

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio Edison	:	
Company, The Cleveland Electric Illuminating	:	Case No. 21-1125-EL-WVR
Company and The Toledo Edison Company for	:	
a Limited Waiver of Rules 4901:1-10-22(C),	:	
4901:1-10-24(E)(3), and 4901:1-10-33 (A).	:	

**COMMENTS
SUBMITTED ON BEHALF OF THE STAFF OF
THE PUBLIC UTILITIES COMMISSION OF OHIO**

January 13, 2022

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio Edison :
Company, The Cleveland Electric Illuminating :
Company and The Toledo Edison Company for : Case No. 21-1125-EL-WVR
a Limited Waiver of Rules 4901:1-10-22(C), :
4901:1-10-24(E)(3), and 4901:1-10-33 (A). :

**COMMENTS
SUBMITTED ON BEHALF OF THE STAFF OF
THE PUBLIC UTILITIES COMMISSION OF
OHIO**

I. BACKGROUND

On February 26, 2020, the Public Utilities Commission of Ohio’s (the “PUCO” or the “Commission”) issued a Finding and Order in Case No. 17-1842-EL-ORD.¹ This Finding and Order made changes and amendments to Section 4901:1-10 of the Ohio Administrative Code effective on November 1, 2021.

On November 1, 2021 the Ohio Edison Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company (the “Companies”) filed an application with the Commission seeking a waiver for certain sections of the Ohio Administrative Code.² Specifically, the Companies are seeking a waiver of Ohio Adm.Code 4901:1-10-22(C), 4901:1:10-24(E)(3), and 4901:1-10-33(A).

¹ *In the Matter of the Commission’s Review of Chapter 4901:1-10 of the Ohio Administrative Code*, Case No. 17-1842-EL-ORD (Feb. 26, 2020).

² *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company for a limited Waiver of Rules 4901:1-10-22(C), 4901:1-10-24(E)(3) and 4901:1-10-33(A), Ohio Administrative Code*, Case. No. 21-1125-EL-WVR (Nov. 1, 2021).

The Companies requested a temporary six-month waiver of Ohio Adm.Code 4901:1-10-22(C) in order to build and test a customer-friendly online rate calculator that aligns with the Commission's expectations and complies with the revised rule.

The Companies also requested a limited waiver of Ohio Adm.Code 4901:1-10-24(E)(3). The Companies believe compliance with the rule will require internal information technology (IT) changes and the development of a method for competitive retail electric service (CRES) providers to notify the Companies about which of their customers are participating in a time of use product. They are engaged in discussions with Commission Staff and interested stakeholders about access to residential customer hourly interval data in connection with the implementation of Grid Mod I and requested a limited waiver of the new provisions pending the outcome of those discussions.

Finally, the Companies requested a limited waiver of Ohio Adm.Code 4901:1-10-33(A) while they remove all non-jurisdictional charges from utility consolidated bills. The Companies seek a six-month waiver to move the approximately 165,000 customers with on-bill payments for non-jurisdictional charges to other payment means.

On November 18, 2021, the Retail Energy Supply Association intervened in this proceeding.

On November 23, 2021 the Ohio Consumers' Counsel intervened in this proceeding.

On December 7, 2021, Interstate Gas Supply, Inc intervened in this proceeding.

II. COMMENTS

Waiver of Ohio Adm.Code 4901:1-10-22(C) (bill calculator)

The Companies currently do not have a bill calculator available to customers as required by Ohio Adm.Code 4901:1-10-22(C). The Companies are requesting a six-month waiver to build a bill calculator. Staff believes it is reasonable to provide additional time to build and test a bill calculator.

Waiver of Ohio Adm.Code 4901:1-10-24(E)(3) (customer specific information)

Ohio Adm.Code 4901:1-10-24 provides rules for customer safeguards and information. Section (E) of Ohio Adm.Code 4901:1-10-24 provides the limitations and exceptions on disclosure of customer specific information. Section (E)(3) of Ohio Adm.Code 4901:1-10-24 provides a specific prohibition to disclose residential granular energy usage data without the customer's consent. Prior to the rule change, two exceptions to customer consent existed namely: electronic authorization and a court or Commission directive ordering disclosure. The change to Section (E)(3), added a third exception to customer consent for access to a customer's granular data namely, for billing purposes.

The purpose of the new exception is to reduce the consent requirement when a customer is on a rate that requires granular data such as a time of use (TOU) rates. The rationale for the exception is that a customer with a product with a TOU rate understands that the energy provider also needs access to granular data to bill and is consenting to the release of granular data by consenting to that TOU rate.

The change to Ohio Adm.Code 4901:1-10-24(E)(3) did not create an obligation to provide residential customers or their energy providers with granular data. The change only added an exception for customer consent when a customer has a TOU rate product.

All six electric distribution utilities in Ohio are at differing stages and phases of AMI deployment (an essential component) to collect granular data as well as the management of granular data. As such, most Ohio electric customers including the Companies customers cannot participate in TOU rates yet. As such, it stands to reason that the change to Ohio Adm.Code 4901:1-10-24(E)(3) was only a change to the exception for consent from customers on a TOU rate product. The change to Ohio Adm.Code 4901:1-10-24(E)(3) did not create a right to TOU data regardless of the electric distribution utility's capabilities.

