

Landmark NCUC Decision

On June 22, 2018 the North Carolina Utilities Commission issued an "ORDER APPROVING MANUALLY READ METER RIDER WITH MODIFICATIONS..." stating those with a notarized statement from a medical physician can opt-out of using a DEC (Duke Energy Carolinas) radio frequency emitting meter without penalty, either a one time or monthly charge.

"While DEC's smart meter technology meets current FCC standards, the Commission believes it is inappropriate to require customers who maintain that they need to avoid exposure to RF emissions to the extent possible to protect their health to pay DEC's proposed smart meter opt-out charges. Therefore, the Commission will require DEC to amend its Rider MRM to remove the customer charges for those customers who provide the Company with a notarized statement from a medical physician licensed by the North Carolina Medical Board that the customer must avoid exposure to RF emissions to the extent possible to protect their health. Upon receipt of such statement, the Company shall waive both the one-time and the monthly fees under Rider MRM."¹ Pg. 14

Other highlights include measures to protect privacy:

"Commission will require DEC (Duke Energy Carolinas) to annually file in its Smart Grid Technology Plan filing a verified statement by an officer of the Company providing a comprehensive list of all the ways DEC is using customer-related smart meter data, and the procedures DEC uses to keep that data secure and to protect customer privacy." Pg. 15

The Utilities Commission order shows they took all of the various points raised by consumers seriously: that there are health concerns (thus the no opt-out fee for health reasons), that there are privacy concerns (thus Duke has to certify how it is using the information), that there may be fire risks or other physical hazards (thus Duke has to document and report every such instance), etc. Most importantly, the NCUC order recognizes our medical doctor's proper role in determining what is healthy, not the FCC.

Here is all that the MD statement would need to say:

"I am a medical physician licensed by the North Carolina Medical Board.
_____(Name of Duke Energy Customer) must avoid exposure to RF emissions to the extent possible to protect ___ (his or her) health."

Then it needs to be signed and notarized. The patient can coordinate that action.

¹ <http://starw1.ncuc.net/NCUC/ViewFile.aspx?Id=412f8225-7c72-4917-9364-25a8a4da9e12>

There is nothing said that requires any particular diagnosis or any explanation of why this particular individual needs to avoid exposure to RF emissions.

The removal of Duke's opt-out fees stops that added insult to injury for many who suffer debilitating electrosensitivity (ES) conditions and their associated health costs. Also, having Duke report to the NCUC how they are using our personal usage data is an important step towards protecting our privacy.

Also:

Duke has to publicly acknowledge that an opt out is possible on its website, with instructions.

The required doctor's note for the waiver of the opt-out fee does not require any explanation of why the particular person needs to limit exposure, so Duke does not get any health information. Further, the order does not require a particular diagnosis.

The Utilities Commission subtly called into question whether the FCC guidelines are out of date and unreliable.

After working for about 4 years on this, I am pleased with the NCUC order although failing to convince them to keep available the safe and secure, tried and true, mechanical analog meter for sensitive populations."

Andrew McAfee June 26, 2018

Here are other NCUC order highlights:

[http://starw1.ncuc.net/NCUC/ViewFile.aspx?
Id=412f8225-7c72-4917-9364-25a8a4da9e12](http://starw1.ncuc.net/NCUC/ViewFile.aspx?Id=412f8225-7c72-4917-9364-25a8a4da9e12)

Pg. 1) Under DEC's proposal, opt-out customers would receive a smart meter with its communications disabled, and DEC would read the meter manually by visiting the customers' premises. DEC proposed that, under its opt-out tariff, participating customers would be charged an initial set-up fee of \$150, and a monthly fee of \$11.75.

Pg. 2) The spreadsheet also indicated that the State of Vermont had passed legislation forbidding opt-out fees, while the State of Pennsylvania had passed legislation requiring the installation of smart meters and precluding opt outs altogether.

Pg. 4) Similarly, DEC has a Remote Meter Reading and Usage Data Service tariff via which consumers can have their meter read remotely via a telephone line. This involves a monthly charge of \$45 for a dedicated land-line. However, DEC stated that it is working to discontinue this tariff due to the declining inventory of land-line meters.

Pg. 7) DEC stated that, "Continuing to offer an older meter technology for a few customers would unduly burden the Company with respect to having to maintain, test and continue to support unique meters for only a few customers."

Pg. 10) The vast majority of commenters stated that it is not fair to charge a fee for opting out of a technology when that technology poses a threat to the customer's health, safety, and/or privacy.

The Commission received a statement from David Carpenter, MD, who is Director of the Institute for Health and the Environment at the University at Albany in Rensselaer, New York. The letter was co-signed by four other scientists and doctors, and was cited by many public commenters as providing proof that smart meters are a risk to human health.

Pg. 13) Therefore, the Commission concludes that customers should be able to opt out.

Pg. 14) The Commission is aware that the FCC's exposure guidelines were last updated in 1996 and that the FCC has had an open docket on the question of biological impacts from exposure to those radio frequency waves that fall in the range of 300 Hz to 100 GHz since 2013.¹ DEC's smart meters operate within that range, at 900 MHz; thus, the Company's decision to deploy smart meters was made in the context of this uncertain regulatory environment.

Pg. 14) While DEC's smart meter technology meets current FCC standards, the Commission believes it is inappropriate to require customers who maintain that they need to avoid exposure to RF emissions to the extent possible to protect their health to pay DEC's proposed smart meter opt-out charges. Therefore, the Commission will require DEC to amend its Rider MRM to remove the customer charges for those customers who provide the Company with a notarized statement from a medical physician licensed by the North Carolina Medical Board that the customer must avoid exposure to RF emissions to the extent possible to protect their health. Upon receipt of such statement, the Company shall waive both the one-time and the monthly fees under Rider MRM.

Pg. 15) Some commenters expressed a desire to be served via an analog meter, but DEC is not required to offer any and every metering option that some customers might prefer.

Pg. 15) Some commenters state that smart meters represent an invasion of their privacy, with some going so far as to assert that the technology would constitute surveillance. In order to address this concern, the Commission will require DEC to annually file in its Smart Grid Technology Plan filing a verified statement by an officer of the Company providing a comprehensive list of all the ways DEC is using customer-related smart meter data, and the procedures DEC uses to keep that data secure and to protect customer privacy.

Pg. 15) Several public commenters asserted that DEC had installed a smart meter without prior notification. DEC should investigate those specific situations and report back to the Commission as soon as practicable, but no later than August 1, 2018.

Pg. 16) IT IS, THEREFORE, ORDERED as follows:

1. That DEC shall re-file its proposed Rider MRM consistent with this Order on or before July 23, 2018, along with a proposed plan and schedule for implementing the Rider;
2. That DEC shall update the smart meter portion of its website to include information about Rider MRM;
3. That DEC shall report on the status of efforts to address problems with its smart meters relative to TOU tariff implementation on or before August 1, 2018;
4. That DEC shall include in its annual Smart Grid Technology Plan filing details of smart meter malfunctions or problems, data on the number of customers on Rider MRM, and a verified statement about its smart meter data privacy procedures, as discussed in this Order;
5. That DEC shall investigate public comments in this docket that state that the Company installed a smart meter without prior notification to the resident. The Company shall report back to the Commission as soon as practicable, but no later than August 1, 2018;