THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF DUKE ENERGY OHIO, INC., FOR APPROVAL OF A WAIVER OF SPECIFIC SECTIONS OF THE OHIO ADM.CODE.	CASE NO. 22-43-GE-WVR

FINDING AND ORDER

Entered in the Journal on March 23, 2022

I. SUMMARY

{¶ 1} The Commission approves the application of Duke Energy Ohio, Inc. for waiver of certain specified rules and tariffs related to its implementation of a new customer information system, consistent with this Finding and Order.

II. DISCUSSION

A. *Procedural Background*

{¶ 2} Duke Energy Ohio, Inc. (Duke or the Company) is an electric distribution utility, as defined in R.C. 4928.01(A)(6), a natural gas company, as defined in R.C. 4905.03, and a public utility, as defined in R.C. 4905.02, and, as such, is subject to the jurisdiction of this Commission.

{¶ 3} On January 19, 2022, Duke filed an application for waiver of numerous Commission rules and sections of its applicable tariffs. The application for waiver stems from Duke's upcoming transition from its current customer information system (CIS) to its new CIS, Customer Connect, which Duke believes will improve customer experience. Duke asserts that the conversion from the current CIS to Customer Connect will be a multi-step, carefully sequenced process that will include temporary suspension or manual performance and eventual resumption or re-automation of a number of processes. Duke notes that the entire conversion period will occur from February 18, 2022, to July 1, 2022, but the most impact will occur between March 30, 2022, and April 6, 2022 (Cutover Period). By April 7, 2022, Duke asserts that nearly all processes will be functioning in the standard manner in which they will continue to function going forward. During the conversion period, Duke states that it will need to temporarily suspend or alter many of its normal processes, and, during the Cutover Period, the current CIS will have limited or no availability. Duke further states that it will have contingency processes in place to capture and process most customer requests, with some requests being processed immediately, while others will be held until Customer Connect becomes available. According to Duke, the suspension of activities and certain transactions are necessary to ensure system stabilization as the process to convert from the current CIS to Customer Connect begins. Consequently, Duke requests temporary waivers on its own behalf of rule provisions governing, among other things, billing, payments, choice transactions, customer communications, and disconnections. Duke also requests temporary waivers on behalf of all competitive retail electric service (CRES) and competitive retail natural gas service (CRNGS) providers for whom Duke serves as an electric distribution utility or natural gas company, respectively, and for waivers of rule provisions governing certain customer transactions. Duke then identifies the specific waivers needed and the time periods during which such waivers would be needed, along with a catchall request for temporary waiver of compliance with any rule or tariff requirements that it may have inadvertently missed and is occasioned by the activity suspensions detailed in the application.

{¶ 4} On January 26, 2022, Duke filed notice of its intention to hold a virtual technical conference on February 9, 2022, with all interested parties regarding the CIS conversion at issue in this proceeding.

{¶ 5} On February 8, 2022, Duke filed correspondence clarifying its request for rule waivers associated with the suspension of customer enrollments in budget billing.

{¶ 6} By Entry issued on February 11, 2022, the attorney examiner established an expedited comment period, in light of the timing of Duke's upcoming CIS conversion. Motions for intervention and comments were due no later than February 25, 2022, with reply comments to be filed by March 4, 2022.

{¶ 7} On various dates, timely motions to intervene in this proceeding were filed by SFE Energy Ohio, Inc. and Statewise Energy Ohio, LLC (collectively, SFE Energy); Interstate Gas Supply, Inc. (IGS); Direct Energy Business LLC, Direct Energy Services LLC, Direct Energy Business Marketing LLC, Energy Plus Holdings LLC, Energy Plus Natural Gas LLC, Reliant Energy Northeast LLC, Stream Ohio Gas & Electric, LLC, and XOOM Energy Ohio, LLC (collectively, NRG Retail Companies); Ohio Consumers' Counsel (OCC); and Retail Energy Supply Association (RESA). No memoranda contra the motions for intervention were filed. The Commission finds that the motions for intervention filed by SFE Energy, IGS, NRG Retail Companies, OCC, and RESA are reasonable and should be granted.

{¶ 8} In accordance with the established procedural schedule, initial comments were filed by NRG Retail Companies, SFE Energy, RESA, IGS, and OCC. Reply comments were filed by Staff, NRG Retail Companies, RESA, IGS, and Duke.

{¶ 9} On March 11, 2022, Duke filed a motion for leave to file surreply comments, along with its proposed surreply comments. Duke states that it seeks approval to provide the surreply comments primarily to address the issues raised in Staff's reply comments. In support of the motion, Duke asserts that, because Staff did not file initial comments, the Company will not have an opportunity to respond to Staff's concerns unless the surreply comments are considered. Duke adds that its proposed surreply comments will also provide additional factual information that will assist the Commission in reaching a decision in this proceeding. Upon review, the Commission finds that Duke's motion for leave to file surreply comments is reasonable and should be granted.

{¶ 10} On March 17, 2022, RESA and IGS filed a joint motion for leave to file instanter a joint reply to Duke's surreply comments. The NRG Retail Companies filed a similar motion on March 18, 2022. RESA and IGS assert that Duke's surreply comments present new facts and positions that the parties previously did not have the opportunity to consider or address. IGS and RESA believe their joint reply comments will help the

Commission better understand the suppliers' position on these matters and will aid the Commission in reaching its decision. Like IGS and RESA, the NRG Retail Companies state that Duke's surreply comments present new information and positions to which they should have an opportunity to respond. Upon review, the Commission finds that the joint motions for leave to file instanter a joint reply to Duke's surreply comments filed by RESA and IGS and by the NRG Retail Companies are reasonable and should be granted.

{¶ 11} On March 22, 2022, Duke filed a motion for leave to file sur-surreply comments addressing the arguments raised by RESA and IGS on March 17, 2022, and by the NRG Retail Companies on March 18, 2022. Duke states that its proposed sur-surreply comments, which were also filed on March 22, 2022, are intended to offer additional factual information that would be helpful to the Commission. The Commission finds that Duke's motion is reasonable and should be granted.