The Companies request for a limited waiver of the implementation of the directive to release residential customer energy usage data as required for billing purposes is mistaken in its description of the Commission's change to Ohio Adm.Code 4901:1-10-24(E)(3). The Companies' waiver request seeks a waiver of the implementation to release residential customer energy usage data to energy providers as the Companies do not currently have the ability to provide residential customer energy usage data to energy providers.

Ohio Adm.Code 4901:1-10-24(E)(3) requires electric distribution companies to obtain consent from customers to release granular data with three exceptions. A waiver of this rule would be a waiver of the requirement for customer consent for granular data not

a waiver as the Companies describe of the ability to provide said granular data to energy providers.

As the Companies waiver request is for additional time to develop the ability to provide residential granular data and not a waiver from customer consent, Staff believes a waiver is unnecessary. In addition, Staff would oppose a waiver of Ohio Adm.Code 4901:1-10-24(E)(3) as the Companies in their Application have provided no reason for a waiver of customer consent.

Waiver of Ohio Adm.Code 4901:1-10-33(A) (Non-jurisdictional charges)

To avoid discrimination against CRES providers under Ohio Adm.Code 4901:1-10-33(A), the Companies are opting to exclude all non-jurisdictional charges, both the Companies' and CRES providers' non-jurisdictional charges, from their consolidated bills as the rules provide. The Companies, however, need time to transition from their current practice of allowing placement of the Companies' non-jurisdictional charges on their consolidated bills because it requires them to transition 165,000 customers to alternative payment means. Accordingly, the Companies request a six-month waiver to remove the Companies' non-jurisdictional charges from consolidated bills. Staff believes the six-month waiver to transition customers is reasonable.

III. RECOMMENDATION

Staff recommends the Commission approve a six-month waiver of Ohio Adm.Code 4901:1-10-22(C) from the time of the Order to build and test a bill calculator. Staff recommends a six-month waiver of Ohio Adm.Code 4901:1-10-33(A) from the time

of the Order to remove the Companies' non-jurisdictional charges from consolidated bills. Finally, Staff recommends the Commission deny the limited waiver request of Ohio Adm.Code 4901:1-10-24(E)(3). The Companies request for additional time to build the IT infrastructure to transfer granular data to energy providers is a misunderstanding of the rule.

Respectfully submitted,

David Yost
Ohio Attorney General

John Jones
Section Chief

/s/ Robert Eubanks

Robert Eubanks
Sarah Feldkamp
Assistant Attorneys General
Public Utilities Section
30 East Broad Street, 26th Floor
Columbus, OH 43215
614.644.8669 (telephone)
614.644.8764 (fax)
Robert.Eubanks@OhioAGO.gov
Sarah.Feldkamp@OhioAGO.gov

On Behalf of the Staff of
The Public Utilities Commission of Ohio

PROOF OF SERVICE

I hereby certify that a true copy of the foregoing **Comments** submitted on behalf of the Staff of the Public Utilities Commission of Ohio was served via electronic mail upon the following parties of record this 13th day of January, 2021.

/s/ Robert Eubanks

Robert Eubanks

Assistant Attorney General

Parties of Record:

Emily V. Danford

FirstEnergy Corp.
76 S. Main Street
Akron, Ohio 44308
Telephone: 330-760-6963
Fax: 330-315-7647
edanford@firstenergycorp.com

Counsel for Applicant First Energy Corp

Frank P. Darr

Retail Energy Supply Association
6800 Linbrook Blvd.
Columbus, Ohio 43235
Telephone: 614-390-6750
FDarr2912@gmail.com

*Counsel for
Retail Energy Supply Association*

Evan Betterton

Michael Nugent

IGS Dayton Inc.
6100 Emerald Parkway
Dublin, Ohio 43016
Telephone: 614-659-5065
evan.betterton@igs.com
michael.nugent@igs.com

Counsel for IGS Dayton Inc

Ambrosia Wilson

Amy Botschner-O'Brien

Office of the Ohio Consumers' Counsel
65 East State Street, 7th Floor
Columbus, Ohio 43215-4203
Telephone: 614-466-1311
Fax: 614-466-9475
Ambrosia.wilson@occ.ohio.gov
Amy.botschner.obrien@occ.ohio.gov

*Counsel for Office of the
Ohio Consumers' Counsel*

Christopher Rogers

Benesch, Friedlander, Coplan &
Aronoff LLP

200 Public Square, Suite 2300

Cleveland, Ohio 44114

Telephone: 216-363-6251

Fax: 216-363-4588

crogers@beneschlaw.com

**This foregoing document was electronically filed with the Public Utilities
Commission of Ohio Docketing Information System on**

1/13/2022 10:03:09 AM

in

Case No(s). 21-1125-EL-WVR

Summary: Comments Submitted on Behalf of the Staff of the Public Utilities
Commission of Ohio electronically filed by Mrs. Kimberly M. Naeder on behalf of
PUCO