

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Proper Procedures and Process)
for the Commission's Operations and Proceedings) Case No. 20-599-GE-UNC
During the Declared State of Emergency and)
Related Matters.)

**MOTION OF DUKE ENERGY OHIO, INC., TO SUSPEND CERTAIN
REQUIREMENTS FOR THE DURATION OF THE STATE OF EMERGENCY
DECLARED IN EXECUTIVE ORDER 2020-01D**

Comes now Duke Energy Ohio, Inc. (Duke Energy Ohio or Company), pursuant to the directives of the Public Utilities Commission of Ohio (Commission) in Case No. 20-591-AU-UNC and hereby moves the Commission for approval to suspend certain requirements (including but not limited to compliance with certain rules identified in the attached Memorandum in Support) for the duration of the state of emergency declared in Ohio pursuant to Executive Order 2020-01D (Executive Order).

Duke Energy Ohio submits the following memorandum in support of its motion.

Respectfully submitted,

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MEMORANDUM IN SUPPORT

I. PROCEDURAL HISTORY

On March 9, 2020, Ohio Governor Mike DeWine issued Executive Order No. 2020-01D, which directed, among other things that “[a] state of emergency is declared for the entire State to protect the well-being of the citizens of [] Ohio from the dangerous effects of COVID-19.”¹ The Executive Order also directed that “[s]tate agencies shall develop and implement procedures, including suspending or adopting temporary rules within an agency’s authority . . . to prevent or alleviate this public health threat.”²

Pursuant to the Executive Order and also its emergency authority under R.C. 4909.16, the Commission issued an Entry on March 12, 2020, in Case No. 20-591-AU-UNC (First Entry), directing utility companies to review their disconnection policies and recommend changes for the duration of the emergency:

- “review their service disconnection policies, practices, and tariff provisions and identify areas where it may be prudent to suspend, for the duration of the emergency, otherwise applicable requirements that may impose a service continuity hardship on customers or create unnecessary risks of social contact”;
- “promptly seek any necessary approval, for the duration of the emergency, to suspend otherwise applicable requirements that may impose a service continuity hardship on residential and nonresidential customers or create unnecessary COVID-19 risks associated with social contact”; and
- “coordinate and communicate with local community action agencies and other community-based organizations to ensure that utility service to customers is maintained during the state of emergency”³

The Commission directed that filings made pursuant to the second of the three above directives “shall be deemed approved on an emergency basis for a period of at least 30 days effective as of

¹ Executive Order, p. 3.

² *Id.*

³ First Entry, p. 3.

the filing date or until such date as the Commission may otherwise specify, which shall not be less than 30 days.” The Commission also noted that “if disconnection to a customer is necessary to prevent or resolve a presently or imminently hazardous situation, the customer’s service should be disconnected in accordance with standard practices.”⁴ On March 13, 2020, the Commission issued an Entry in the same case (Second Entry), expanding this directive to request that utility companies similarly address service *re*connection.

Pursuant to the Commission’s directive in these two entries, the Company proposes to suspend certain requirements (including but not limited to compliance with certain rules identified in the tables below) for the duration of the emergency and a reasonable period thereafter during which the state recovers or as otherwise specified by the Commission, as detailed below.

II. POLICIES, PRACTICES, AND REQUIREMENTS TO BE SUSPENDED PURSUANT TO THE COMMISSION’S DIRECTIVES IN THE FIRST ENTRY AND SECOND ENTRY.

The significance of this pandemic cannot be overstated. Indeed, since Governor DeWine issued the March 9 Executive Order, the Director of the Ohio Department of Health has ordered all Ohio bars, restaurants, fitness centers, movie theaters and other recreational establishments to close and has suspended classes for K-12 schools for three weeks beginning March 17.⁵ The governor’s leadership in respect of necessary precautions is driving further proclamations—the city of Cincinnati has ordered that people must maintain six feet of distance between one another while in public places.⁶ Consistent with these precautions, Duke Energy Ohio has already

⁴ *Id.*

⁵ *See In Re: Order the Closure of All K-12 Schools in the State of Ohio*, Director’s Order (March 14, 2020); *In Re: Order Limiting the Sale of Food and Beverages, Liquor, Beer and Wine to Carry-out and Delivery Only*, Director’s Order (March 15, 2020); *In Re: Amended Order to Limit and/or Prohibit Mass Gatherings and the Closure of Venues in the State of Ohio*, Director’s Order (March 17, 2020).

⁶ *Emergency Orders Enacted in Response to COVID-19* (March 16, 2020), available at <https://www.cincinnati-oh.gov/covid19/news/emergency-orders-enacted-in-response-to-covid-19/> (requiring individuals to “maintain a minimum of six feet of physical distance from other persons at all times” while making a number of exceptions).

implemented measures to minimize the risks of social contact, while mindful of its critical service obligations to customers. These measures, which may be amended as circumstances dictate, provide the foundation for the waivers requested herein.

