BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's Review of Its Rules for Competitive Retail Electric Service Contained in Chapters 4901:1-21 and 4901:1-24 of the Ohio Administrative Code.	))))	Case No. 12-1924-EL-ORD

OHIO PARTNERS FOR AFFORDABLE ENERGY'S
MEMORANDUM CONTRA
APPLICATIONS FOR REHEARING

I. Introduction

Ohio Partners for Affordable Energy ("OPAE") hereby submits to the Public Utilities Commission of Ohio ("Commission") this memorandum contra the applications for rehearing of the Retail Energy Supply Association ("Marketers"), Direct Energy Services LLC and Direct Energy Business LLC ("Direct"), and Interstate Gas Supply ("IGS"). These applications for rehearing are from the Commission's December 18, 2013 Finding and Order in the above-captioned review of the Commission's rules for competitive retail electric service ("CRES"). The Commission should deny these applications for rehearing for the reasons set forth in this memorandum contra the applications.

II. The Commission should not modify Rule 4901:1-21-06(D)(1)(h) as requested by IGS, Direct and the Marketers.

Rule 4901:1-21-06(D)(1)(h) provides for independent third-party verification to ensure the validity of enrollment through door-to-door solicitation. Rule 4901:1-21-06(D)(1)(h)(ii) states that the third party verifier must confirm with the customer that the CRES agent has left the customer's property. The rule

also prohibits the CRES agent from returning to the customer's premises before, during, and after the third-party verification process.

IGS complains that the rule is unreasonable because it does not let customers choose to have the agent remain on the premises during and after the third-party verification. IGS Application for Rehearing at 2. IGS argues that if the customer gives affirmative consent for the agent to remain during the verification process, the agent should be allowed to remain. IGS states that the customer may have questions that the agent may be able to answer. IGS also argues that the Commission should allow the agent to return to the customer's premises after the third-party verification and claims to be confused whether the rule as drafted would not allow the agent ever to return to the premises. Id. at 3.

Direct also requests that the rule be amended to permit a door-to-door agent to return after the third-party verification if the customer requests the agent to return. Direct argues that if the customer has additional questions, which the verifier cannot answer, the sale will not be completed. Direct would amend the rule to permit the door-to-door agent to return if the customer indicates to the third-party verifier that the customer has questions for the CRES agent or if the customer proactively engages the agent.

The Marketers also argue that the agent should be allowed to return to answer questions. They argue that it is unfair to preclude the sales agent from all post-verification contact when the customer is requesting additional contact. The Marketers also argue that the customer should be able to decide if the sales agent stays during the verification.

The Commission should reject these requests for rehearing. First, it is obvious that the rule prohibits the agent "to return before, during or after the TPV [third-party verification] process." This clearly is not a universal prohibition of return, but only with respect to the third-party verification process. Moreover, the rule necessarily preserves the validity and effectiveness of the independent third-party verification process. The purpose of the independent third-party verification is to assure that the customer has affirmatively chosen to enroll with the CRES. This assurance must not be compromised in the ways suggested by the Marketers, Direct and IGS. It can be assumed that the customer, whether residential or small commercial, is under some pressure to complete a contract with the agent engaged in door-to-door solicitations. The agent has already engaged the customer individually. The independent third-party verifier is a necessary condition to assure that the customer's actions are the customer's own. The continued presence of the agent during the process of third-party verification will undermine the verification's effectiveness.

III. The Commission should not modify Rule 4901:1-21-06(D)(1)(h)(ii) to apply only to residential customers.

In another issue with respect to independent third-party verification of door-to-door solicitations, Direct asks the Commission to differentiate between residential and small commercial customers. Direct asks the Commission to change the rule to permit a door-to-door sales agent to be on the small commercial customer's property before, during, and after the third-party verification. Direct Application for Rehearing at 4. Direct argues that, in the case

of small commercial customers, agents are building a longer-term relationship than with a residential customer. Direct also argues that small commercial customers are less likely than residential customers to be intimidated by having an agent present during the third-party verification. The Marketers also argue that this rule should apply only to residential customers.

These proposed modifications should be rejected. The rule should continue to apply to small commercial customers as well as residential customers. OPAE is the only entity filing comments in this docket that represents small commercial customers as well as residential customers. While Direct and the Marketers would argue for less consumer protections for small commercial customers, OPAE, whose members are small commercial customers, does not agree that small commercial customers need less protection than residential customers. Small commercial customers do not necessarily have the sophistication and knowledge of electric markets that would distinguish them from residential customers. Small commercial customers have the same need for protection against aggressive sales practices that residential customers have. The rule on third-party verification of door-to-door solicitations should apply to small commercial customers as well as residential customers.

IV. The Commission should reject the Marketers' recommended modification to Rule 4901:1-21-06(D)(1)(i).

Rule 4901:1-21-06(D)(1)(i) requires that residential customers be presented with a written contract at the time of sale. This excludes the use of

electronic copies with e-mail delivery. It also excludes electronic signatures. The Marketers complain that electronic media is superior to paper copies and actual signatures because e-mail delivery is easily validated and customers can print off multiple copies.

The Commission should reject the Marketers' request for electronic copies of contracts instead of written copies. Customers may not necessarily have access to e-mails and electronic services so that customers may need to have written copies of contracts with actual signatures. The customer also may not have access to printers so as to allow the printing off of "multiple copies." The customer needs a written copy of the contract that he has signed. The rule is correct to require that the contract be in writing, legible, and provided to the customer.

III. Conclusion

The Commission should deny the applications for rehearing for the reasons set forth in this Memorandum Contra the applications.

Respectfully submitted,

/s/Colleen L. Mooney
Colleen L. Mooney
Cathryn N. Loucas
Ohio Partners for Affordable Energy
231 West Lima Street
Findlay, OH 4584
cmooney@ohiopartners.org
cloucas@ohiopartners.org

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Memorandum Contra the Applications for Rehearing was served electronically on these persons on this 27th day of January 2014.

/s/ Colleen Mooney
Colleen Mooney

william.wright@puc.state.oh.us
kern@occ.state.oh.us
serio@occ.state.oh.us
BarthRoyer@aol.com
kjkolich@firstenergycorp.com
cdunn@firstenergycorp.com
judi.sobecki@dplinc.com
stnourse@aep.com
mjsatterwhite@aep.com
mhpetricoff@vorys.com
sseiple@nisource.com
smhoward@vorys.com
bleslie@nisource.com
mswhite@igsenergy.com
joseph.clark@directenergy.com
Elizabeth.Watts@duke-energy.com
Jeanne.Kingery@duke-energy.com
gkrassen@bricker.com
mwarnock@bricker.com
tsiwo@bricker.com
vparisi@igsenergy.com
Stephanie.chmiel@thompsonhine.com
eagleenergy@fuse.net
dcetola@hess.com
whitt@whitt-sturtevant.com
campbell@whitt-sturtevant.com
msmalz@ohiopovertylaw.org
jmaskovyak@ohiopovertylaw.org

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

1/27/2014 11:43:54 AM

in

Case No(s). 12-1924-EL-ORD

Summary: Memorandum Contra the Applications for Rehearing electronically filed by Colleen L Mooney on behalf of Ohio Partners for Affordable Energy