

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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|---|---|-------------------------|
| In the Matter of Commission's Review of |) | |
| Chapter 4901:1-25 of the Ohio |) | Case No. 12-2053-EL-ORD |
| Administrative Code, Regarding Market |) | |
| Monitoring |) | |
| |) | |

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

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March 13, 2014

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I. INTRODUCTION

On January 29, 2014, the Public Utilities Commission of Ohio ("Commission") issued an Entry in the above-captioned docket and set an initial comment deadline of February 26, 2014, and a reply comment deadline of March 13, 2014. Direct Energy Services, LLC and Direct Energy Business, LLC ("Direct Energy") now respectfully submits its Reply Comments in this proceeding.

II. REPLY COMMENTS

Rule 4901:1-25-02(A)(3)– Market monitoring – reporting requirements

The proposed changes to Rule 4901:1-25-02(A)(3)(d) would require competitive retail electric supply ("CRES") providers submit to staff on a quarterly basis the number of customers participating in CRES-offered green pricing programs and the volume of participation in such programs. As stated in its Initial Comments, Direct Energy opposes the proposed addition to this rule inasmuch as it conflicts with proposed rules in 4901:1-42 of the Administrative Code and does not ensure protection against the release of competitively sensitive data.

Similarly, Direct Energy strongly opposes the Initial Comments made by the Office of the Ohio Consumers' Counsel ("OCC") that recommends Rule 4901:1-25-02(A)(5) be modified to require reporting by CRES providers to the Commission be made available publicly. The OCC focuses its comments on unsupported legal arguments and fails to state why this information needs to be available publicly. Instead the OCC states that this information "*may be helpful* to customers in determining whether they want to choose an alternative supplier."¹ OCC also points to Staff's proposal in the 12-3151-EL-COI docket to publicly release a CRES providers number of customers and total load served."²

Direct Energy urges the Commission to maintain the confidentiality of this information until there is a valid argument, rather than assumptions, put forward. The Commission should instead reaffirm that any information provided pursuant to Rule 4901:1-25-02(A)(3) will enjoy automatic protective treatment.³ The same arguments put forth by the Retail Energy Supply Association ("RESA") in the 12-3151-EL-ORD docket apply equally here. The Commission can meet its statutory needs and accomplish its goals without publicly disclosing this information. Identifying a CRES supplier's market share and linking it to a particular supplier is the epitome of competitively sensitive market information. The Commission has been able to successfully study and discuss the health, strength and vitality of the CRES market since 1999 without disclosing this confidential information. OCC fails to provide compelling reasons to reverse the Commission's long-established practice to protect this information.

Should the Commission decide to release this information, Direct Energy has proposed the format used by Dominion East Ohio Gas in their auction information be used rather than

¹ OCC Initial Comments at 3. (emphasis added).

² OCC Initial Comments at 1-4.

³ Direct Energy Initial Comments at 4. See Rule 4901:1-25-02(A)(5)(b), O.A.C.

disclose individual CRES provider information by name. Dominion East Ohio Gas uses a pie chart with no individual supplier named to show market share. Using this method would allow the public to analyze market share while avoiding the possible repercussions of harm to the market by the release of competitively sensitive data.

III. CONCLUSION

Direct Energy respectfully requests the Commission deny OCC's request and accept its proposals in its Initial Comments in this case.

Respectfully submitted,

/s/ Joseph M. Clark

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing Initial Comments of Direct Energy Services, LLC and Direct Energy Business, LLC was served this 13th day of March, 2014 by electronic mail delivery upon the persons listed below.

/s/ Joseph M. Clark

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Summary: Reply Comments electronically filed by JOSEPH CLARK on behalf of Direct Energy Services, LLC and Direct Energy Business, LLC