

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission's)	
Review of Chapter 4901:1-10, Ohio)	Case No. 12-2050-EL-ORD
Administrative Code, Regarding)	
Electric Companies		

**REPLY SUPPLEMENTAL COMMENTS OF DIRECT ENERGY SERVICES, LLC
AND DIRECT ENERGY BUSINESS, LLC**

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I. INTRODUCTION

On January 7, 2013, Direct Energy Services, LLC and Direct Energy Business, LLC ("Direct Energy") filed Initial Comments in this docket. On February 6, 2013, Direct Energy filed Reply Comments in this docket. On July 10, 2013 the Commission issued an Entry with Staff's proposed amendments to the rules and set a supplemental comment deadline of August 6, 2013 and a reply comment deadline of August 16, 2013. Direct Energy timely submitted Supplemental Comments in this docket on August 6, 2013 and now respectfully submits its Reply Supplemental Comments. Direct Energy's decision not to address every aspect of other parties' Supplemental Comments should not be construed as agreement or disagreement with such comments.

II. SUPPLEMENTAL REPLY COMMENTS

As a threshold matter, Direct Energy disagrees with First Energy's claim that the proposed amendments should be rejected in their entirety because the Commission does not have statutory authority to mandate advanced metering on a statewide basis. Although advanced meters have not been widely deployed across the state, such meters are nearly fully deployed in Duke Energy Ohio's territory and have been deployed on a smaller scale in American Electric

Power's (AEP) and in one of First Energy's own utility territories. The Commission has authority to approve and has approved smart meter pilot programs in these territories and similarly has the authority to regulate and approved tariffed advanced meter opt-out service.

Direct Energy generally supports Staff's proposed rules which permit a customer to opt-out of advanced metering service and require Ohio electric distribution utilities ("EDUs") to file a proposed tariff for advanced metering opt-out service. Direct Energy disagrees with Ohio Partners for Affordable Energy's (OPAЕ) contention that the proposed rules are punitive to customers who seek to opt-out of advanced meter service and that such a policy is inappropriate for an administrative code rule. (OPAЕ Supplemental Comments at 3). In fact, several other jurisdictions have considered and approved similar processes for customers who have opposed installation of an advanced meter. For example: For example: Southern California Edison and Pacific Gas & Electric charge customers an initial set-up fee of \$75 and an ongoing monthly charge of \$10 to opt-out of receiving a smart meter¹; Baltimore Gas & Electric, Pepco, and Delmarva Power & Light have all asked the Maryland PSC to approve an initial fee of \$71-\$100 and a monthly fee of \$15-\$86 for customers electing to opt-out of smart meter installation²; and the Public Utility Commission of Texas has also approved a rule that requires customers who opt-out of a smart meter to pay an initial and monthly fee.³

Regarding the definition of "advanced meter" and "traditional meter," Direct Energy agrees with other parties that suggest the definitions need additional clarification. Specifically,

¹ <https://www.sce.com/wps/portal/home/customer-service/my-account/smart-meters/opt-out> and <http://www.pge.com/en/myhome/customerservice/smartmeter/optout/index.page>

² http://articles.baltimoresun.com/2013-08-05/business/bs-bz-smart-meter-opt-out-cost-20130805_1_digital-meters-radio-frequency-emissions-maryland-electric-cooperative

³ <http://www.energychoicematters.com/stories/20130812d.html>

Direct Energy supports the notion that “advanced meter” should include the concept of two-way communication. (Duke Energy Ohio Supplemental Comments at 7). Direct Energy also agrees with the Ohio Consumers’ Counsel (OCC) that it is unclear whether an advanced meter with a disabled communications device would qualify as a traditional or advanced meter. (OCC Supplemental Comments at 4).

Direct Energy agrees with Ohio Power Company’s contention that further clarification of the term “de-identified energy usage data” is needed. (Ohio Power Company Supplemental Comments at 3). Specifically, the Commission should distinguish between “de-identified” energy usage data and “aggregated” energy usage data. Direct Energy suggests that “de-identified” energy usage data is data that is unique to a particular customer but is nonetheless anonymous so that it could not be identifiable to a particular customer. In contrast, “aggregated” energy usage data is data that is both anonymous and not specific to a particular individual; rather it represents the energy usage data of a number of customers – perhaps within a specific neighborhood or pilot program.

In response to proposed rule 4901:1-10-05(J)(2)(b) which states, “If the customer is currently enrolled in a product or service requiring an advanced meter as a condition of enrollment, the electric utility shall notify the customer that a different product or service must be chosen prior to installation of a traditional meter,” Ohio Power contends “(t)he utilities should not, and cannot police and enforce a customer’s metering needs due to agreements made between the customer and the retail generation supplier...A utility company...would not know and is not supposed to know if a customer is on a time differentiated rate with a retail generation supplier.” (at 6-7). While Direct Energy disagrees that a utility would not know what type of product a customer is on, especially if utility consolidated billing is being used, we do agree that a utility would not know the terms of the agreement. However, due to this and also the fact that a customer could potentially experience early

termination penalties CRES providers should be provided at least 90 days' notice to alert customers to a concern and allow the customer to change their mind prior to a meter being removed.

III. CONCLUSION

Direct Energy requests the Commission accept its suggested changes to the proposed amendments contained in the Commission's July 10, 2013 Entry.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify this 16th day of August, 2013, that a copy of the foregoing document was served *via* electronic mail to the e-mail addresses below.

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Summary: Comments Reply Supplemental electronically filed by Ms. Jennifer L. Lause on behalf of Direct Energy Business, LLC and Direct Energy Services, LLC