

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Adoption of Chapter)
4901:1-42, Ohio Administrative Code,) Case No. 12-2157-EL-ORD
regarding Green Pricing Programs, to)
Implement Am. Sub. S.B. 315.)

ENTRY ON REHEARING

The Commission finds:

- (1) On June 11, 2012, the Governor of the state of Ohio signed into law Am. Sub. S.B. 315 (S.B. 315), which became effective on September 10, 2012. S.B. 315, *inter alia*, amended provisions of the Revised Code, including provisions which govern rules and regulations for green pricing programs.
- (2) On April 2, 2014, the Commission issued its Finding and Order (Order), adopting Ohio Adm.Code Chapter 4901:1-42. Pursuant to R.C. 4903.10, any party who has entered an appearance in a Commission proceeding may apply for rehearing with respect to any matters determined by the Commission, within 30 days of the entry of the Order upon the Commission's journal.
- (3) On May 2, 2014, the Ohio Consumers' Counsel (OCC) filed an application for rehearing. No memoranda contra to OCC's application were filed.
- (4) OCC argues as its first assignment of error that the Commission's Order was unlawful or unreasonable because it gives marketers of green pricing programs too much time to provide program or marketing materials to Staff. OCC contends that program or marketing materials should be provided to Staff before those program or marketing materials are distributed to customers. OCC contends that this would not be a pre-approval process. However, OCC then asserts that, to alleviate concerns about adopting a pre-approval process, the Commission could require that program or marketing materials be provided to Staff on the same day that the program or marketing materials are distributed to customers.

- (5) The Commission finds that rehearing on OCC's first assignment of error should be denied. The Commission already considered this issue when OCC made the proposal in its comments. However, we found that it was reasonable for Staff to receive any program or marketing materials not later than four calendar days after the green pricing product is offered to customers. The Commission believes that this is sufficient to keep Staff and the Commission informed of market activities and the products being offered. Accordingly, we find that rehearing on this assignment of error should be denied.
- (6) OCC asserts as its second assignment of error that the Commission's Order was unlawful or unreasonable because Ohio Adm.Code Chapter 4901:1-42 does not address penalties for violations of the rules. OCC contends that the Commission should adopt rules in Ohio Adm.Code Chapter 4901:1-42 to indicate that the penalties in Ohio Adm.Code Chapter 4901:1-21 for violations of the Commission's rules apply to the green pricing programs rules.
- (7) The Commission finds that rehearing on OCC's second assignment of error should be denied. The rules in Ohio Adm.Code Chapter 4901:1-21 sufficiently address penalties for violations of the Commission's rules, including Ohio Adm.Code Chapter 4901:1-42. We note that Ohio Adm.Code Chapter 4901:1-21 applies to all CRES providers, whether they offer green pricing programs or not. Further, we already denied this assignment of error when OCC initially presented it as a proposal in its comments.

Additionally, pursuant to R.C. 119.032 and the Governor's common sense initiative, the Commission must not adopt rules that would be unnecessary or redundant, or that would duplicate, overlap with, or conflict with other rules. The rules in Ohio Adm.Code Chapter 4901:1-21 already address penalties for violations of the Commission's rules. Therefore, OCC's proposal would duplicate and overlap with the rules in Ohio Adm.Code Chapter 4901:1-21. Accordingly, rehearing on OCC's second assignment of error is denied.

- (8) In order to avoid needless production of paper copies, the Commission will serve a paper copy of this entry on rehearing only and will continue to make the rules, as well as the business impact analysis, available online at:

www.puco.ohio.gov/puco/rules. All interested persons may download the rules and the business impact analysis from the above website, or contact the Commission's Docketing Division to be sent a paper copy.

It is, therefore,

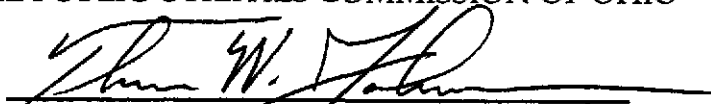
ORDERED, That the application for rehearing filed by OCC be denied. It is, further,

ORDERED, That the adopted rules be filed with the Joint Committee on Agency Rule Review, the Secretary of State, and the Legislative Service Commission, in accordance with divisions (D) and (E) of R.C. 111.15. It is, further,

ORDERED, That the final rules be effective on the earliest date permitted. Unless otherwise ordered by the Commission, the five-year review date for Ohio Adm.Code Chapter 4901:1-42 shall be in compliance with R.C. 119.032. It is, further,


ORDERED, That a copy of this Entry on Rehearing be served upon all electric utilities in the state of Ohio, all certified competitive retail electric service providers in the state of Ohio, the Electric-Energy industry list-serve, and all other interested persons of record.

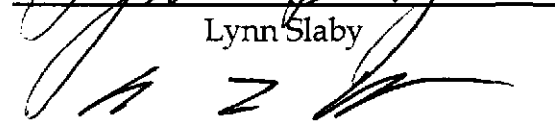
THE PUBLIC UTILITIES COMMISSION OF OHIO


Thomas W. Johnson, Chairman


Steven D. Lesser

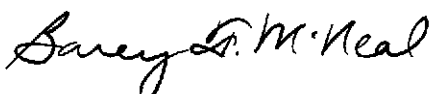

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Entered in the Journal **MAY 28 2014**


Barcy F. McNeal
Secretary