B. Summary of the Application

{¶ 12} As noted above, Duke seeks temporary waivers on its own behalf of certain rule and tariff provisions, as summarized below:

Waiver Request	Time Period	Rule or Tariff Provision
Suspend enrollments for budget billing	February 18, 2022, to April 6, 2022	Ohio Adm.Code 4901:1-18-05(B)(2), (D)
Suspend enrollments for extended payment plans	March 31, 2022, to April 6, 2022	Ohio Adm.Code 4901:1-18-05
Suspend meter changes, except where necessary to start or continue service or to remedy safety risks	February 28, 2022, to April 6, 2022	Ohio Adm.Code 4901:1-10-05(B); 4901:13-04(B); P.U.C.O. Gas No. 18, Sheet No. 23.6; P.U.C.O. Electric No. 19, Sheet No. 24.1

Increase time limits on average time to complete service installations or upgrades requiring construction or installation of electric or gas facilities	March and April 2022	Ohio Adm.Code 4901:1-10-09(A)(2); 4901:1-13-05(A)(2)
Suspend late payment charges[1]	March 31, 2022, to July 1, 2022	Unspecified tariff provisions
Suspend processing of inbound OCEAN files[2]	March 1, 2022, to April 6, 2022	Ohio Adm.Code 4901:1-18-12 through 4901:1-18-17
Suspend processing of outbound OCEAN files	March 31, 2022, to April 6, 2022	Ohio Adm.Code 4901:1-18-12 through 4901:1-18-17
Hold payments and freeze account balances	March 31, 2022, to April 6, 2022	Ohio Adm.Code 4901:1-10-22(F); 4901:1-13-11(E)(4), 4901:1-10-22(I); 4901:1-13-11(F)
Provide a single free pre-enrollment list to every CRES and CRNGS provider	April 2022	P.U.C.O. Gas No. 18, Sheet No. 45; P.U.C.O. Electric No. 20
Suspend activation of new CRES and CRNGS providers	February 18, 2022, to April 6, 2022	Ohio Adm.Code 4901:1-10-29; 4901:1-13-14; P.U.C.O. Gas No. 18; P.U.C.O. Electric No. 20

1 Duke notes that it will also suspend all disconnections for nonpayment (DNP) from March 1, 2022, to July 1, 2022, as well as suspend all DNP notices, delinquency processes, and collections from March 31, 2022, to June 1, 2022. Duke further notes that it does not believe that a waiver is required to suspend its disconnection and collections procedures.

2 "OCEAN" is an acronym for the Ohio Community and Energy Assistance Network. Duke notes that OCEAN files are received from the Ohio Department of Development (ODOD) for managing customer participation in the percentage of income payment plan (PIPP) program and facilitating new enrollments, terminations, reverifications, and reinstatements with respect to the PIPP Plus and Graduate PIPP Plus programs.

Suspend processing of requests for new CRES and CRNGS logos	March 15, 2022, to April 6, 2022	P.U.C.O. No. 20, Section 10.12
Suspend inbound transactions for CRES and CRNGS enrollments and drops	March 18, 2022, to April 6, 2022	Ohio Adm.Code 4901:1-10-29; 4901:1-13-14; 4901:1-21-08(C); 4901:1-29-08(D)
Increase time to report slamming and to permit providers to drop slammed customers	Unspecified	Ohio Adm.Code 4901:1-21-08(C); 4901:1-29-08(D)
Suspend requests to implement new rates for CRES and CRNGS providers	March 25, 2022, to April 6, 2022	P.U.C.O. Gas No. 18, Sheet 44; P.U.C.O. Electric No. 20, Section 10.6
Suspend outbound transactions to CRES providers	March 30, 2022, to April 6, 2022	P.U.C.O. Electric No. 20, Section 10.7
Suspend requests of CRES providers for customer-related transactions (e.g., changes in rate code, reinstatements, and historical usage requests)	March 30, 2022, to April 6, 2022	P.U.C.O. Electric No. 20, Sheets 39 and 52
Suspend processing of bill-ready billing transactions	March 30, 2022, to April 6, 2022	P.U.C.O. Electric No. 20, Section 10.9(a)
Suspend gas flat file transactions on SFTP	March 30, 2022, to April 6, 2022	P.U.C.O. Gas No. 18, Sheet 44; Ohio Adm.Code 4901:1-13-14

{¶ 13} Duke also requests temporary waivers on behalf of all CRES and CRNGS providers that the Company serves as an electric distribution utility or natural gas company, respectively, as shown below:

Waiver Request	Time Period	Rule or Tariff Provision
Permit CRES and CRNGS providers to wait to submit electronic enrollment requests	March 18, 2022, to April 6, 2022	Ohio Adm.Code 4901:1-21-06; 4901:1-29-06
Permit CRES and CRNGS providers to wait to implement service commencements or contract terminations	March 18, 2022, to April 6, 2022	Ohio Adm.Code 4901:1-21-06; 4901:1-29-06
Increase time to report slamming and to permit providers to drop slammed customers	Unspecified	Ohio Adm.Code 4901:1-21-08(C), 4901:1-29-08(D)
Permit deviations in contract disclosure requirement of estimated starting and expiration dates of contracts impacted by the conversion	Unspecified	Ohio Adm.Code 4901:1-21-12(B); 4901:1-29-11(O)

{¶ 14} Finally, in addition to the above-listed regulatory requirements, Duke requests a temporary waiver of compliance with any rule or tariff requirement that the Company may have inadvertently failed to cite in the application, provided that such noncompliance is occasioned by the activity suspensions detailed in the application.

{¶ 15} On February 8, 2022, Duke filed correspondence clarifying that its waivers for rules associated with the suspension of customer enrollments in budget billing need only last from March 1, 2022, to April 6, 2022, instead of from February 18, 2022, until April 6, 2022, as initially requested in the application.

