

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio Power)
Company for Approval to Expire its)
gridSMART Experimental Tariffs.)

Case No. 13-1937-EL-ATA

In the Matter of the Application of the Ohio)
Power Company for Approval to Establish)
Time-of-Use Rates.)

Case No. 17-1234-EL-ATA

**JOINT REPLY COMMENTS OF DIRECT ENERGY BUSINESS, LLC, DIRECT
ENERGY SERVICES, LLC, AND INTERSTATE GAS SUPPLY, INC.**

Direct Energy Business, LLC, Direct Energy Services, LLC (collectively, Direct) and Interstate Gas Supply, Inc. (IGS) submit these Reply Comments in response to Initial Comments by the Office of the Ohio Consumers’ Counsel (OCC) and the Environmental Law & Policy Center and the Ohio Environmental Council (collectively, the Environmental Advocates) filed on July 10, 2020 regarding applications filed by Ohio Power Company (AEP) in the above captioned proceedings. Direct and IGS’ Initial Comments focused primarily on: (1) AEP’s failure to meet its obligations under the gridSMART Phase 2 Stipulation to build the necessary systems and processes to provide bill quality data for CRES to offer more strategic and competitive Time of Use (TOU) options and allow for CRES settlement via actual load data; (2) the negative impact of AEP’s actions on the transition to a “sufficiently competitive” CRES TOU market; and (3) the need for the Direct Load Control program to end. Any initial comments by other parties not addressed in the following should not be interpreted as an agreement or disagreement on those issues.

COMMENTS

- 1. The comments submitted by the Environmental Advocates further emphasize the importance of no longer delaying providing Suppliers with the processes and data necessary to offer innovative TOU products in the competitive market.**

In its comments, the Environmental Advocates recommend that the Commission direct AEP to offer a three-tiered TOU rate, instead of a two-tiered as proposed, because the Environmental Advocates believe this will best encourage behavioral shifts in energy consumption. In the alternative, the Environmental Advocates suggest that AEP's TOU rates should increase its on-peak window to five or six hours as that would similarly more effectively reduce consumption during peak times.¹

Through these recommendations, the Environmental Advocates demonstrate the AEP products are not what customers want or what works best. In addition, Environmental Advocates further highlight the importance of no longer delaying providing Suppliers with the processes and data necessary to offer innovative products in the competitive market. In just a few short paragraphs, the Environmental Advocates present two different TOU rate offerings that would both better align retail rates and customer behavior with cost-causation principles. Thus, there can be a multitude of "properly designed" TOU rates. However, their approach still only provides customers with a single generic option. Without implementing the systems, data, and processes necessary to enable Suppliers to offer these rates, customers will continue to be deprived of the opportunity to choose the rates that are best suited for them.

In fact, under the current construct, AEP has essentially created a monopoly on the design and provision of TOU rate offerings and has prevented customers from having choices with these rates. By not upholding the commitments in the gridSMART Phase 2 Stipulation, AEP has made

¹ Environmental Advocates at 3-4.

it harder – not easier – for CRES to offer products that customers want to purchase. Direct and IGS find this especially concerning in light of AEP’s recently filed distribution rate case. In that proceeding, AEP proposes to “return” to what it alleges is “the more traditional focus of the utility in helping customers save money and energy while also managing system demand at peak.”² This would occur through its proposed new Demand Side Management Plan, which explicitly includes TOU rates and a financial benefit tied to the performance of its programs.³ This incentivizes AEP to restrict customers to only its products and prohibit other options. AEP Ohio should not be rewarded for bad behavior.

