

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Amendment of)
Chapters 4901:1-10 and 4901:1-21, Ohio)
Administrative Code, Regarding Electric) Case No. 14-1411-EL-ORD
Companies and Competitive Retail)
Electric Service, to Implement 2014)
Sub.S.B. No. 310.)

ENTRY

The Commission finds:

- (1) In May 2014, the General Assembly passed 2014 Sub.S.B. No. 310 (S.B. 310), which became effective on September 12, 2014. S.B. 310, inter alia, amended provisions in R.C. Chapter 4928, which governs the alternative energy portfolio standard rules and regulations. Additionally, newly-enacted R.C. 4928.65 directs the Commission to adopt rules by January 1, 2015, governing the disclosure to customers of the costs of the renewable energy resource, energy efficiency savings, and peak demand reduction requirements of R.C. 4928.64 and 4928.66. This proceeding has been opened specifically to review Ohio Adm.Code Chapters 4901:1-10 and 4901:1-21 in light of newly-enacted R.C. 4928.65.
- (2) On January 10, 2011, the Governor of Ohio issued Executive Order 2011-01K, entitled "Establishing the Common Sense Initiative," which sets forth several factors to be considered in the promulgation of rules and the review of existing rules. Among other things, the Commission must review its rules to determine the impact that a rule has on small businesses; attempt to balance properly the critical objectives of regulation and the cost of compliance by the regulated parties; and amend or rescind rules that are unnecessary, ineffective, contradictory, redundant, inefficient, or needlessly burdensome, or that have had negative unintended consequences, or unnecessarily impede business growth.

- (3) In addition, in accordance with R.C. 121.82, in the course of developing draft rules, the Commission must conduct a business impact analysis regarding the rules. If there will be an adverse impact on business, as defined in R.C. 107.52, the agency is to incorporate features into the draft rules to eliminate or adequately reduce any adverse impact. Further, the Commission is required, pursuant to R.C. 121.82, to provide the Common Sense Initiative (CSI) office the draft rules and the business impact analysis.
- (4) On August 26, 2014, the Commission held a workshop at the offices of the Commission to elicit feedback on any proposed revisions to the rules, which Staff may have, and to permit stakeholders to propose their own revisions to the rules for Staff's consideration. Many stakeholders were present at the workshop and eight stakeholders offered comments primarily concerning bill formatting, calculation of the amounts to be disclosed, and the time frame for implementation of the requirements.
- (5) Staff's proposals are summarized as follows:
 - (a) Staff proposes to incorporate the required cost disclosures regarding electric distribution utilities (EDUs) into a new rule within existing Ohio Adm.Code Chapter 4901:1-10, as proposed Ohio Adm.Code 4901:1-10-35.
 - (b) Staff proposes to incorporate the required cost disclosures regarding competitive retail electric service (CRES) providers into a new rule within existing Ohio Adm.Code Chapter 4901:1-21, as proposed Ohio Adm.Code 4901:1-21-19.
 - (c) Staff proposes to define "renewable energy resource" by identifying the statutory definition in both proposed Ohio Adm.Code 4901:1-10-35 and 4901:1-21-19. Staff further

proposes to define "energy efficiency" in Ohio Adm.Code 4901:1-10-35.

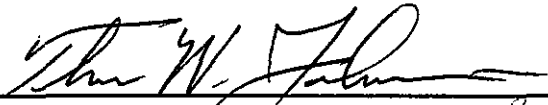
- (d) Staff proposes to specifically calculate EDUs' and CRES providers' costs of compliance with the renewable energy resource requirements by using the formulas set forth in proposed Ohio Adm.Code 4901:1-10-35(B)(1) and 4901:1-21-19(B)(1), respectively.
- (6) Further, the Commission acknowledges that comments offered at the workshop indicated stakeholders share different views on what costs should be included in the calculation of the costs of energy efficiency and peak demand reduction savings requirements. In addition to any other comments on the proposed rules, the Commission solicits comments on whether proposed Ohio Adm.Code 4901:1-10-35(B)(2) and (B)(3) should include all costs in the applicable energy efficiency/peak demand reduction rider, or delineate specific costs for inclusion or exclusion. The attached proposed rule includes all costs in the applicable rider solely for the purpose of comment.
- (7) In order to avoid needless production of paper copies, the Commission will serve a paper copy of just this Entry and will make the rules changes proposed in Ohio Adm.Code 4901:1-10-35 and 4901:1-21-19, as well as the business impact analyses, available online at www.puco.ohio.gov/puco/rules. All interested persons may download the proposed rules and the business impact analyses from the above website, or contact the Commission's Docketing Division for a paper copy.
- (8) The Commission requests comments from interested persons to assist in the review of these rules in order to incorporate the requirements of S.B. 310. Comments on the draft rules and/or on the business impact analyses should be filed by November 5, 2014. Reply comments should be filed by November 17, 2014.