A. Policies, Practices, and Requirements to be Suspended for Retail Electric Customers.

1. Duke Energy Ohio has already taken steps to protect its customers, employees, and the public.

In response to the Commission's directives, Duke Energy Ohio has taken action to protect its customers, its employees, and the general public. Effective March 13, 2020, the Company has suspended disconnections for non-payment. It has also taken several steps to communicate this suspension: proactively calling customers who recently received disconnect-for-nonpayment communications to inform them of the suspension, placing the information prominently on the Company's website, including it in social media statements, and communicating it to third-party stakeholders that work with customers. The Company will implement additional measures, where practical and cost effective, to advise customers of the temporary suspension, including a bill message that will go out to all customers. Additionally, the Company will reconnect all customers who have been recently disconnected for non-payment but not yet final-billed, as expeditiously as possible given the constraints and burdens imposed by the emergency. For these customers, the Company will waive reconnection fees and any applicable credit reviews. These modifications to the Company's disconnection and reconnection practices will greatly reduce hardships to service continuity for the Company's customers.

The Company is also being extremely flexible with customers who reach out to make payment arrangements, working with each customer to determine what is appropriate for his or her individual circumstances. It will also soon start waiving late fees, returned-check charges, and,

for residential customers, credit- and debit-card fees. In addition to enabling service continuity and minimizing customer hardships, as ordered by the Commission, these actions will mitigate the risk of social spread as residential customers will have more accessible channels for paying their utility bills

In addition, the Company has implemented, and continues to implement, enhanced safety measures, including social distancing in situations where in-person interactions are unavoidable. These are merely some of the measures that Duke Energy Ohio has already taken to protect its customers and its employees during this difficult time.

Finally, the Company continues to investigate opportunities to help customers through this difficult time. As those opportunities are identified, Duke Energy Ohio intends to announce additional means of assistance that it is able to offer.

2. *Duke Energy Ohio plans to suspend compliance with certain regulatory requirements to minimize service continuity hardships and/or unnecessary risks of social contact.*

For the duration of the emergency and a reasonable period thereafter during which the state recovers, Duke Energy Ohio seeks approval—which is automatically granted under the First Entry and Second Entry—to suspend the following otherwise-applicable requirements in the Ohio Administrative Code (O.A.C.) and any corresponding tariff requirements that implement the former:

O.A.C. Rule 4901:1-10-04(C): requires that an electric utility must “take steps to investigate and initiate corrective action . . . to restore the voltage levels to within acceptable limits” whenever the utility “knows that voltage levels exist outside of” levels specified in O.A.C. Rule 4901:1-10-04(B)(2). The safety measures necessitated by the emergency will make it increasingly challenging and/or impossible to meet this requirement for certain customers. The

Company will deviate from the requirement of prompt action in cases where the known voltage levels do not pose an imminent safety hazard or critical operational circumstance.

O.A.C. Rule 4901:10-05(F)(1): requires that a utility test a customer's meter "within thirty business days after the date of the [customer's] request." The safety measures necessitated by the emergency will make it increasingly challenging and/or impossible to meet this requirement. The Company plans to suspend customer-requested meter tests in order to permit the Company to reduce the unnecessary risk of social contact.

O.A.C. Rule 4901:10-05(I)(1): requires an electric utility to obtain "actual readings of all its in-service customer meters at least once each calendar year" and to "make reasonable attempts to obtain accurate, actual readings . . . for the billing period." The safety measures necessitated by the emergency will make it increasingly challenging and/or impossible to meet this requirement for certain customers. The Company plans to estimate bills where a manual meter reading would otherwise be required in order to reduce the unnecessary risk of social contact.

O.A.C. Rule 4901:10-05(I)(2): requires an electric utility to provide, upon customer request, "two actual meter readings . . . per calendar year" if usage has been estimated for more than two cycles or the customer has reasonable grounds to believe that the meter is malfunctioning. The safety measures necessitated by the emergency will make it increasingly challenging to meet this requirement for certain customers. The Company intends to suspend this activity in order to reduce the unnecessary risk of social contact.

O.A.C. Rule 4901:10-05(I)(3): requires an electric utility to provide an actual meter reading at initiation and/or termination of service if the meter has not been read within the sixty calendar days immediately preceding initiation or termination of service. The safety measures necessitated by the emergency will make it increasingly challenging to meet this requirement. The

Company plans to rely on estimated meter readings where otherwise a manual meter reading would be required in order to reduce the unnecessary risk of social contact.

