4901:1-10-20 - Fraudulent Act, Tampering, and Theft of Service**

DP&L supports AEP’s proposed amendments to 4901:1-10-20(B)(2) that would not require an electric utility to tag or seal the customer’s meter when disconnecting for reasons defined in this paragraph. (AEP Comments at p. 12). A meter may not always be

accessible, and it is sometimes necessary to disconnect at the service line when disconnecting for tampering or unauthorized reconnection therefore making it not practical to always be able to tag or seal the meter.

#### **O.A.C. 4901:1-10-22 - Electric Utility Customer Billing and Payments**

##### **A. The Commission Should Reject OCC's Recommended Edits that Serve to Confuse Customer and Add Costs.**

The Commission should reject OCC's request to amend the rules to require further information to be provided on customer bills. OCC requests several additional pieces of information be added to customer bills that will only serve to confuse, overwhelm, and distract from those portions of the bill that they care most about. For instance, OCC requests an amendment to require that all riders be listed separate on customer's bills. (OCC Comments at p. 14). To the extent customers seek further detail about their bills, they can visit the "Understanding Your Bill" link on DP&L's web site, which contains layman interpretations of the bill as well as all rates and tariffs. Moreover, implementing OCC's proposal could have a waterfall effect on costs – increased costs for billing, but then the increased costs associated with answering the additional questions that will inevitably arise from information that could prove to be confusing for customers.

OCC's alternative proposals are likely to be even more costly and less fruitful. Only listing those riders that exceed \$1.00 (OCC Comments at p. 14), will be very difficult and costly to implement because many riders are charged on a volumetric basis, which can fluctuate from month-to-month. And only providing costs for riders that "provide direct reliability benefits to customers" (OCC Comments at p. 14), create an ambiguous and nebulous standard that will not provide benefits to customers.

OCC also requests that the utilities provide total annual costs for electricity and total annual bill and providing mock-up bills of what shopping customers would have paid if they had been on the SSO (OCC Comments at p. 15). By definition, this information is about past information, which would have minimal if any relevant information for future bills. But they will have increased costs for utilities to track, analyze, and include the information on customer bills. Therefore, the requested edits should be rejected.

**B. The Commission Should Not Amend Rules to Address Prepaid Services.**

DP&L agrees with OCC that the Commission should not adopt rules that expressly address prepaid service. (*See*, OCC Comments at pp. 16-17; DP&L Comments at p. 9-10). DP&L does not agree, however, with OCC's position that prepaid service would violate Ohio law. (OCC Comments at p. 16). DP&L has proposed a prepay service as part of its Distribution Modernization Plan, PUCO Case No. 18-1875-EL-GRD and maintains that it has legal support and authority. However, because DP&L and OCC both agree that the prepay issue should not be addressed as part of this rules proceeding, DP&L will refrain from addressing the legal merits of prepay until the time it is appropriate in DP&L's Distribution Modernization Plan filing.

**C. The Commission Should Refrain from Addressing Non-Commodity Billing and Services at This Time.**

DP&L maintains that the Commission should refrain from addressing non-commodity goods and services. (DP&L Comments at pp. 9-10). To the extent the Commission does decide to address non-commodity billing in these updated rules, the Commission should not adopt RESA's<sup>1</sup> suggestion that the rules should prevent EDUs from

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<sup>1</sup> "RESA" refers collectively to the Retail Energy Supply Association and Direct Energy Business, LLC/Direct Energy Services, LLC.

offering non-commodity goods and services. (Join Initial Comments of the Retail Energy Supply Association and Direct Energy Business, LLC/Direct Energy Services, LLC (“RESA Comments”) at p. 10 (Aug. 16, 2019)). Because the proposed rules employ a definition of “non commodity goods and services” rather than using “nonelectric services,” it stands to reason that non-commodity services includes more than nonelectric services. The EDUs are permitted to offer retail electric service unless otherwise declared to be competitive. *See*, R.C. 4928.01(B); R.C. 4928.03; R.C. 4928.04. Thus, the rules should not be written in such a way to summarily prevent EDUs from offering non-commodity billing and services because it would be inconsistent with Ohio law. Aside from refraining to address non-commodity billing in these rules, this confusion can be obviated by replacing the definitions and provisions related to “non-commodity goods” and “non-commodity services” with “nonelectric product or service,” which would bring further clarity and alignment with Chapter 4928 of the Ohio Revised Code.<sup>2</sup>

