

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF
DUKE ENERGY OHIO, INC. FOR A WAIVER
OF OHIO ADM.CODE 4901:1-10-18-
06(A)(2).

CASE NO. 19-187-EL-WVR

ENTRY ON REHEARING

Entered in the Journal on November 21, 2019

I. SUMMARY

{¶ 1} The Commission denies the joint application for rehearing filed by the Ohio Consumers' Counsel, Communities United for Action, and Pro Seniors, Inc.

II. PROCEDURAL HISTORY

{¶ 2} Duke Energy Ohio, Inc. (Duke or the Company) is an electric distribution utility as defined by R.C. 4928.01(A)(6) and a public utility as defined in R.C. 4905.02, and, as such, is subject to the jurisdiction of this Commission.

{¶ 3} On January 30, 2019, Duke submitted an application in this case to the Commission requesting a continuation of a waiver of Ohio Adm.Code 4901:1-18-06(A)(2) that was granted by the Commission on March 8, 2017. *In the Matter of the Application of Duke Energy Ohio, Inc. for a Waiver*, Case No. 16-1096-EL-WVR (2016 Waiver Case), Finding and Order (Mar. 8, 2017). In the 2016 Waiver Case, the Commission authorized an alternative notification process that included: a text and/or phone message the day of disconnection; a text and/or phone message two business days before disconnection; an extension of the mailed 10-day disconnection notice from only during the winter heating season to year-round; the 14-day notice, as required under Ohio Adm.Code 4901:1-18-06; and a one-time bill insert informing customers of the change in process. Applications for rehearing were filed by the Ohio Consumers' Counsel (OCC), Pro Seniors, Inc. (Pro Seniors), and Communities United for Action (CUFA) (collectively, the Consumer Groups). On September 26, 2019, the Commission denied the Consumer Groups' application for rehearing in the 2016 Waiver Case and reaffirmed its determination that Duke's alternative

notification system provides reasonable notice to customers, meets the requirements of R.C. 4933.122, and is consistent with the Commission's policy of preventing injuries to residential customers by helping customers maintain service. *2016 Waiver Case*, Second Entry on Rehearing (Sept. 26, 2019) at ¶ 16.

{¶ 4} Motions to intervene were timely filed by OCC, Ohio Partners for Affordable Energy (OPAE), Direct Energy, LLP (Direct), Pro Seniors, and CUFA.

{¶ 5} On May 10, 2019, Staff, OPAE, and the Consumer Groups jointly filed initial comments.

{¶ 6} On May 24, 2019, Duke and the Consumer Groups filed reply comments.

{¶ 7} On September 26, 2019, the Commission issued a Finding and Order granting Duke's request to continue the waiver of Ohio Adm.Code 4901:1-18-06(A)(2), as originally granted in the *2016 Waiver Case*, and authorized Duke to continue the waiver through May 1, 2024.

{¶ 8} On October 28, 2019, the Consumer Groups filed an application for rehearing. Thereafter, on November 7, 2019, Duke filed a memorandum contra the Consumer Groups' application for rehearing.

{¶ 9} R.C. 4903.10 states that any party who has entered an appearance in a Commission proceeding may apply for rehearing with respect to any matters determined in that proceeding, by filing an application within 30 days after the entry of the order upon the journal of the Commission.

III. DISCUSSION

{¶ 10} The Consumer Groups submit one assignment of error. In their single assignment of error, the Consumer Groups argue that the September 26, 2019 Finding and Order is unjust, unreasonable, and unlawful because it allows Duke to avoid consumer protections in the disconnection rules for five years with no further Commission review,