O.A.C. Rule 4901:1-10-05(J)(4): permits a utility to “refuse to provide advanced meter opt-out service” when doing so “creates a safety hazard to the consumers or their premises, the public, or the electric utility’s personnel or facilities.” The Company believes that, during the emergency, this exception includes any instance where providing advanced meter opt-out service would pose a risk of unnecessary social contact.

O.A.C. Rule 4901:1-10-09: requires utilities to meet certain minimum customer service levels, *e.g.* to complete certain percentages of installations and upgrades of service within certain numbers of days, to maintain a certain average answer time for telephonic customer service calls, and to file reports regarding the Company’s service levels against such requirements. While the Company will continue to endeavor to meet these requirements as best it can, the safety measures necessitated by the emergency will make it increasingly challenging to do so. Accordingly, adherence to the rule, including its reporting obligations, should be suspended in order to permit the Company to reduce the unnecessary risk of social contact.

O.A.C. Rule 4901:1-10-27(D)(3): requires that all transmission and distribution substations and equipment shall be inspected twelve times annually, with no inspection interval exceeding forty calendar days between inspections. While the Company will continue to endeavor to meet this requirement as best it can, the safety measures necessitated by the emergency will make it increasingly challenging to do so. Accordingly, this rule should be suspended in order to permit the Company to reduce the unnecessary risk of social contact.

O.A.C. Rule 4901:1-18-07(A) and (B): require the utility to complete reconnection of service for previously disconnected customers within specific time frames. While the Company

will continue to endeavor to meet this requirement as best it can, the safety measures necessitated by the emergency will make it increasingly challenging to meet the required time frames. Accordingly, the Company asks that the Commission suspend this rule in order to allow the Company some additional time where necessitated by the need to reduce the unnecessary risk of social contact.

O.A.C. Rule 4901:1-18-17: requires utilities to remove PIPP plus customers who fail to comply with program requirements. To avoid a hardship to service continuity, the Company asks to suspend this rule, so that the Company may suspend termination of PIPP plus customers from the PIPP program.

The Company will do its best to substantially comply with most of the above regulatory requirements where such compliance does not require social contact, but will need, at times, to deviate from certain aspects of the listed rules to avoid or minimize social contact and/or minimize hardships to service continuity. As the emergency situation evolves and new information becomes available, the Company may require relief from additional requirements in order to mitigate risks associated with social contact.

In addition to the above-listed regulatory requirements, Duke Energy Ohio requests approval to suspend compliance with any requirements when such compliance is precluded by exigent circumstances stemming from the emergency. Among other things, the Company plans to instruct its employees to refrain from entry into any premises that they believe poses a significant risk of infection and/or exposure, including but not limited to premises containing persons under quarantine. As the emergency situation evolves and new information becomes available, the Company may impose more stringent measures for the sake of public health and safety.

B. Policies, Practices, and Requirements to be Suspended for Retail Natural Gas Customers.

- 1. Duke Energy Ohio has already taken steps to protect its customers and employees.*

Duke Energy Ohio has taken the steps listed in Section II.A.1 with regard to its gas customers, just as it has with regard to its electric customers. Duke Energy Ohio will continue responding to any natural gas emergency calls, such as reports of potential gas leaks. If social contact is required to address such emergencies, Duke Energy Ohio personnel will comply with federal safety guidelines appropriate to protect the safety of customers and themselves.

- 2. Duke Energy Ohio plans to suspend compliance with certain regulatory requirements to minimize service continuity hardships and/or unnecessary risks of social contact.*

Duke Energy Ohio seeks approval—which is automatically granted under the First Entry and Second Entry—to suspend the following otherwise-applicable requirements in the O.A.C. and any corresponding tariff requirements that implement the former:

O.A.C. Rule 4901:1-13-04(D): requires a natural gas company to test a customer’s meter, within thirty days of the customer’s request. The customer has a right, under the rule, to be present at the test. The safety measures necessitated by the emergency will make it increasingly challenging and/or impossible to meet this requirement. The Company plans to suspend customer-requested meter tests in order to permit it to reduce the unnecessary risk of social contact.

O.A.C. Rule 4901:1-13-04(G)(1): requires a natural gas company to obtain actual readings of each customer’s meter (other than automated meter reading equipment) at least once every twelve months. The safety measures necessitated by the emergency will make it increasingly challenging and/or impossible to meet this requirement for certain customers. The Company plans

to estimate bills where a manual meter reading would otherwise be required in order to permit the reduction of unnecessary risk of social contact.