As noted in Direct and IGS’ Initial Comments, the gridSMART 2 Stipulation had a clear goal to move time-varying offers to a competitive market when CRES TOU products are deemed “sufficiently competitive.”⁴ The problem is – AEP never fulfilled its obligation to provide what is needed to make the playing field equal enough for the CRES TOU market to become “sufficiently competitive.” Because AEP failed to provide data and systems necessary for CRES to develop and market dynamic time-varying products, and the only products CRES could market had to match AEP’s inferior offerings; after goodwill efforts by Direct Energy,⁵ CRES and customers were uninterested and unwilling to participate in the program. Stipulations require compromise. Direct’s willingness to offer the same products as AEP for the short term was a compromise so that AEP

² *In the Matter of the Application of Ohio Power Company for an Increase in Electric Distribution Rates*, Case Nos. 20-585-EL-AIR, et al., Direct Testimony of Jon F. Williams (June 15, 2020) at 5.

³ *Id.* at 4, 6.

⁴ *In the Matter of the Application of Ohio Power Company to Initiate Phase 2 of its gridSMART Project and to Establish the gridSMART Phase 2 Rider*, Case No. 13-1939-EL-RDR, Opinion and Order (Feb. 1, 2017) (gridSMART Phase 2 Order) at ¶ 29-32; Stipulation & Recommendation (Apr. 7, 2016) (gridSMART Phase 2 Stipulation) at 6-8.

⁵ After a close inspection of AEP’s existing TOU products, IGS concluded that they were poorly designed and not appealing to customers.

would build out a system that provides the functionality CRES providers need to offer products that customers actually want. AEP failed to meet this obligation and has instead acted as a barrier to a competitive CRES TOU market. AEP agreed in the Stipulation “to develop a CRES AMI interval data portal with an approximate completion date of 24 months after approval.”⁶ The purpose of the data portal was to provide CRES with “the opportunity to offer more strategic and competitive TOU options and programs [and] to allow for CRES Settlement via actual load data after completion of the CRES AMI interval data portal for all CRES TOU customers.”⁷ Because AEP has not built its system with the functionality to allow CRES to receive AMI data for billing purposes, bill off of the data, and settle “via actual load data[,]” the CRES TOU market remains stagnant. AEP built systems designed to keep only those products they originally had and nothing more.

The Commission has repeatedly stated its intention that the TOU offerings will no longer be available from AEP once the CRES TOU market is “sufficiently competitive.” If AEP’s application to establish TOU rates is approved, it will continue to be a barrier to a “sufficiently competitive” CRES TOU market, in direct contradiction to the Commission’s original intent.

2. OCC’s recommendation for a first-year guarantee could create a subsidy between customers.

OCC’s recommendation that customers who enroll on the AEP TOU product be provided a first-year guarantee “to pay no more than they would have paid under the non-time-of-use SSO rates” is unnecessary and counter to the general purpose of TOU rates. TOU rate offerings are designed to be customer specific based on not only price but also the time of the product. The

⁶ gridSMART Phase 2 Stipulation at 10.

⁷ *Id.*

purpose of real-time settlements is to align retail rates with principles of cost causation. If a customer uses electricity when prices are higher, they should pay more. Providing a guarantee, as OCC recommends, is problematic because it could lead to customers receiving a subsidy from other customers based on how/if they use the product they are placed on. The better approach is CRES offerings which provide all of the protections OCC is asking already via Commission rules with full customer choice and without any subsidies.

If the Commission adopts *any* of OCC's recommendations, they should not apply to CRES offerings given rules already cover these requirements. This would be anti-competitive in nature, by driving up the cost for CRES to develop and offer dynamic time-varying products and subsidizing utility offers.

CONCLUSION

Direct and IGS respectfully request that any revisions to AEP's application to establish TOU rates reflect the comments contained here and in their Initial Comments.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that these *Reply Comments of Direct Energy Business, LLC, Direct Energy Services, LLC, and Interstate Gas Supply, Inc.* were filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio on July 24, 2020. The Commission's e-filing system will electronically serve notice of the filing of this document on the parties subscribed to these proceedings. Additionally, notice was provided to the parties listed below.

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Summary: Comments Joint Reply Comments of Direct Energy Business, LLC, Direct Energy Services, LLC, and Interstate Gas Supply, Inc. electronically filed by Bethany Allen on behalf of Interstate Gas Supply, Inc. and Direct Energy Business, LLC and Direct Energy Services, LLC