contrary to the state policy for protecting at-risk populations. Specifically, the Consumer Groups reference R.C. 4928.02(L), which states that it is state policy to “[p]rotect at-risk populations, including, but not limited to, when considering the implementation of any new advanced energy or renewable energy resource.” The Consumer Groups believe that one particular area where the Commission should protect at-risk populations is in disconnection of electric service for nonpayments and state that at-risk populations often have problems paying their phone bills, in addition to other utility bills, and thus might not have phone service to receive calls or texts. The Consumer Groups aver that, without adequate notice that their electric service is to be disconnected, consumers—especially at-risk consumers—could be subjected to tragic consequences. The Consumer Groups advocate that in-person notice is necessary because any other type of notice does not ensure that the customer actually receives the final notice to avoid disconnection of vital electric service. Additionally, the Consumer Groups take issue with the fact that the September 26, 2019 Finding and Order did not provide for a formal Commission review of Duke’s program before May 1, 2024, arguing that five years without a Commission review is unjust and unreasonable. The Consumer Groups request that the Commission modify its Finding and Order to effectuate a formal Commission review of Duke’s waiver no later than May 1, 2021, stating that such a review will help safeguard residential consumers and give the Commission an opportunity to review the waiver in light of the Duke disconnection investigation, which is scheduled to take place by mid-2021.

{¶ 11} In reply, Duke states that the Consumer Groups’ application for rehearing should be denied. Specifically, Duke explains that its application in this case is consistent with the plain language of Ohio Adm.Code 4901:1-18-06(A)(2) and provides customers with adequate notice and opportunity to avoid disconnections to the greatest extent possible. Duke rebuts the Consumer Groups’ allegation that in-person notice is necessary, stating that the additional notifications employed by the Company have resulted in a reduction in both disconnections for nonpayment and for customers eligible for disconnection. Additionally, Duke points to Staff’s May 10, 2019 comments regarding Staff’s investigation and

recommendation of the program. Duke notes that: 75 percent of customers scheduled for disconnection for nonpayment responded to one of the alternative means of notification and made the payment required to avoid disconnection; 77 percent of calls made two days prior to scheduled disconnection were successfully completed; and 69 percent of those calls resulted in the customer making payment and avoiding disconnection. Lastly, Duke states that Staff noted that it received zero complaints about these practices.

IV. CONCLUSION

{¶ 12} The Consumer Groups' application for rehearing should be denied. Regarding the Consumer Groups' single issue, we affirm our findings from the September 26, 2019 Finding and Order that Duke's alternative notification system provides reasonable notice to customers, meets the requirements of R.C. 4933.122, and is consistent with the Commission's policy of preventing injuries to residential customers by helping customers maintain service. This determination is consistent with our decision in the *2016 Waiver Case*, Second Entry on Rehearing (Sept. 26, 2019). As we noted in the *2016 Waiver Case*, Second Entry on Rehearing (Sept. 26, 2019), the Commission is not persuaded that proper notice can only be achieved by a visit to a customer's premises—there is no guarantee that, if a Duke representative goes to a home, the customer will be there or will respond. In addition, prior to disconnection, multiple notices are to be mailed to a customer's premises pursuant to our directives and Ohio Adm.Code 4901:1-18-06. As discussed in the order, the data provided by the Company to Staff demonstrates that customers are more responsive to the methods of alternative notification. Finding and Order at ¶16. Furthermore, the Commission adopted Staff's recommended conditions that provide additional consumer protections. Finding and Order at ¶ 16. Of particular note, Duke is expected to endeavor to ensure that the phone numbers on file for customers are current and accurate to the best of their ability. Additionally, Duke is to work with social service agencies, community organizations, and any other interested parties vulnerable and/or critical care customers, and those customers will continue to be excluded from the waiver. Finding and Order at ¶ 16. Lastly, with respect to the Consumer Groups' contention that the waiver should not have been approved

for a five-year period, we note that, pursuant to our Finding and Order, Duke is directed to collect monthly data regarding the waiver and to share that data with Staff on an annual basis. Finding and Order at ¶16. As the Commission has already reviewed Duke's process regarding the past two years, we determine that Staff's ongoing monitoring is sufficient.

V. ORDER

{¶ 13} It is, therefore,

{¶ 14} ORDERED, That the application for rehearing filed by the Consumer Groups be denied. It is, further,

{¶ 15} ORDERED, That a copy of this Entry on Rehearing be served upon all parties of record.

COMMISSIONERS:

Approving:

Sam Randazzo, Chairman
M. Beth Trombold
Lawrence K. Friedeman
Daniel R. Conway
Dennis P. Deters

LLA/hac

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Summary: Entry Entry on Rehearing that the Commission denies the joint application for rehearing filed by the Ohio Consumers' Counsel, Communities United for Action, and Pro Seniors, Inc. electronically filed by Docketing Staff on behalf of Docketing