O.A.C. Rule 4901:1-13-04(G)(5): requires a natural gas utility to provide, upon customer request, “two actual meter readings . . . per calendar year” if usage has been estimated for more than two cycles or the customer has reasonable grounds to believe that the meter is malfunctioning. The safety measures necessitated by the emergency will make it increasingly challenging to meet this requirement for certain customers. The Company intends to suspend actions under this rule in order to reduce the unnecessary risk of social contact.

O.A.C. Rule 4901:1-13-04(G)(6): requires a natural gas company to provide an actual meter reading at initiation and/or termination of service if the meter has not been read within the seventy calendar days immediately preceding initiation or termination of service. The safety measures necessitated by the emergency will make it increasingly challenging to meet this requirement. The Company plans to rely on estimated meter readings where otherwise a manual meter reading would be required in order to permit the Company to reduce the unnecessary risk of social contact.

O.A.C. Rule 4901:1-13-05(A): requires natural gas utilities to meet certain minimum customer service levels (*e.g.*, to complete certain percentages of installations and upgrades of service within certain numbers of days, and to maintain a certain average answer time for telephonic customer service calls) and to file reports regarding the Company’s service levels against such requirements. While the Company will continue to endeavor to meet these requirements, the safety measures necessitated by the emergency will make it increasingly challenging to do so. Accordingly, adherence to this rule, including the concomitant reporting obligations, should be suspended in order to reduce the unnecessary risk of social contact.

O.A.C. Rule 4901:1-13-05(D): requires the natural gas company to complete service line repairs after a shutoff by the end of the next day. The Company will still attempt to perform this work and to do so on a timely basis; however, its ability to do so will be influenced by the circumstances of each individual request, including those related to the need to access a customer's premises. The Company is aware that "unsafe conditions" give it the ability to delay these repairs but identifies this rule in order to avoid any possible confusion.

O.A.C. Rule 4901:1-16-04(I): sets forth mandatory actions that a natural gas company must take upon discovery of a leak. The Company will continue to address grade-one leaks as required by the rule, even cutting a line at the curb if necessary to resolve serious hazards. However, it may not be possible to complete the actions required for grade-two leaks in the times specified, either because of the risk of increased social contact or because of potential staffing levels.

O.A.C. Chapters 4901:1-17 and -18: govern disconnection and reconnection practices for residential service. The Company's actions under these chapters will be the same for natural gas as described above regarding electric service. However, where a customer requests disconnection of natural gas service for a reason other than safety, Duke Energy Ohio's current intention is to perform only those disconnections that can be accomplished at an accessible outdoor meter, unless circumstances change to enable a different outcome.

In addition to the above-listed regulatory requirements, Duke Energy Ohio requests approval to suspend compliance with any requirements when such compliance is precluded by exigent circumstances stemming from the emergency.

C. Duke Energy Ohio Has Begun to Coordinate with Local Community Action Agencies and Other Community-Based Organizations to Ensure that Utility Service to Customers Is Maintained.

Duke Energy Ohio has already begun to “coordinate and communicate with local community action agencies and other community-based organizations to ensure that utility service to customers is maintained during the state of emergency.”⁷

First, Duke Energy Ohio has already reached out to all of the community action agencies in its service territory to explain the measures that the Company was taking to protect customers. A Company representative has provided each community action agency with both a verbal explanation over telephone or voicemail *and* a written explanation via email of the Company’s approach to protecting customers during this emergency. Among other things, the Company informed these agencies that Duke Energy Ohio was suspending disconnections, that the Commission had extended the Winter Reconnect Order, and that customers who had already been disconnected for non-payment should contact customer service to have their services restored. The Company invited the community action agencies to reach out with any questions and concerns and committed to provide them with periodic updates as the emergency situation evolves.

Second, the Company provided email notification to other community-based organizations that serve the needs of low-income customers: the Salvation Army (a HeatShare partner agency and St. Vincent de Paul (which provides over \$500,000 in utility assistance annually) of its disconnect suspension and of the Commission’s extension of the Winter Reconnect Order. The Company has also sent an informational email to its network of agencies, the Duke Energy Collaborative, some of whom provide utility assistance to customers.

⁷ First Entry, p. 3; Second Entry, p. 3.

Duke Energy Ohio plans to continue to update and coordinate with community action agencies and other agencies to protect customers from unnecessary social contact and service continuity hardships.

Respectfully submitted,

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Summary: Motion MOTION OF DUKE ENERGY OHIO, INC., TO SUSPEND CERTAIN REQUIREMENTS FOR THE DURATION OF THE STATE OF EMERGENCY DECLARED IN EXECUTIVE ORDER 2020-01D

electronically filed by Dianne Kuhnell on behalf of Duke Energy Ohio, Inc. and Kingery, Jeanne W. and Rocco D'Ascenzo and Vaysman, Larisa M.