

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio Power) Case No. 17-1234-EL-ATA
Company to Amend its Tariffs.)

In the Matter of the Application of Ohio Power)
Company to Establish an Expiration for its) Case No. 13-1937-EL-ATA
gridSMART Experimental Tariffs.)

**COMMENTS
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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I. INTRODUCTION

Time-of-use (“TOU”) rates can benefit customers participating in those rates if they shift their usage away from peak times. They can benefit all customers by lowering demand during peak times, thus putting downward pressure on peak-time market prices for power plant generation and by reducing the need for new power plants. To achieve these benefits, TOU rates must be well designed, and customers must understand how to shift their usage to take advantage of lower rates. But residential consumers need protection when TOU rates are implemented because TOU rates are unfamiliar to most electric consumers. And some consumers, including in at-risk groups such as seniors and those with medical needs may be unable to shift use.

For most residential consumers, time-of-use rates are an unfamiliar concept. Residential consumers may pay attention to how much electricity they use. But very few pay attention to when during the day they use it. Effective implementation of TOU rates requires technological upgrades and rates that are appropriately tied to peaks in market prices. It also requires sufficient information and customer education regarding electricity usage, especially in the early stage of the rollout of time-of-use rates.

AEP offers TOU use rates (the “Legacy TOU Rates”), but very few customers (less than 1,500 of AEP’s 1.5 million customers) are currently participating.¹ Now, AEP seeks to replace the Legacy TOU Rates with new TOU rates that are designed differently (the “Amended TOU Rates”).² AEP did not provide any cost information in the Amended Application, making it impossible for the Public Utilities Commission of Ohio (“PUCO”) to even assess the cost effectiveness of implementing new TOU rates given the historically low participation in the program. The Office of the Ohio Consumers’ Counsel (“OCC”) proposes the following consumer protection recommendations regarding AEP’s proposal to implement the Amended TOU Rates.

II. RECOMMENDATIONS

A. **Residential customers, including customers currently on AEP’s legacy time-of-use rates, should only be enrolled in the Amended TOU Rates if they affirmatively sign up for the program.**

Residential customers should only be enrolled in the Amended TOU Rates if they affirmatively consent to such rates through positive enrollment. The default for all residential customers should remain the typical competitive standard service offer rates: Rate R-R for Columbus Southern and Rate RS for Ohio Power. (Rates R-R and RS do not change based on time of day.)

But AEP proposes that some customers be automatically placed on its Amended Residential TOU Rates by default, unless they affirmatively opt *out* of such rates. According to AEP, customers currently on its Legacy TOU Rates (referred to as “Smart Shift” and “Smart Shift Plus”) “would be provided the opportunity to opt out” of the Amended Residential TOU Rates, “at which time they would be transferred to a non-TOU rate. If the Customers do not opt

¹ See Case No. 17-1234-EL-ATA, Amended Application at 2 (May 1, 2020) (the “May 1 Amended Application”).

² See generally May 1 Amended Application; Case No. 13-1937-EL-ATA, Amended Application (June 16, 2020) (the “June 16 Amended Application”).

out, they will be assessed the TOU charge as approved by the Commission.”³ The PUCO should not adopt AEP’s proposal.

First, it is bad public policy in general to cause customers to be placed on time-of-use rates by default. These rates are more complex than standard rates (*i.e.*, rates that are the same regardless of the time of day), and require a level of customer engagement and attention to hourly usage patterns that go beyond what a typical customer is comfortable with. AEP provided no analysis in its Amended Application on collective savings or losses incurred by customers while being served on the Legacy TOU rates or bill impact assessments for customers who would default to the Amended TOU rates.

Second, consumers should not be involuntarily included in Amended TOU Rates just because they are in Legacy TOU rates. It is important to note that the Amended TOU Rates are fundamentally different from AEP’s current Legacy TOU Rates.

The following table compares AEP’s current “Smart Shift” time-of-use rates to the new rates they would pay if they were automatically transferred to AEP’s new Amended TOU Rates:

	Smart Shift (Current TOU)	Amended TOU
Customer Charge	\$4.52	\$8.40
Distribution Variable Rate (\$/kWh)	\$0.0258097	\$0.0182747
Generation Capacity – Off-Peak (\$/kWh)	\$0.0017721	\$0.00
Generation Capacity – On Peak	\$0.0806691	\$0.0855333
On-Peak Hours	Weekdays, 1 p.m. to 7 p.m., June 1 to September 30 (except for Independence Day and Labor Day)	Weekdays (including all holidays), 6 a.m. to 9 a.m., November 1 to April 30 Weekdays (including all holidays), 2 p.m. to 6 p.m., May 1 to October 31

³ May 1 Amended Application at 2.

As this table demonstrates, there are material differences between the Legacy TOU Rates and AEP's proposed Amended TOU Rates. For one, the customer charge (the amount that they pay for distribution service regardless of how much they use) would nearly double for a customer that is automatically switched to the new rates. The customer would also need to adjust to an entirely new on-peak schedule. Currently, there are no on-peak hours for eight months of the year (October through May). Going forward, there will be on-peak hours year-round. Further, the customer would now pay higher rates for morning peak hours in some months, which they don't do under current rates.