It is, therefore,

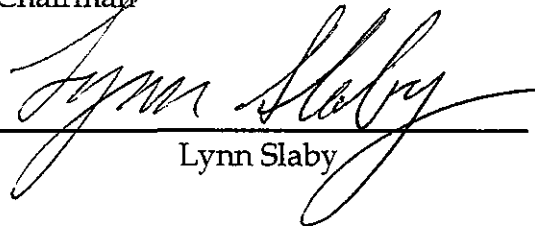
ORDERED, That all interested persons shall file comments by November 5, 2014, and reply comments by November 17, 2014. It is, further,


ORDERED, That this Entry be served upon all parties of record, all investor-owned electric utilities in the state of Ohio, all certified competitive retail electric service providers in the state of Ohio, and the Electric-Energy industry list-serve.


THE PUBLIC UTILITIES COMMISSION OF OHIO


Thomas W. Johnson, Chairman


Steven D. Lesser


Lynn Slaby

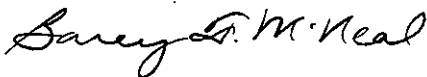

M. Beth Trombold


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MWC/sc

Entered in the Journal

OCT 15 2014


Barcy F. McNeal

Barcy F. McNeal
Secretary

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4901:1-10-35 Disclosures of Renewable Energy Resource, Energy Efficiency, and Peak Demand Reduction Compliance Costs

- (A) For purposes of this rule, the following definitions shall apply:
- (1) "Energy efficiency" has the meaning set forth in paragraph (N) of rule 4901:1-39-01 of the Administrative Code.
 - (2) "Renewable energy resource" has the meaning set forth in division (A)(37) of section 4928.01 of the Revised Code.
- (B) Each electric distribution utility (EDU) shall list on all customer bills sent by the EDU, including utility consolidated bills that include both EDU and competitive retail electric service provider charges, the individual customer cost of compliance with all of the following for the applicable billing period:
- (1) The renewable energy resource requirement under section 4928.64 of the Revised Code. This cost shall be calculated as the sum of the following:
 - (a) The customer's usage in megawatt-hours for the applicable billing period, multiplied by the statutory solar percentage requirement pursuant to division (B)(2) of section 4928.64 of the Revised Code for the year in which the bill is issued, multiplied by the average of the Ohio solar and other solar renewable energy credit (REC) costs for EDUs as reported in the commission's most recent compliance report provided to the general assembly; and
 - (b) The customer's usage in megawatt-hours for the applicable billing period, multiplied by the statutory non-solar percentage requirement pursuant to division (B)(2) of section 4928.64 of the Revised Code for the year in which the bill is issued, multiplied by the average of the Ohio non-solar and other non-solar REC costs for EDUs as reported by the commission's most recent compliance report provided to the general assembly. The

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statutory non-solar requirement shall equal the total statutory renewable requirement net of the solar requirement.

- (c) In the event that the commission's compliance report provided to the general assembly does not include separate REC costs for Ohio and other resources, the EDU solar and EDU non-solar REC costs as presented in the report should be inserted into the calculation where applicable.
- (d) On consolidated bills that include both EDU and competitive retail electric service (CRES) provider charges, the renewable energy resource requirement line item shall be either the cost as calculated in paragraph (B)(1) of this rule, or, for CRES customers, the cost as calculated in paragraph (B)(1) of rule 4901:1-21-19 of the Administrative Code.
- (2) The energy efficiency savings requirements under section 4928.66 of the Revised Code. This cost shall be calculated as follows:
 - (a) The customer's usage in kilowatt-hours for the applicable billing period multiplied by the currently effective energy efficiency/peak demand reduction rider that is applicable to the customer.
 - (b) The amount from paragraph (2)(a) of this rule shall be multiplied by the proportion of the energy efficiency/peak demand reduction rider that is associated with energy efficiency savings requirement compliance costs. For purposes of calculating this proportion, all costs represented in the energy efficiency/peak demand reduction rider shall be allocated either to energy efficiency requirements compliance or peak demand reduction requirements compliance. Alternatively, the EDU may multiply the amount from paragraph (2)(a) of this rule by eighty per cent.
- (3) The peak demand reduction requirements under section 4928.66 of the Revised Code. This cost shall be calculated as follows:

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- (a) The customer's usage in kilowatt-hours for the applicable billing period shall be multiplied by the currently effective energy efficiency/peak demand reduction rider that is applicable to the customer.
- (b) The amount from paragraph (3)(a) of this rule shall be multiplied by the proportion of the energy efficiency/peak demand reduction requirement rider that is associated with peak demand reduction requirements compliance costs. For the purpose of calculating this proportion, all costs represented in the energy efficiency/peak demand reduction rider shall be allocated either to the energy efficiency requirements compliance or peak demand reduction requirements compliance. Alternatively, the EDU may multiply the amount from paragraph (3)(a) of this rule by twenty per cent.
- (4) Each of these costs shall be listed on each customer's monthly bill as a distinct line item.

