

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of Application of)
Ohio Power Company for a Waiver) Case No. 19-1389-EL-WVR
of Rule 4901:1-10-33(C)(13), Ohio)
Administrative Code.)

**COMMENTS OPPOSING AEP’S WAIVER SHORTENING THE TIME
CUSTOMERS HAVE TO PAY THEIR ELECTRIC BILL
BY
THE OFFICE OF THE OHIO CONSUMERS’ COUNSEL**

I. INTRODUCTION

AEP seeks (once again) to be excused from complying with consumer protection rules (via a “waiver”) that allow customers 21 days to pay their electric bill when it is sent from out-of-state.¹ The PUCO granted a similar request just last year that AEP made when it moved its billing operations to Indianapolis, Indiana from Canton, Ohio.² Once again, AEP is seeking to shorten the allotted time for consumers to pay their bill under the PUCO’s rules by 6 days due to another move of its billing operations. AEP is moving its billing operations to Omaha, Nebraska.³

The Office of the Ohio Consumers’ Counsel (“OCC”) is filing these Comments in accordance with the PUCO’s Order which directed parties to file comments within a year of the Order date.⁴ OCC’s Comments support the PUCO Staff recommendation to

¹ Motion to Update Temporary Waiver and Request for Expedited Ruling filed by AEP Ohio (“AEP Nebraska Waiver Motion”), Case No. 19-1389-EL-WVR (Aug. 5, 2020); See, Ohio Adm.Code 4901:1-10-22(B)(10) and 4901:1-10-33(C)(13).

² *In the Matter of the Application of Ohio Power Company for a Waiver of Ohio Adm.Code 4901:1-10-33(C)(13)*, Case No. 19-1389-EL-WVR, Finding and Order (“PUCO Order”) (Sept. 26, 2019).

³ AEP Nebraska Waiver Motion (Aug. 5, 2020).

⁴ Case No. 19-1389-EL-WVR, PUCO Order at 4 (Sept. 26, 2019).

discontinue AEP's Indiana billing waiver and to deny AEP's Nebraska billing waiver⁵ for the reasons identified herein.

II. RECOMMENDATIONS

A. **For consumer protection, AEP should not be granted a waiver shortening the time customers have to pay their bills that are mailed from out-of-state.**

Utilities that mail bills from outside of Ohio are required under the PUCO rules to allow at least 21 days after the postmark date on the bill for residential customers to make their payment.⁶ This is an important consumer protection because it recognizes the additional time that is required for consumers to receive their electric bill when it is mailed from out-of-state and to pay the bill by the due date.

In July 2019, AEP filed its first waiver application seeking to shorten by six days the time period that customers have for paying their electric bills because AEP was moving its billing center from Canton, Ohio to Indianapolis, Indiana.⁷ At that time AEP asked to waive PUCO regulations and require its customers to pay their bills within 15 days after the bill's postmark date, instead of the rule's 21 days.⁸ The rule that AEP asked to waive protects customers by affording them 21 days to allow time to receive their bills and to make their bill payments by the due date. Thus, it was a particularly consumer-

⁵ See, *In the Matter of the Application of Ohio Power Company for a Waiver of Rule 4901:1-10-33(C)(13)*, Ohio Adm.Code, Case No. 19-1389-ELWVR, Staff Review letter to Attorney Examiner ("Staff Review") (Sept. 15, 2020).

⁶ Ohio Adm. Code 4901:1-10-22(B)(10) and 4901:1-10-33(C)(13).

⁷ Application for Waiver and Request for Expedited Ruling filed by AEP Ohio ("Indiana Waiver Application"), Case No. 19-1389-EL-WVR (July 2, 2019).

⁸ *Id.*

unfriendly move for AEP to seek this waiver. OCC objected to the waiver⁹ but the PUCO granted it for a one-year period beginning from the date of its Finding and Order.¹⁰ The PUCO did put a condition on the waiver – that its Staff monitor customer complaints.¹¹

Now, as the Indiana waiver is soon to expire, AEP seeks another waiver as it intends to move its operations again, this time from Indiana to Nebraska. AEP relies upon the PUCO’s prior ruling granting its first waiver.¹² The utility stated in its motion “that bills from Nebraska will be received one day later than ones coming from Indiana, but on the same timeline as when bills were mailed within the state of Ohio.”¹³ Staff’s Review correctly disputed the utility’s assertion that there would not be an increased delay to customers with bills mailed from Nebraska, and recommended that the waiver be denied.¹⁴

AEP’s reply comments to the Staff recommendation boldly assert that the “change to Omaha will not delay the dates the customers receive their bills as compared to when...mailing from the State of Ohio.”¹⁵ But Staff’s concerns about supporting the waiver request if the utility is moving the billing operations to Nebraska where additional mail delays are expected are warranted.