C. Summary of the Comments

{¶ 16} While RESA does not oppose Duke's implementation of a new CIS, RESA questions the extent of the requested waivers and emphasizes that the conversion should not harm customers, competitive suppliers, or the market. Although RESA notes that Duke's advance work with stakeholders has been helpful, competitive suppliers nonetheless face serious issues that will result in lengthy interruptions and require substantial efforts, while also likely resulting in customer confusion and complaints when enrollments are delayed, bills are incomplete, or contract terms are prevented from being honored. RESA asserts that the Commission should require additional measures to avoid harm, particularly given that Duke has not demonstrated a willingness to voluntarily implement workaround solutions for suppliers and customers. RESA proposes that Duke be required to continue consistent, timely, and effective dialogue with the supplier community, including RESA, and provide the public with timely and effective information; to accept, for a period of time, enrollment requests through the old system, email, or other means than the new CIS and to allow them to be based on the pre-conversion account numbers until the new service identifiers are readily available to customers; to implement a shorter period for the suspension of processing billing transactions with suppliers; and to implement measures to ensure that utility-consolidated bills will be accurate. RESA adds that, even if Duke effectuates supplier rate changes and customer drops based on contract terminations or expirations after the Cutover Period, the Company should be required to make those contract administration-related changes effective based on the dates specified by the supplier, even if they fall within a waiver period or the Cutover Period. RESA concludes that Duke should be required to work in good faith with competitive suppliers after the conversion to resolve any issues that develop; hold regular, ongoing meetings with suppliers; and provide dedicated contacts to work through any issues that arise.

{¶ 17} Staff agrees with RESA that Duke should be required to convene regular, ongoing meetings with suppliers and provide dedicated contacts to work through issues. In response to RESA's concern regarding the accuracy of utility-consolidated bills, Staff recommends that Duke be required to provide weekly status updates regarding any billing transaction errors and steps to take corrective action.

{¶ 18} The NRG Retail Companies argue that, although Duke's new CIS may offer benefits in the future, the transition will unreasonably harm the competitive market in significant ways, while emphasizing that the Company has not provided any details for the Commission to fully evaluate the waiver requests. In particular, the NRG Retail Companies assert that the conversion process will require Duke's requested waivers to continue for a lengthy Cutover Period, will necessitate extensive system changes on the part of the NRG Retail Companies to interface with the Company's new CIS, will cause delay in the Company's sharing of its new account numbers and identifiers, and will impose a short amount of time before the new mandates are triggered under the CIS. In order to mitigate these negative impacts, the NRG Retail Companies request that Duke be required to shorten its lengthy Cutover Period to April 1, 2022, through April 4, 2022; to provide competitive suppliers a cross-reference list that contains the customers' old account numbers, new account numbers, and new service identifiers at least five days before the new CIS goes live; and to implement a 90-day post-conversion grace period during which the Company will accept supplier transactions, including enrollment requests, based on the customers' old account numbers. The NRG Retail Companies conclude that these changes will help to ensure a smooth transition, without the attendant disruptions that Duke's conversion process will otherwise cause.

{¶ 19} IGS notes that it generally does not object to Duke's proposed April 6, 2022 go-live date for any of the changes described in the application, as long as those changes are implemented in a manner that ensures compliance for all market participants and causes the least possible inconvenience and expense to IGS and its customers. IGS, however, is concerned with Duke's plan to suspend inbound transactions for CRES and CRNGS residential and commercial customer enrollments, reinstatements, and drops from March 18, 2022, until April 6, 2022, as well as the Company's plan to separate multi-meter accounts into multiple points of delivery (POD) by assigning a new Choice Service ID for each POD located at the customer's premises, which will effectively require competitive suppliers to submit a separate enrollment transaction for each POD located at a customer's premises. IGS recommends that Duke be required to provide all choice suppliers a cross-reference file that, at a minimum, contains the legacy account number and new Choice Service ID for all residential and commercial customers that have enrollments pending due to the weeks-long suspension of CRES and CRNGS inbound transactions. IGS adds that additional identifying information such as the customer's name, address, and meter number would also be helpful to include on the cross-reference list to streamline processes. IGS notes that such a list would alleviate the burden on IGS to manually update impacted accounts by allowing it to use an automated process to seamlessly update the customer enrollment transactions with the new Choice Service ID information. In order to mitigate customer complaints, IGS also recommends that Duke be required to distribute all customer communications no later than March 15, 2022, and that such communications include, at a minimum, a detailed description of the planned changes, their associated impacts on shopping and non-shopping customers, and the Company's telephone number for customer questions concerning the upcoming changes. IGS further recommends that Duke be required to provide customers with supplemental communications on or shortly after April 6, 2022, that include the customer's new Choice Service ID. As for Duke's plan to separate multi-meter accounts into multiple PODs with multiple Choice Service IDs for a single customer's premises, IGS emphasizes that no other gas or electric utility in Ohio utilizes this construct and that it will fundamentally alter IGS's systems and processes. Given the substantial amount of time and expense necessary to comply with Duke's planned change and the brief lead time afforded by Duke, IGS notes that it will be required to implement a short-term solution in order to meet the Company's go-live date. IGS concludes that the Commission should not overlook the fact that the planned change places a hefty burden on CRES and CRNGS suppliers to build out their IT systems to accommodate a process that only one Ohio utility will utilize.

{¶ 20} Staff states that it agrees with IGS's recommendation that Duke be required to distribute all customer communications no later than March 15, 2022.