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4901:1-21-19 Disclosures of Renewable Energy Resource Compliance Costs

- (A) As used in this rule, "renewable energy resource" has the meaning set forth in division (A)(37) of section 4928.01 of the Revised Code.
- (B) Each competitive retail electric service (CRES) provider shall list on all customer bills sent by the CRES provider that do not include electric distribution utility (EDU) charges the individual customer cost of compliance with the renewable energy resource requirements for the applicable billing period.
 - (1) The cost of compliance with the renewable energy resource requirements shall be calculated as the sum of the following:
 - (a) The customer's usage in megawatt-hours for the applicable billing period, multiplied by the statutory solar percentage requirement pursuant to division (B)(2) of section 4928.64 of the Revised Code for the year in which the bill is issued, multiplied by the average of the Ohio solar and other solar renewable energy credit (REC) costs for CRES providers as reported in the commission's most recent compliance report provided to the general assembly; and
 - (b) The customer's usage in megawatt-hours for the applicable billing period, multiplied by the statutory non-solar percentage requirement pursuant to division (B)(2) of section 4928.64 of the Revised Code for the year in which the bill is issued, multiplied by the average of the Ohio non-solar and other non-solar REC costs for CRES providers as reported in the commission's most recent compliance report provided to the general assembly. The statutory non-solar requirement shall equal the total renewable requirement net of the solar requirement.
 - (2) In the event that the commission's compliance report provided to the general assembly does not include separate REC costs for Ohio and other

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resources, the CRES solar and CRES non-solar REC costs as presented in the report should be inserted into the calculation where applicable.

- (C) Each CRES provider shall list on all customer bills sent by the CRES provider that include both EDU and CRES provider charges (consolidated bills) all of the following for the applicable billing period:
- (1) The cost of compliance with the renewable energy resource requirements, calculated as set forth in paragraph (B)(1) of this rule.
 - (2) The EDU's cost of compliance with the energy efficiency savings requirements under section 4928.66 of the Revised Code, calculated as set forth in paragraph (B)(2) of rule 4901:1-10-35 of the Administrative Code.
 - (3) The EDU's cost of compliance with the peak demand reduction requirements under section 4928.66 of the Revised Code, calculated as set forth in paragraph (B)(3) of rule 4901:1-10-35 of the Administrative Code.
- (D) Each of these costs shall be listed on each customer's monthly bill as a distinct line item.

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name:	Public Utilities Commission of Ohio (PUCO)
	Attention: Angela Hawkins, Legal Director
	Phone: 614-466-0122 Fax 614-728-8373
	Angela.hawkins@puc.state.oh.us
	or Greg Price, Section Chief, Electric Section
	Phone: 614-752-9410 Fax 614-728-8373
	Greg.price@puc.state.oh.us
Regulation/Package Title:	Ohio Adm.Code Chapters 4901:1-10 and 4901:2-21
	Electric Companies and Competitive Retail Electric Service Providers
Rule Number(s):	4901:1-10-35, 4901:1-21-19
Date:	October 15, 2014
Rule Type:	<input checked="" type="checkbox"/> New <input type="checkbox"/> 5-Year Review
	<input type="checkbox"/> Amended <input type="checkbox"/> Rescinded
	<input type="checkbox"/> No Change

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Regulatory Intent

- 1. Please briefly describe the draft regulation in plain language. Please include the key provisions of the regulation as well as any proposed amendments.**

The new rules in Ohio Adm.Code Chapters 4901:1-10 and 4901:1-21 are being proposed in response to 2014 Sub.S.B. No. 310 ("S.B. 310"), which enacted R.C. 4928.65. The proposed rules in Ohio Adm.Code Chapters 4901:1-10 and 4901:1-21 would add requirements that all Electric Distribution Utilities (EDUs) and all Electric Service Companies (ESCs), which includes all Competitive Retail Electric Service (CRES) providers, disclose to customers all costs incurred in their compliance with the renewable energy resource, energy efficiency, and peak demand reduction requirements of R.C. 4928.64 and 4928.66.