⁹ Comments Opposing AEP Ohio’s Request for a Waiver to Shorten the Time for Customers to Pay Their Electric Bills When it Moves its Payment Center from Ohio to Indiana by the Office of the Ohio Consumers’ Counsel (“OCC Comments”) at 2-5, Case No. 19-1389-EL-WVR (Aug. 13, 2019).

¹⁰ Case No. 19-1389-EL-WVR, Finding and Order at 4 (Sept. 26, 2019).

¹¹ *Id.*

¹² AEP Nebraska Waiver Motion at 2-3.

¹³ *Id.* at 3.

¹⁴ Staff Review at 1-2.

¹⁵ AEP Reply Comments at 2, Case No. 19-1389-EL-WVR (Sept. 18, 2020).

AEP's argument that there would not be an increased delay to customers with the bills mailed from Nebraska defies logic and practical considerations.¹⁶ Bills originating from Nebraska, four states away from Ohio, would in any realistic scenario take longer to arrive to Ohio customers than bills mailed from within Ohio. AEP's proposal also fails to consider the current financial difficulties being faced by the U.S. Postal Service and the reality of mail delivery delays being experienced in Ohio and across the nation.¹⁷

Moving the billing function even farther from Ohio increases the likelihood for more billing delay, the effects of which Rules 4901:1-10-22(B)(10) and 4901:1-10-33(C)(13) are intended to protect. And although AEP alleges that there will be no additional delay, its allegation lacks support. Especially during these financially challenging times for AEP's customers, the PUCO should protect consumers by requiring AEP to follow the Rules and allow customers 21, not 15, days to pay their bills.

B. For consumer protection, AEP should not be granted a waiver shortening the time for consumers to pay their bill mailed from out-of-state, especially given the utility's proposed late fee.

OCC also supports the Staff's concern that AEP's proposal to begin a residential late payment fee for customer bill payments¹⁸ further weighs against the waiver. As Staff points out, if customers receive their bill late when there isn't a residential late charge, customers aren't penalized for it.¹⁹ With a residential late charge, the additional days provided for in the rule for customers to receive and pay their bills mailed from out-of-state become essential because of the financial consequences to the customers.²⁰

¹⁶ See, e.g., Staff Review at 1-2.

¹⁷ <https://www.ttnews.com/articles/usps-grapples-financial-crisis-mail-delays-continue>.

¹⁸ See, Case No. 20-585-EL-AIR.

¹⁹ Staff Review at 2.

²⁰ *Id.*

AEP's response in reply comments that the late fee concern is "premature" and that the waiver should go forward²¹ should be rejected. As AEP itself recognizes,²² with the Nebraska waiver in place, the tracking of customer issues and complaints on missing and late bills will have only been in effect a few months prior to the resolution of AEP's base distribution case where the decision on the residential late fee will be considered. That is simply not enough time for considering the impact of the Nebraska waiver on customers, when it would be most straightforward to deny the waiver in the first place.

AEP claims that the reason for relocating its bill processing and distribution functions from Indiana to Nebraska is to obtain "efficiencies" in its billing expenses.²³ But it is not truly an efficiency if AEP reduces its costs, but that results in shifting additional costs onto consumers in the form of late payment charges. This would be contrary to state policy requiring utilities to provide reasonably priced retail electric service.²⁴

C. For consumer protection, AEP should be required to modify its credit and collection practices and timelines to make certain that customers obtain the full benefits of the 14-day disconnection notices required by Ohio law.

AEP claims that changing the due date to 21 days will confuse customers that are in a "disconnect for non-pay" situation.²⁵ But this is because AEP has not modified its credit and collection practices and timeline to account for the 21-day due date that it should be providing for bills that are rendered from out-of-state. Ohio law and the PUCO

²¹ AEP Reply Comments at 2-3.

²² *Id.*

²³ AEP Nebraska Waiver Motion at 3; AEP Reply Comments at 1.

²⁴ Ohio Rev. Code 4928.01(A).