{¶ 21} SFE Energy notes that, by filing the application so close to the system changeover implementation dates, Duke appears to presume that the Commission will grant the waiver, while affording affected parties inadequate time to prepare for the changeover and potentially negotiate an alternative that will have less impact on the energy choice market in Ohio. Although SFE Energy acknowledges that Duke held a technical conference and "dress rehearsals" with competitive suppliers in preparation for the system conversion, SFE Energy states that the exact timing during which critical energy choice transactions will be suspended was not made clear to suppliers until the Company's application was filed. SFE Energy asserts that suppliers were unaware that the suspension of critical energy choice transactions would commence on March 18, 2022, that the duration of the suspension of certain transactions would last for nearly three weeks, and that the Company would not offer suppliers workarounds or options to ameliorate the effects of the suspension. SFE Energy further asserts that, as described in its initial comments, there are several negative consequences for competitive suppliers with respect to Duke's waiver requests and the planned CIS implementation timeline, including the suspension of customer enrollments and drops for a three-week period, the suspension of requests of CRES providers for customer-related transactions for a one-week period, and the suspension of requests to implement new rates for CRES and CRNGS providers for a two-week period. SFE Energy adds that problems may occur during the system conversion or once the new CIS is made available, which would exacerbate the negative impacts. SFE Energy argues that Duke's suspension of supplier enrollment and drop transactions for a three-week period is tantamount to eliminating customer choice in its service territory and that the relief requested in the application is contrary to state policy in favor of energy choice and open, non-discriminatory access. SFE Energy, therefore, requests that the Commission deny Duke's waiver requests and instead require the Company to devise a revised implementation plan, with adequate notice and input from affected parties, that minimizes disruption to the energy choice program by shortening the supplier suspension period. If Duke's application is nonetheless approved and the system conversion is allowed to proceed unchanged, SFE Energy requests that the rule waivers requested by the Company on behalf of competitive suppliers be granted. SFE Energy concludes that competitive suppliers should not be penalized for any negative aftereffects of the system conversion.

{¶ 22} In response to recommendations offered by IGS, NRG Retail Companies, and RESA, Staff states that CRES providers should only be provided a cross-reference list of their own choice customers. Staff asserts that CRES providers should not have access to Choice Service IDs except as to their current customers. Staff also notes that the Choice Service ID should only be provided to a CRES provider by Duke with customer consent, given that it is used to enroll the customer with the CRES provider. Finally, Staff recommends that, for at least two billing cycles, Duke be required to work with competitive suppliers that have pending enrollments obtained prior to the conversion that contain the customer's previous account number.

{¶ 23} OCC asserts that the Commission should deny any proposed waiver that would prevent consumers from fully utilizing the Special Reconnection Order (SRO) in effect through April 15, 2022, and other consumer protection programs. *In re the Commission's Consideration of Solutions Concerning the Disconnection of Gas and Electric Service in Winter Emergencies for the 2021-2022 Winter Heating Season*, Case No. 21-750-GE-UNC, Finding and Order (Sept. 8, 2021). In particular, OCC notes that consumers should have uninterrupted access to budget billing, extended payment plans, and PIPP, as well as continue to receive disconnection notices throughout the transition. OCC adds that Duke should be required to immediately stay any further DNPs for the remainder of this winter heating season and to work with currently disconnected consumers to get services restored before the transition. Additionally, OCC suggests that Duke should be required to develop and publicly file a more comprehensive plan and details explaining how the Company intends to protect consumers when it resumes disconnections on July 1, 2022. Finally, OCC advises that the Commission should modify Duke's request for a waiver of Ohio Adm.Code 4901:1-10-29 and 4901:1-13-14 and require the Company to notify shopping consumers who are returning to Duke's standard service offer or gas cost recovery mechanism as to any delay in processing the request and the actual date when the switch will take place.

{¶ 24} Staff responds that, because Duke will stop disconnection of service until July 1, 2022, Staff does not believe the SRO consumer protection to prevent disconnection of service will be impacted. Staff, however, recommends that Duke be required to reconnect any customer who contacts the Company during the period when it is not processing OCEAN files or has a waiver from the SRO and allow the customer to set up payment arrangements at a later date. As to OCC's concerns regarding payment plans and budget billing, Staff states that it believes that consumers will be afforded opportunities to enter payment plans and budget billing within a reasonable amount of time before service disconnection will resume. With respect to late payment fees, Staff recommends that such fees not be charged until after disconnections resume and that consumers be provided notice regarding when late payment fees and budget billing will resume and when payment arrangements become available. As to OCC's recommendation that Duke be required to stay disconnection until the end of the winter heating season and work to reconnect customers who are currently disconnected, Staff states that its understanding is that the Company will still be able to accept payments. Staff recommends, however, that, consistent with Ohio Adm.Code 4901:1-18-07, Duke reconnect any consumer who contacts the Company to restore service regardless of whether the consumer's payment can be processed. Finally, regarding OCC's recommendation that Duke be required to file a more comprehensive plan, Staff states that it is not opposed to a requirement that the Company develop a comprehensive plan that includes communications to consumers and employees as to how inquiries will be handled. Staff requests that, beginning March 15, 2022, Duke be required to provide status updates identifying issues resulting from the waivers and conversion, along with any additional action that the Company will need to take to complete the conversion or assist consumers.

{¶ 25} In its reply comments, RESA asserts that the Commission should waive any rules and contract requirements that would otherwise be violated due to Duke's implementation process. RESA further asserts that, aside from its own recommended mitigation measures, individual suppliers have also offered reasonable proposals that should be adopted, such as IGS's recommendation that Duke be required to queue requests for service rather than reject them during the waiver period. RESA also agrees that Duke should be directed to provide cross-reference files with legacy and new customer information and to accommodate requests using the legacy customer information for up to 90 days. Addressing OCC's recommendation regarding a customer communication plan, RESA responds that the recommendation is too narrow and that Duke should be required to prepare a broad-based communication plan to ensure that all customers understand the potential impacts of the conversion process. Further, RESA recommends that Duke be directed to work with suppliers after the initiation of the new CIS to address any issues that arise during the conversion process.

{¶ 26} IGS emphasizes that, due to the lack of available workaround solutions for suppliers to obtain new customer account information during the suspension and post-conversion invoice periods, Duke should be required to not only provide all suppliers with a cross-reference list in advance of the go-live date, but also on an ongoing and continuous basis until such time as all customers have received their first post-conversion invoice on or around April 29, 2022. IGS adds that Duke should also be required to provide the cross-reference list at the supplier's request. IGS also notes that, if Duke is unable to provide the cross-reference list in a timely manner and in the format requested, the Company should, as recommended by RESA and the NRG Retail Companies, be required to implement a 90-day post-conversion grace period in which the Company would continue to accept supplier transactions using the customer's legacy account number. As to the need for Duke to provide communications regarding the planned CIS changes, IGS advises that OCC's recommendation on this issue is too narrow and that the Commission should instead find that all customers must be immediately notified of the system conversion's service impacts. IGS also supports RESA's recommendations that Duke be required to file its communication plan in the docket, subject to Commission review and approval, and provided that the Company is able to distribute the approved customer communications on or around IGS's recommended deadline of March 15, 2022. IGS also agrees with RESA that Duke should be directed to convene regular meetings with suppliers to address any issues that may arise after the conversion is complete. Finally, IGS urges the Commission to grant Duke's waiver requests on behalf of CRES and CRNGS suppliers and insulate them from any violations that may arise during the CIS conversion.