The switch from AEP's "Smart Shift Plus" would be an even bigger change for consumers. Those customers currently pay for distribution service under a "critical peak pricing" program where they pay very high generation capacity rates (\$0.1776580 per kWh) during critical peak times, which can occur up to 15 times per year for up to five hours per event. This is substantially different from the Amended TOU Rates, which do not include a critical peak component.

In short, there is no basis to assume that because a customer chose to enroll in AEP's old time-of-use rates that they would want AEP to automatically enroll them in the new rates. Current time-of-use customers wanting the new TOU rates should affirmatively opt in to the Amended TOU Rates or be returned to the non-time-of-use standard offer if AEP eliminates the Legacy TOU Rates.

B. Customers participating in the Amended TOU Rates should receive monthly statements on their bills showing how their actual bill compares to what they would have paid under non-time-of-use SSO rates.

Customers opting for the Amended TOU Rates can only save money on their bills by using electricity when rates are lower or by reducing their usage during the peak times. To help

customers make informed choices about whether to participate in the Amended TOU Rates, three consumer protections are necessary and should be adopted.

First, AEP should provide customers, upon their request and at no charge, an historical analysis of whether the customer would fare better under the Amended TOU Rates or the typical (non-time-of-use) standard service offer rates. That is, the utility should calculate, based on the customer's historical usage patterns, whether the customer should expect to pay more or less under the Amended TOU Rates than the non-time-of-use rates, assuming no change in those usage patterns. This would provide the customer with a baseline for considering whether time-of-use rates could be advantageous.

Second, when a customer enrolls in the proposed Amended TOU Rates, the customer's bill should show not only what the customer paid under the time-of-use rates, but what the customer would have paid under the standard offer rates. This way, customers know whether they saved money, and they can make a more informed decision about whether to continue with time-of-use rates.

Third, AEP should continue to provide education and support for those customers who sign up for the Amended TOU Rates. This should be done through enhancements to the bill format including a monthly statement to the customer that (i) shows how much the customers saved or lost as compared to non-time-of-use SSO rates, and (ii) customized tips on how the consumer can shift usage away from peak times to lower his or her bill. AEP should work with its Grid Smart 2 collaborative regarding the type of information to be provided to customers and the form in which it is presented to customers.

C. All marketing of the Amended TOU Rates should be written in clear, plain English and should thoroughly describe the program to customers so that they can make an informed decision about whether to enroll.

All AEP residential customers with an advanced meter should be notified about the availability of the Amended TOU Rates. The utility should provide full disclosure, in writing, in clear, plain English, of all terms and conditions of the Amended TOU Rates. The PUCO should determine the language to be provided in this disclosure, following input from stakeholders. Customers should be informed that they can terminate participation in the program at any time, including in the middle of a billing cycle, without paying any penalty (*i.e.*, the utility shall not charge, for example, a \$5 fee for canceling). And before a customer is enrolled in the Amended TOU Rates, the utility should receive written confirmation from the customer that they have received, reviewed, and understand the information provided by the utility regarding the time-of-use rates. When a customer terminates participation in the middle of the billing cycle, usage on the day of termination shall continue to be billed under the time-of-use rates, but the following day the rates should revert to non-time-of-use SSO rates.

Accordingly, the Amended Time-of-Use Rate tariff should explicitly state, “No residential customer shall be enrolled in Residential Time-of-Use Service unless the customer affirmatively elects such option in writing following full disclosure, in clear, plain language, of all terms and conditions. A customer may terminate its participation in this service at any time, including in the middle of a billing cycle, without incurring any penalty.”

D. The bills of customers who participate in the Amended TOU Rates should include sufficient information for the customers to recalculate their monthly bill for accuracy.

When customers elect to enroll in the Amended TOU Rates, their bills should include enough information for the customers to recalculate their bills for accuracy⁴. In particular, the bill should identify the rates for each of the “on-peak” and “off-peak” hours, and it should identify the hours during which each rate applies. The bill should also provide instructions for how customers can access their real-time hourly energy usage during the billing period (whether via web portal or otherwise) so that they can calculate how much they were charged each hour during the billing period based on the time of day and the applicable rate. The bill should also include information about how customers can access their historical usage and should provide a link to educational resources on how customers can shift their energy usage to save money.

E. Customers should pay off-peak rates on all holidays.

Under AEP’s Amended TOU Rates, customers would pay higher on-peak rates every weekday of the year, including holidays. Customers should not pay higher on-peak rates on holidays because electric usage on holidays more closely resembles electric usage on weekends, where on-peak rates do not apply. AEP’s current Smart Shift time-of-use rates exclude holidays. AEP has not explained why this should change or why customers should pay higher on-peak rates on holidays when load is generally lower than a typical workday weekday.

F. AEP’s filing includes an outdated tariff sheet for its Generation Capacity Rider, which must be corrected to reflect the correct rates that customers pay.

In its May 1 Amended Application, AEP included proposed tariff sheets. This included AEP’s Generation Capacity Rider, which includes capacity rates for each customer rate class.

⁴ R.C. 4928.10(C)(2).