²⁵ AEP Nebraska Waiver Motion at 2; AEP Reply Comments at 3.

rules require AEP to provide customers with a minimum 14-day notice prior to disconnecting service for non-payment.²⁶ Because AEP provides this 14-day notice along with the customer bill, if receipt of the bill is delayed due to out-of-state processing, then so is the customer receipt of the 14-day disconnection notice. While AEP is not prohibited from including the 14-day notice along with the bill, this may no longer be appropriate if bills are delayed because they are being processed out-of-state. Therefore, AEP may need to adjust the disconnection timeline to account for this delay.

Alternatively, AEP may need to mail the 14-day notice separate from the bill to make certain that customers are afforded all of their rights and protections under Ohio law.

D. For consumer protection, AEP should modify its agreements related to payment of competitive retail electric service (“CRES”) providers receivables to account for the additional delay associated with out-of-state billing.

AEP commented that if the waiver is not approved, the payment of CRES providers receivables will be also be delayed when the utility provides consolidated billing.²⁷ Consolidated billing is when AEP bills for its own distribution charges and also for the supply charges on behalf of CRES providers. Ohio Adm. Code 4901:1-10-29(B) requires AEP to establish a supplier tariff with the terms and conditions of service including billing and payment of supplier receivables. AEP Ohio’s decision to relocate bill processing and distribution out-of-state for the supposed purpose of reducing its own operating expenses does not negate its responsibilities pursuant to the supplier tariff.

While AEP may be able to reduce its own expenses, the out-of-state billing shifts costs onto others. For example, any delay by AEP in paying CRES providers for

²⁶ Ohio Rev. Code 4933.121 and Ohio Adm.Code 4901:1-18-06(A).

²⁷ AEP Nebraska Waiver Motion at 3; AEP Reply Comments at 3.

their receivables will obviously have a financial impact on the CRES. And this financial impact will ultimately be passed along to consumers in the form of higher supplier rates. AEP should be required to modify its supplier tariff to account for the delay in paying CRES providers for their receivables.

III. CONCLUSION

Under the PUCO's rules, customers are provided with additional time when the bill is mailed from out-of-state to make certain that the customers receiving them will have ample time to pay and avoid late fees. Under AEP's proposal--and in the middle of a health and financial crisis--AEP wants to reduce the number of days for making a timely payment under the PUCO's rules. But enough is enough. The PUCO should deny the waiver. This is especially so when the state (and country) is in the midst of a health and financial crisis where an extra six days to pay bills is very meaningful to customers.

There should not be a waiver of regulations intended for consumer protection, just because AEP Ohio wants to move its billing operation to yet another state in a year's time. If any party should bear the risks associated with this transaction, it should be AEP. It should *not* be a risk that AEP consumers should bear because AEP wants to move its operations even farther from Ohio to Nebraska. AEP has not shown good cause why this waiver should be granted.

OCC supports the PUCO Staff's view that residential customers should be afforded the full 21 days to pay their bills for bills mailed from out-of-state. This amount of time considers not only the increased possibility of longer delays due to weather or staffing concerns that impact the postal service, but also the health and financial crisis in which many customers find themselves during this pandemic. OCC urges the PUCO to

support its Staff's recommendation to deny AEP's waiver of Ohio Adm.Code 4901:1-10-33(C)(13) to shorten the time customers have to pay their bills mailed from Nebraska, and to discontinue the temporary waiver currently in effect for bills mailed from Indiana.

Respectfully submitted,

Bruce Weston (0016973)
Ohio Consumers' Counsel

/s/ Amy Botschner O'Brien

Amy Botschner O'Brien (0074423)
Counsel of Record
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel

65 East State Street, 7th Floor
Columbus, Ohio 43215-4213
Telephone [Botschner O'Brien] (614) 466-9575
Amy.botschner.obrien@occ.ohio.gov
(willing to accept service by e-mail)

CERTIFICATE OF SERVICE

I hereby certify that a copy of these Comments was served on the persons stated below via electronic transmission, this 25th day of September 2020.

/s/ Amy Botschner O'Brien
Amy Botschner O'Brien
Assistant Consumers' Counsel

SERVICE LIST

john.jones@ohioattorneygeneral.gov
cmooney@opae.org

stnourse@aep.com
cblend@aep.com

Attorney Examiner:
anna.sanyal@puco.ohio.gov

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

9/25/2020 4:42:25 PM

in

Case No(s). 19-1389-EL-WVR

Summary: Comments Comments Opposing AEP's Waiver Shortening the Time Customers Have to Pay Their Electric Bill by the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Botschner-O'Brien, Amy