{¶ 27} In their reply comments, the NRG Retail Companies assert that the Commission should require Duke to keep customers well informed through a balanced communications plan, while granting corresponding waivers of the supplier rules and recognizing that suppliers should not be penalized for matters arising during and after the Company's CIS transition.

{¶ 28} In its reply comments, Duke first addresses OCC's comments regarding the transition. In response to OCC's concerns regarding the SRO, budget billing, payment plans, and PIPP Plus, Duke assures that customers will still receive any protections or entitlements under aid-related programs and the SRO. Duke notes that benefits offered under the SRO will continue to be available to customers during the conversion and that customers may continue to pay the $175 to establish or re-establish service during the conversion and Cutover Period. If a circumstance arises where the SRO requires customers to enroll in a payment plan or PIPP Plus to benefit from the special reconnection procedures, Duke will proceed to use the special reconnection procedures, apply the available $175 for customers if applicable, and enroll the customers in a payment plan or PIPP Plus as soon as possible after conversion. Although Duke will not be able to maintain completely uninterrupted access to the above aid programs during conversion, Duke asserts that it has measures in place to mitigate the interruption, including continuing to receive calls from customers throughout the conversion and Cutover Period and offering such customers the option of a call-back regarding enrollment in any of the above programs after the conversion and stabilization are complete.

{¶ 29} Regarding OCC's concerns associated with Duke's suspension of DNPs and how some bill payment assistance programs require disconnection notices be provided by customers before being able to participate in such programs, Duke avers that it has met with both the ODOD and Community Action Agency (CAA) to inform them of the conversion, as well as advised CAA of what functions will be available during the transition. Duke notes that agencies will be able to call it to verify the status of a customer's account if the agencies need such verification. Duke states that it also accepts pledges toward customer balances. OCC further requested that DNPs be suspended immediately and expressed concern that previously disconnected customers who make payments on or after March 31 may have to wait until after April 6 to be reconnected. Duke clarifies that DNPs were suspended as of March 1, 2022, so Duke believes OCC's request for an immediate suspension is moot. Also, by suspending DNPs as of March 1, customers who were previously disconnected have time prior to March 31 to restore their service, and Duke has contingency processes in place to ensure that reconnections that do not require new installations proceed timely throughout the Cutover Period. Duke also is not opposed to OCC's request that the Company make a public informational filing in this proceeding to describe its transition plan to resume DNPs, and Duke provided a description of what the plan would include. The Company further notes that it would be willing to update this filing if the planned dates change, it believes the filing should be informational only, and it would be burdensome and unnecessary to have to gather data regarding the number of customers and arrearages.

{¶ 30} In regard to OCC's, IGS's, and RESA's requests for comprehensive customer communications pertaining to energy choice transactions, Duke believes its current customer communication plan is optimal. Although Duke is willing to describe its communications, it is opposed to submitting such communications for Commission review and approval since such a requirement would be overly burdensome and could unnecessarily delay the conversion. In terms of its communications, Duke states that it will place a banner message on its energy choice webpage regarding the conversion that should be visible by March 6; will place a banner message explaining the addition of Choice Service IDs on the same webpage on April 6 that will remain until approximately mid-May; will place a bill message on customer bills in April that will run for two months; and will send an email to Ohio customers that will provide information about changes in the bill format, the new account numbers, and Choice Service IDs. Duke believes that sending communications to all of its customers regarding these energy choice transactions would do more harm than good, considering it will worry them unnecessarily. And, customers who desire to use energy choice will be provided the pertinent information on the energy choice website. Regarding the overall conversion process, Duke believes it has designed a plan that avoids customer confusion or worry. Duke launched its plan in early February 2022 with general awareness about changes that are coming, and the Company plans more targeted communications continuing through March to make customers aware of specific changes to billing or payment programs and new digital experiences. Also, Duke will put in place notices of temporarily unavailable services during the Cutover Period. In response to RESA's concern regarding customers receiving their Choice Service ID for the first time on the first post-conversion bill, Duke asserts that this timing will minimize customer confusion since the bill will be the first touchpoint Duke will have with most customers after the conversion and, at that point, customers will be able to transact with their new information.

{¶ 31} According to Duke, although RESA, NRG Retail Companies, IGS, and SFE Energy all seek otherwise, it will not be able to alter the Cutover Period, shorten the suspension period for enrollment and drop requests, accept and hold enrollment or drop requests, and will not be able to backdate such requests. In terms of the suspension periods, Duke asserts that shortening them would compromise the integrity of data and introduce unacceptable risks into the conversion process, noting that these suspension time periods have been carefully considered and recommended by Duke's third-party system integrator who has had extensive experience with similar conversions. Duke also advises that continuing to collect and store energy choice transactions is also not an option in that supplier transactions are completely automated, and the systems that receive and process them are being taken down. Similarly, Duke cannot prevent a suspension of billing transactions. Contrary to IGS's suggestion, the inbound energy choice transactions are not comparable to customer requests through the call center regarding budget billing or payment arrangements. In that situation, Duke will be receiving customer phone calls and offering customers the option of receiving a return call after the conversion. Regarding contract administration, Duke encourages suppliers to review existing contracts and submit terminations that fall within the suspension period prior to March 18; otherwise, Duke will not be able to implement such requests during the transition unless submitted ahead of time. Finally, Duke asserts that SFE Energy's proposal that the Commission deny Duke's waiver application in favor of a revised implementation plan would be impracticable and costly and would fail to garner an improved transition process.