Since the filing of the application, AEP's Generation Capacity Rider rates have changed.⁵ If the PUCO approves AEP's request to approve the Amended TOU Rates, AEP must use the current Generation Capacity Rider rates and not the rates that were in place at the time of the May 1 application.

G. To enable customer confidence in the adoption of time-of-use rates, customers should be protected from excessive bill increases resulting from participation in the Amended TOU Rates.

Although AEP has been offering some version of time-of-use rates for a few years, they will be unfamiliar to the vast majority of residential consumers. As AEP noted in its May 1 Amended Application, out of AEP's nearly 1.5 million customers, fewer than 500 are currently participating in its Smart Shift and Smart Shift Plus time-of-use rates.⁶

The goal of time-of-use rates is to teach customers that it is better to use energy during off-peak hours and to convince them to do so by charging more for on-peak energy usage. This will not be an easy adjustment for consumers. A typical consumer expects electricity to cost the same amount, regardless of the hour in which it is used. Thus, it will take some time for customers to get accustomed to the idea, for example, that it is better to run their dryer at 10 pm rather than 5 pm in the middle of summer.

If a customer signs up for time-of-use rates and sees a rate increase, the desired result is that the customer adjusts his or her usage by shifting more usage to off-peak hours. This not only lowers that customer's bill, but helps all customers by reducing the need for new generation to meet peak demand. A potentially bad result for consumers would be one where they sign up for time-of-use rates, and before they have a chance to really understand how they work, their bill skyrockets and they cancel their participation altogether. The PUCO should therefore adopt

⁵ See Case No. 20-943-EL-RDR.

⁶ May 1 Amended Application at 2.

consumer protections to ease the transition for residential customers participating in time-of-use rates and to help enable consumer acceptance in using time-of-use rates.

First, AEP should be required to track the amount that the customers saved or lost as compared to the non-time-of-use SSO rates. This information alone will provide valuable information to customers (and their representatives) about whether time-of-use rates are right for them. Annually, AEP should provide a report to the PUCO Staff and OCC informing about the number of customers on the Amended TOU rates and if customers have saved or lost money compared to charges under the SSO.

Second, customers who sign up for the Amended TOU Rates should receive certain bill guarantees for a limited amount of time. Bill guarantees have been offered in conjunction with time-of-use rate roll-outs as a way to build consumer confidence and support for changing energy usage patterns.⁷ One way to help customers avoid losing too much money while they are learning about time-of-use rates is to provide a bill protection that is tied to the non-time-of-use SSO price. For the first year of participation, customers should be guaranteed to pay no more than they would have paid under the non-time-of-use SSO rates.

Customers exceeding the rate cap for this one-year period should be provided a monthly alert and bill comparison showing the charges they would have paid without the rate ceiling. After one year, the utility should be required to provide the customer with a recap of their bills under the Amended TOU Rates, showing them how much they saved or how much extra they would have paid under the time-of-use rates if not for the bill guarantee. After that point, a customer who voluntarily signs up for time-of-use rates would pay whatever bill results from

⁷ See, e.g.,

https://www.energy.gov/sites/prod/files/2016/12/f34/CBS_Final_Program_Impact_Report_Draft_20161101_0.pdf.

As an example, Lakeland Utilities offered bill protections for customers after enrolling in a DOE sponsored program evaluating customer acceptance of TOU rates.

those rates, even if it is higher than what they would have paid under the standard SSO rates. This would be consistent with AEP's current time-of-use rates, which provide that the customer has a one-year trial period during which the customer "will be held harmless from charges in excess of the energy charges they would have incurred under the otherwise applicable service schedule."⁸

Providing a period of bill-limitation guarantees adequately balances several goals of time-of-use rates. It allows for a transition period as customers learn about how the rates work and how they impact bills. It allows customers to obtain real life data about how their own usage patterns contribute to higher or lower rates. It follows the ratemaking principle of preventing rate shock if customers sign up for time-or-use rates and would otherwise pay much higher bills. And it preserves consumer autonomy (a foundational aspect of competitive markets) by requiring consumers to live with the consequences of their choices, following the initial one-year trial period.

H. There should be a limit on the number of customers that AEP can enroll in Amended TOU Rates.

An additional consumer protection should be a limit on the number of customers that AEP can enroll in Amended TOU Rates, which is a pilot-like program. A reasonable limit would be 7,500 residential customers.

III. CONCLUSION

Theoretically, customers who opt to participate in AEP's Amended TOU rates can benefit both themselves and other customers by shifting usage away from peak times (and reducing the need to build new power plants), when market prices for generation are high. But

⁸ See Schedule RS-TOD2.

customers need full disclosure of what they are signing up for, and need protection from unreasonably high bills that might result from opting into a new type of rate structure. The PUCO should adopt the consumer protection recommendations above to maximize the benefits of time-of-use rates. Those recommendations include protecting consumers in the new program who are at risk of spending more than they otherwise would if they remained on the utility's competitively bid standard offer rate.

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CERTIFICATE OF SERVICE

It is hereby certified that a true copy of the foregoing Comments was served upon the persons listed below via electronic transmission this 10th day of July 2020.

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