

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

**MEMORANDUM CONTRA OF  
DIRECT ENERGY SERVICES, LLC AND  
DIRECT ENERGY BUSINESS, LLC**

On January 15, 2014, the Public Utilities Commission of Ohio (“Commission”) issued its Finding and Order adopting amendments to Rule 4901:1-10-24(E), Ohio Administrative Code (“O.A.C.”). On February 14, 2014, Direct Energy Services, LLC and Direct Energy Business, LLC (collectively, “Direct Energy”), The Dayton Power and Light Company (“DP&L”), Duke Energy Ohio, Inc. (“Duke Energy”), the Ohio Power Company, Ohio Edison Company and the Toledo Edison Company and The Cleveland Electric Illuminating Company (“First Energy”), Interstate Gas Supply, Inc. (“IGS”) all filed applications for rehearing from the January 15, 2014 Finding and Order.

Direct Energy submits this memorandum contra in response to both Duke Energy and DP&L’s applications for rehearing. Direct Energy respectfully requests that the Commission dismiss Duke Energy’s second argument for the creation of a working group to discuss disclosure of energy usage data to a competitive retail electric service provider (“CRES provider”). A working group is unnecessary as this is the appropriate docket to resolve all data authorization issues and would further delay the release of this information to CRES providers. Moreover, Direct Energy respectfully encourages the Commission deny DP&L’s request to

rehear rule 4901:1-10-28(B)(9)(c) and instead maintain the current rule as it allows for necessary flexibility on how net metering credits are applied.<sup>1</sup>

**I. There is no reason to require a working group to determine when electric distribution utilities (“EDU”) should provide a customer’s energy usage data to a CRES provider.**

Direct Energy shares Duke Energy’s concern about the inability for EDUs to handle the large amount of paper that the current rule as written would require. However, the creation of a working group, as recommended by Duke Energy, to review the privacy issues surrounding energy usage data is unnecessary as it would only delay both the release of this information to CRES providers and the implementation of any time usage products by CRES providers that are already available in other markets. Feedback from interested parties was already solicited in this docket. Once the proposed working group completes its task, the Commission would then need to reopen this docket to make any changes. Instead, Direct Energy respectfully requests the Commission utilize this docket to discuss any necessary changes to the rules regarding this issue and accept Direct Energy’s recommended changes to the rule which would require authorization with audit authority by the utility and Commission rather than require multiple pieces of information and paper processed with each customer request.. As such, Direct Energy respectfully requests the Commission limit Duke Energy’s second argument to the unreasonableness of Rule 4901:1-10-24(E)(4) and the cost recovery necessary to meet its compliance.

**II. Rule 4901:1-10-28(B)(9)(c) is reasonable and a rehearing on it is unnecessary.**

As DP&L correctly points out, there are many technical problems with the net metering rules being unable to match the technology available today. However, Direct Energy does not

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<sup>1</sup> Application of the Dayton Power and Light Company for Rehearing and Clarification on the Finding and Order Adopting Rules for Electric Companies at page 9.

support DP&L's recommendation for a strict requirement on an annual credit payout. Direct Energy encourages the Commission to allow flexibility on how net metering credits are applied and allow a customer and supplier to negotiate those terms with annual payout as the default when no other agreement has been made.

### **CONCLUSION**

For the reasons contained within, Direct Energy respectfully requests the Commission limit Duke Energy's second argument for rehearing in the manner suggested.

Respectfully submitted,

/s/ Joseph M. Clark

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## **CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing Application for Rehearing was served this 24th day of February, 2014, by electronic mail upon the persons on the service list below:

/s/ Joseph M. Clark

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Summary: Memorandum Memorandum Contra of Direct Energy electronically filed by Ms. Marissa J. Bach on behalf of Clark, Joseph Mr.