{¶ 32} In response to RESA's request that the Commission place a number of requirements on Duke to communicate with suppliers throughout conversion, Duke asserts that its track record of collaboration and communication thus far and ongoing plans to provide support and information to suppliers shows that Commission oversight, as requested by RESA, is unnecessary. Duke proceeds to describe the interaction it has had with suppliers regarding the conversion. Duke notes that it conducted its first supplier information sessions in May 2020 to provide an overview of the CIS program and expected impacts to suppliers; it provided a Frequently Asked Questions (FAQ) document to suppliers in July 2020, which it updated two more times in August 2020; it provided a

Supplier Integration Handbook for gas, which uses flat files, and electric, which uses electronic data interchange (EDI), in September 2020, with the most up-to-date version being made available in August 2021; it conducted testing with suppliers beginning in November 2020 through February 2022 and has included connectivity and the ability to receive and process the cross-reference file that will be provided to suppliers; it hosted both a technical conference as well as additional supplier information sessions in February 2022 and provided another FAQ document; it provided examples of multiple Choice Service IDs on an account as early as September 2020; and it has assigned contacts to be available to suppliers for technical questions. Moreover, Duke states that it has supplier information sessions scheduled for this month regarding the portal, has already sent out communications, and has additional communications planned.

{¶ 33} Regarding concerns expressed by RESA, the NRG Retail Companies, and IGS about Duke's plan to provide cross-reference lists to suppliers that contain existing customers' legacy account numbers and new Choice Service IDs, Duke states that it cannot provide such lists earlier than the planned date of April 5 since such Choice Service IDs will not exist prior to that date. Duke notes that the cross-reference list will include the customer's legacy account number, and Duke clarifies that it plans to include the service address and meter number but, at this time, does not plan to include the customer's name. Duke concedes that, while it will not be able to automatically transact with legacy account numbers after conversion since the functionality has not been developed or tested, it is open to a manual form of cross-referencing under the right conditions. Duke states that it is willing to authorize temporary limited waiver of the consent requirements that prohibit disclosing a customer's account number without customer consent, and Duke would be willing to provide a grace period, up to 90 days, during which Duke will work with suppliers to cross-reference individual customers manually. To allow for such an arrangement, Duke states that the Commission rules requiring a letter of authorization for disclosing a customer' account number would need waived, specifically Ohio Adm.Code 4901:1-10-24(E)(1) and (4) as well as Ohio Adm.Code 4901:1-13-12(D)(1) and (3).

{¶ 34} Finally, in response to IGS questioning the use of Choice Service IDs and the lack of timely notice to suppliers of their use, Duke argues that Choice Service IDs are an integral part of the design and that suppliers were first informed about them as early as June 2020. Duke states that, when suppliers had submitted transactions in the past, it could identify the account as an electric or gas account by the file type used, EDI for electric versus a flat file for gas; however, the new CIS allows gas suppliers to leverage the more robust EDI processes for transactions instead of flat files. Consequently, to identify the type of commodity associated with an account, the new CIS used multiple Choice Service IDs which provide specific POD. Therefore, a one-to-one relationship between the customer's account number and the premises served cannot be used since more than one commodity can be served at the premises on the same account. In response to IGS's claim that Duke requires a supplier to submit a separate enrollment transaction for each POD on the account and that failure to do so will prevent enrollment, Duke notes that it has updated its process since the February supplier information sessions and clarified its FAQ such that, if a suppler fails to submit a transaction for all Choice Service IDs for commodities on an account, Duke will enroll the missing Choice Service IDs and notify the supplier.

{¶ 35} In its surreply comments, Duke first addresses Staff's recommendation that late payment fees not be charged until after disconnections resume. Duke states that the Company's current plan to resume the assessment of both late payment charges and DNPs on July 1, 2022, is reasonable because customers at risk of such charges or disconnections will receive appropriate notice. Duke adds that, to the extent that Staff is concerned about arrearages, the Company does not expect customers to accumulate large arrearages during the four-month period of DNP suspension. Duke also states that, as described in more detail in its surreply comments, the Company will notify customers when payment plans and budget billing enrollment become available and when late payment charges and DNPs resume and that it is willing to work with Staff on the language for its bill messages. As for Staff's recommendation that Duke reconnect any consumer who contacts the Company to restore service, the Company notes that, during the conversion, it will continue to timely reconnect customers with active accounts that were previously disconnected for nonpayment, if they have not already been reconnected by March 31, 2022. With respect to Staff's recommendations regarding the cross-reference list and pending enrollments, Duke responds that it is willing to work with suppliers to use legacy account numbers on a manual basis for two billing cycles after the conversion, provided that the Company receives the necessary regulatory authorization as addressed in its reply comments. Duke also notes that, consistent with Staff's recommendation, the Company will provide each CRES provider with a cross-reference list that is limited to the provider's own current customers.

{¶ 36} In response to recommendations offered by Staff and IGS regarding customer communications, Duke replies that it is not opposed to providing Staff with updates and sharing copies of applicable planned communications for informational purposes. Duke states, however, that it would be unduly burdensome and restrictive to require all communications to be subject to the Commission's review and approval or to be provided by a specific date, as such requirements would hamper the Company's ability to respond quickly to evolving circumstances during and immediately after the conversion process. Duke emphasizes that it has been preparing its employees and suppliers for the transition through both written communications and events such as information sessions, while also informing customers about the transition on its website. According to Duke, the provision of information through its website is an appropriate means to inform the customers most likely to be impacted and to prevent unnecessary confusion for those customers who will not be impacted. Additionally, Duke states that it is willing to provide biweekly written updates to Staff on significant issues resulting from the waivers and conversion and to address any additional action that the Company will need to take to complete the conversion or assist consumers. Duke also notes that it is willing to submit to Staff weekly written status updates on any significant billing errors, along with corrective actions.