IGS also insists upon a rule that requires EDUs to provide non-commodity goods and services from a CRES without any parameters or limitations. (IGS Comments at p. 5). This is inconsistent with the Commission Order approving DP&L’s Amended Stipulation in its ESP III case where DP&L was to “submit an application to the Commission to establish non-commodity billing and *parameters*.” *In Re the Application of The Dayton Power and Light Company for Approval of Its Electric Security Plan*, Case No. 16-395-EL-SSO, Amended Stipulation and Recommendation at p. 21 (March 14, 2017). Such an unbridled requirement to place non-commodity goods and service on the bill could also be

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<sup>2</sup> This is also consistent with some of the recommendations made by the CRES. (See, RESA Comments at p. 9; Initial Comments of Interstate Gas Supply, Inc. (“IGS Comments”) at p. 2 (Aug. 16, 2019)).

### **O.A.C. 4901:1-10-24 - Customer Safeguards and Information**

OCC once again recommends an edit to the rules that would require additional costs for EDUs (and customers) with limited if any tangible benefit for customers. Specifically, OCC proposes adding O.A.C. 4901:1-10-24(F)(6) that requires an independent auditor to conduct an audit of the privacy policies and practices of EDUs. (OCC Comments at p. 18). While OCC argues that the rule should only be applicable to those EDUs that have implemented AMI and grid modernization, (OCC Comments at p. 18), OCC's proposed language does not include any such limit. This is problematic because DP&L has not yet implemented grid modernization. Moreover, privacy issues are addressed in DP&L's Distribution Modernization Plan filing and there is also a Power Forward working group discussing data privacy issues. Thus, OCC's recommended edits are premature, inconsistent with their own supporting argument, and should be rejected.

### **O.A.C. 4901:1-10-27 - Inspection, Maintenance, Repair, and Replacement of Transmission and Distribution Facilities (Circuits and Equipment)**

DP&L urges the Commission to reject OCC's proposal to amend O.A.C. 4901:1-10-27(C)(2) to require EDU's to file reports with the Commission rather than submitted to Commission Staff. (OCC Comments at p. 19). For the reasons previously explained in response to O.A.C. 4901:1-10-08, 4901:1-10-10, and 4901:1-10-11, these reports should be held confidentially. These reports contain sensitive transmission information and should not be filed in a publicly accessible docket.

DP&L does agree with AEP suggested changes to 4901:1-10-27(E)(4) that adding remaining deficiencies that pose a threat to reliability shall be corrected by the end of calendar year following the year the inspection or testing that originally revealed such

deficiency was completed. This will allow EDU's to prioritize maintenance items that will impact reliability and minimize the expense of other repairs that will not impact reliability.

### **O.A.C. 4901:1-10-33 - Consolidated Billing Requirements**

Although DP&L supports AEP's intent of adding flexibility to O.A.C. 4901:1-10-33 so that the consolidated billing requirements would apply regardless of who the billing entity is (AEP's Comments at pp. 22-25), supplier consolidated billing is already addressed in O.A.C. 4901:1-21-18 and the proposed changes may cause some confusion and/or conflict with the requirements of that section.

The CRES providers also raised concerns about the ability to offer Non-Commodity billing. DP&L incorporates by reference the arguments set forth in response to O.A.C. 4901:1-10-22.

### **Conclusion**

DP&L appreciates the opportunity to provide these Reply Comments and urges the Commission to adopt the recommendations set forth above and in DP&L's Comments filed on August 16, 2019.

Respectfully submitted,

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## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of these Reply Comments was served on the persons  
stated below via electronic transmission, this 30<sup>th</sup> day of August 2019.

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