{¶ 37} As for other issues referenced in Staff's reply comments, Duke states that, although it cannot shorten the period of time that billing transaction processing is suspended, the suspension will not result in inaccurate bills in the sense that a customer will be overbilled or underbilled; rather, there will be bills that lack supplier charges for the billing period that will then be added to the next bill. With respect to the recommendation for ongoing meetings with suppliers, Duke argues that the recommendation is vague and unduly burdensome, particularly given that the Company has already been working with suppliers extensively on the conversion process and will continue to do so after the conversion period, including through a dedicated team available to address any choice program issues. As described in its surreply comments, Duke nonetheless commits to conducting two supplier information sessions in April, one session in May, and one session in June, which would also include Staff and OCC if they choose to attend.

{¶ 38} In addition, Duke addresses IGS's concern that customers' new account numbers and Choice Service IDs will not be disclosed until they receive their post-conversion bills. Duke explains that it has attempted to resolve the concern by working to ensure that the Company's customer service representatives will be able to provide customers with their new account numbers and Choice Service IDs as of April 6, 2022, if the customer calls to request them and can provide the necessary security verifications. Finally, as for the concerns of the NRG Retail Companies and IGS regarding any potential customer complaints that may arise during or after the conversion period, Duke responds that any such complaints must be investigated based on the facts and circumstances in each case and, therefore, wholesale changes in the treatment of such complaints, in advance, are neither necessary nor appropriate. Duke also notes that the Commission should not be precluded from performing its role as arbiter of the facts and applicable law.

{¶ 39} In their joint reply comments, RESA and IGS assert that Duke's surreply comments raise two new problems that need addressed. First, RESA and IGS highlight that, in its reply comments, Duke committed, if ordered by the Commission, to allow suppliers to use the above-referenced cross-reference list to help suppliers match legacy customer accounts with the new service identifiers for a period of 90 days; however, in its surreply comments, Duke narrowed its commitment to two billing cycles instead of 90 days. RESA and IGS also note that Duke did not affirmatively request waiver of Ohio Adm.Code 4901:1-10-24(E)(1) and (4) and Ohio Adm.Code 4901:1-13-12(D)(1) and (3). The joint commenters believe Duke should be directed to provide a 90-day grace period to suppliers for using the cross-reference list, and they request waiver of the above code sections. Second, in its surreply comments, Duke clarified that customers will be able to retrieve their new account numbers and customer identification numbers after the new CIS is live by calling into Duke and requesting this information from Company customer representatives. RESA and IGS find this process too burdensome for customers and, to avoid delays in new enrollments, request that suppliers and customers be able to secure the account numbers and customer information by either contacting Duke's automated customer service line or by using the live chat feature within a customer's MyAccount portal.

{¶ 40} In their response to Duke's surreply comments, the NRG Retail Companies state that the Company's willingness to implement a manual process for two billing cycles for suppliers seeking to enroll new customers is an undefined and unworkable period, as well as inconsistent with the Company's prior representation that it would be willing to work with suppliers for a defined and reasonable 90-day period. The NRG Retail Companies request that the Commission require Duke to implement the manual workaround solution for new enrollments for a period of 90 days beginning on the go-live date. Additionally, the NRG Retail Companies note that Duke has changed its position by agreeing to make new account numbers and Choice Service IDs available through its call center representatives. The NRG Retail Companies support this change and request that it be implemented on the same date that Duke makes the cross-reference list available. Noting that Duke has stated that it is willing to conduct additional supplier information sessions between April and June 2022, the NRG Retail Companies also assert that the Commission should require Duke to hold these sessions to ensure that suppliers continue to receive information following the CIS implementation. Finally, the NRG Retail Companies argue that, among other things, the CIS transition will result in bill impacts for all of Duke's shopping customers. Emphasizing that Duke wrongly denied the impact of the CIS transition on customers in its surreply comments, the NRG Retail Companies contend that the Commission should recognize this shortcoming, require Duke to take proactive steps to prevent complaints related to the CIS transition, and foster positive communication between the Company and suppliers.

{¶ 41} In its sur-surreply comments addressing the arguments of RESA, IGS, and the NRG Retail Companies, Duke states that it does not oppose a grace period of either 90 days or two billing cycles for the manual provision of Choice Service IDs in exchange for legacy account numbers, provided that the Commission grants the appropriate authorizations described in the Company's reply comments. Additionally, Duke asserts that the NRG Retail Companies have misunderstood how billing transaction processing will be impacted. Duke estimates that no more than 2,200 shopping customers will be impacted and, therefore, the number of customers receiving bills without supplier charges is expected to be much smaller than the NRG Retail Companies claim. Finally, Duke notes that it does not have a live chat feature in its MyAccount portal and does not plan to use its interactive voice response system to distribute Choice Service IDs.

D. Commission Conclusion

{¶ 42} Upon consideration of Duke's waiver application, as well as the initial, reply, surreply, and sur-surreply comments, the Commission finds that the application should be approved, as clarified in the Company's reply, surreply, and sur-surreply comments, and consistent with this Finding and Order. Specifically, we find that Duke should make a public informational filing in this proceeding, in conformance with the filing described in Duke's reply comments, to describe its plan to resume DNPs and, unless the Commission deems it appropriate to order otherwise at a later time, such plan will be informational only. Duke should file such plan in this docket 30 days prior to the date for resuming DNPs.

Further, we note that Staff recommended that late payment fees should not be charged until after disconnections resume, while Duke believes resuming both late payment fees and DNPs on July 1, 2022, is reasonable and asserts that customer arrearages during this time should not be large, especially considering this four-month period of DNP suspension is shorter than the pandemic-related DNP suspension and that customers will still receive disconnection notices through March 31, 2022. Duke clarified in its surreply comments that DNP notifications on bills will resume June 1, 2022, and that the Company will notify customers via bill message in June that late payment fees will resume on July 1, 2022. According to Duke, the bill message also will encourage customers to enroll in payment plans or budget billing plans where appropriate. Duke also mentioned that it was willing to work with Staff to finalize the text of the bill message. Given Duke's clarification regarding notice, we find Duke's plan to resume both late payment fees and DNPs on July 1, 2022, reasonable and direct Duke to work with Staff to finalize the text of the June bill message regarding such matters.

{¶ 43} With regard to the cross-reference list provided by Duke to suppliers to help suppliers match legacy customer accounts with the new service identifiers, Duke noted that it was amenable to provide a grace period during which Duke will work with suppliers to cross-reference individual customers manually. In its reply, Duke noted that it would need certain Commission rules waived to provide the Company with the ability to disclose customer account numbers to suppliers without the customer's consent. Specifically, Duke stated that it would need waiver of Ohio Adm.Code 4901:1-10-24(E)(1) and (4) as well as Ohio Adm.Code 4901:1-13-12(D)(1) and (3), rules prohibiting electric and gas utilities from disclosing a customer's account number without customer consent. To accommodate the above request and to facilitate a smoother transition for suppliers, the Commission waives the above rule provisions for 90 days, beginning April 5, 2022, the day Duke first intends to distribute cross-reference lists to suppliers. We note that the rule waiver is granted for the limited purpose of facilitating the manual cross-referencing process. We also agree with Staff and Duke that such cross-reference lists should include only a supplier's specific energy choice customers. Additionally, in response to concerns regarding Duke's plan to use a new Choice Service ID for each POD located at a customer's premises, we direct the Company to work with suppliers to resolve any issues that arise on a case-by-case basis, in order to ensure that enrollments are processed correctly and as authorized by the customer.

{¶ 44} Further, Staff and suppliers requested that Duke provide a comprehensive plan that includes communications to customers and employees regarding the transition, and IGS requests such communications be approved by the Commission. Duke asserts that it has already been following such a plan and opposes the need for Commission approval of customer communications. At this time, we do not find it necessary for the Commission to approve the planned customer communications, as generally outlined in Duke's filings; however, as Duke agreed to in its surreply comments, we direct Duke to provide bi-weekly written updates to Staff on significant issues resulting from the waivers and conversion, along with any additional action that Duke will need to take to complete the conversion or assist customers. Further, we direct Duke to submit to Staff weekly written status updates on any significant billing errors, along with corrective actions. If a situation arises where Staff believes Commission attention is needed, then the Commission may intervene as necessary. Staff also requested that Duke convene regular, ongoing meetings with suppliers and provide dedicated Duke contacts to work through issues. In response, Duke stated that it plans to hold two supplier information sessions in April, one supplier information session in May, and one supplier information session in June, noting that Staff and OCC are welcome to attend any session. Additionally, the Commission has directed Duke to keep Staff informed in the manner described above, and Duke has previously represented that it has contacts who are regularly available to suppliers who may have technical questions. Therefore, we find Duke's plan reasonable in response to Staff's request. NRG Retail Companies propose that suppliers should not be penalized from customer complaints or have them counted against the supplier's record if the complaints arise from the CIS transition itself. We agree with Duke's assessment that such complaints should be considered on a case-by case basis, and we will not provide absolution from complaints against suppliers arising during the conversion period, as IGS seems to request; however, we would certainly take into account the effect, if any, the conversion may have had in the circumstances leading to such a complaint. Also, considering Duke's application, reply comments, surreply comments, and sur-surreply comments as a whole, Duke should take any other steps that it has proposed or indicated that it is willing to take to resolve concerns raised by Staff or the intervenors, while also ensuring that the various stages of the CIS conversion are completed within the specified time period. As addressed further below, Duke has provided the Commission and interested stakeholders an abbreviated period of time in which to consider the Company's plan for the CIS conversion process and the related waiver application. With that being the case, we fully expect Duke to adhere to its schedule and the timing planned for the CIS implementation; requests for waiver extensions from the Company will not be viewed favorably by the Commission.

{¶ 45} As a final matter, the Commission notes that Duke has been aware of the planned CIS conversion for many years. *See, e.g.*, *In re Duke Energy Ohio, Inc.*, Case No. 17-32-EL-RDR, et al., Opinion and Order (Dec. 19, 2018) at ¶ 135. Duke nonetheless failed to file its waiver application until January 19, 2022, which has imposed unnecessary time and other resource constraints on impacted stakeholders, Staff, and the Commission. We agree with the comments of SFE Energy that, by filing the application for waiver so close to the planned implementation of the CIS conversion, Duke appears to have presumed that the Commission would have no objections or concerns regarding any of the many waiver requests. At the same time, Duke has provided Staff, suppliers, and other affected stakeholders with little time to prepare for or evaluate the Company's plans and proposals. We also share the concern of several commenters that Duke's application provides insufficient information with respect to its waiver requests; it is only through the subsequent filing of the Company's reply comments, surreply comments, and sur-surreply comments that the Commission has obtained the necessary level of detail to evaluate the application. On a going-forward basis, Duke is directed to submit any waiver or other type of application in a timely fashion and include adequate explanation and support for its requested relief, such that the Commission will have sufficient time and information to review the filing and perform due diligence with regard to its review, while also affording adequate due process for any interested stakeholders. Further, with respect to any future waiver application or motion, Duke should refrain from taking any step that is counter to the applicable rule or tariff provision until it has obtained any necessary advance approval from the Commission. Any failure to comply with this directive may result in the imposition of a forfeiture on Duke pursuant to R.C. 4905.54.

III. ORDER

{¶ 46} It is, therefore,

{¶ 47} ORDERED, That the motions for intervention filed by SFE Energy, IGS, NRG Retail Companies, OCC, and RESA be granted. It is, further,

{¶ 48} ORDERED, That Duke's motions for leave to file surreply comments and sur-surreply comments be granted. It is, further,

{¶ 49} ORDERED, That the joint motions filed by RESA and IGS and by the NRG Retail Companies for leave to file instanter a joint reply to Duke's surreply comments be granted. It is, further,

{¶ 50} ORDERED, That Duke's application for waiver be approved, consistent with this Finding and Order. It is, further,

{¶ 51} ORDERED, That Duke comply with the directives set forth in this Finding and Order. It is, further,

{¶ 52} ORDERED, That a copy of this Finding and Order be served upon all interested persons and parties of record in this matter.

COMMISSIONERS:
Approving:
Jenifer French, Chair
M. Beth Trombold
Lawrence K. Friedeman
Dennis Deters

MJS/SJP/hac