Proposed Ohio Adm.Code 4901:1-10-35 will require EDUs to make these disclosures using three distinct line items: one for renewable energy resources, one for energy efficiency, and one for peak demand reduction. These disclosures are to be calculated in accordance with the provisions of the rule. These disclosures are required on all bills, including all utility consolidated bills.

Proposed Ohio Adm.Code 4901:1-21-19 will require ESCs to make a disclosure using one distinct line item for renewable energy resources. This disclosure is to be calculated in accordance with the provisions of the rule. This disclosure is required on all bills sent by the ESCs, including consolidated bills.

The adoption of these rules will provide for a full and complete disclosure of all costs related to renewable energy resources, energy efficiency, and peak demand reduction that a customer is paying as required by S.B. 310.

- 2. Please list the Ohio statute authorizing the Agency to adopt this regulation.**

Proposed Ohio Adm.Code 4901:1-10-35 and 4901:1-21-19 are in response to specific statutory requirements set forth in S.B. 310, which amended R.C. 4928.65. The specific statutory authority for each proposed rule is listed below.

Rule	Statutory Authority – Ohio Revised Code
4901:1-10-35	4928.65
4901:1-21-19	4928.65

3. **Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?**

If yes, please briefly explain the source and substance of the federal requirement.

No. The rules proposed in Ohio Adm.Code Chapters 4901:1-10 and 4901:1-21 are being proposed in accordance with the statutory directives found in S.B. 310 and are not intended to implement any federal requirements or to enable the state to obtain or maintain approval to enforce any federal law or participate in any federal program.

4. **If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

The regulation includes provisions that are not specifically required by the federal government, but exceed any federal requirement because they are specifically required by Ohio statute as found in S.B. 310.

5. **What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?**

The proposed rules in these chapters establish a requirement for disclosure of the costs associated with the renewable energy resource, energy efficiency, and peak demand reduction requirements of R.C. 4928.64 and 4928.66, as required by S.B. 310.

6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?

The Commission will measure the success of the regulation in terms of periodic audits of the companies providing the disclosures in order to review billing format and procedures.

A. Development of the Regulation

7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation. *If applicable, please include the date and medium by which the stakeholders were initially contacted.*

The Commission ordered a workshop be held for all interested parties to provide input on proposed changes to Ohio Adm.Code Chapters 4901:1-10 and 4901:1-21 on August 26, 2014, at the offices of the Commission. Copies of the order scheduling the workshop were sent by US Mail and e-mail to (a) all regulated electric distribution utility companies, (b) the Office of the Ohio Consumers' Counsel (OCC), (c) the Ohio Partners for Affordable Energy (OPAE) (d) regulated CRES providers, and (e) any other interested persons of record. The workshop was held with multiple parties providing suggestions and input on the existing rules.

8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

The primary recommendations offered by stakeholders at the workshop are as follows:

- 1) A CRES provider organization wanted the rules to clarify that the EDU was responsible for printing the disclosures on consolidated bills.
- 2) A CRES provider recommended that companies use generic designators so as not to confuse customers, and that an EDU can use on both residential and commercial customer bills.
- 3) An EDU requested approximately 6 months from the effective date of the rules to implement these changes.

- 4) An environmental advocacy organization requested that the line item disclosures make clear what the customer is saving, rather than merely appearing as a surcharge. The Commission's Staff elected not to incorporate this input into the proposed rule, as it was not required or addressed by the statute.
- 5) An EDU wanted to ensure customers are informed that the line item disclosures are not new charges.
- 6) An industrial group pointed out that the method for calculating costs needs to be identified, as the statute specifically offers a formula for calculating one cost, but does not identify formulas for other costs. In response to this input, the Commission's Staff attempted to clarify the method for calculating costs in the rule, and specifically invited written comments on how to calculate other costs.
- 7) An environmental advocacy organization recommended that the disclosures of the cost of energy efficiency and peak demand reduction also show the net benefits. The Commission's Staff elected not to incorporate this input into the rule, as Staff believes it exceeded the mandates of S.B. 310.

9. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

No scientific data was taken into account. In adopting the proposed rules, the Commission's Staff took into account S.B. 310, as well as the feedback from stakeholders and the general public received at the workshop.

10. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?

No alternative regulations were considered. No regulatory alternatives were considered because the rules were drafted strictly to bring the Commission's rules into accordance with the directives of S.B. 310. The only discretionary changes were done in accordance with clarifying the formula for calculating the costs required to be disclosed.

11. Did the Agency specifically consider a performance-based regulation? Please explain.

Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.

No performance based regulations were considered. These were not considered because the proposed rules were drafted specifically to bring the Commission's rules into compliance with S.B. 310.

12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

The Commission has reviewed other Ohio regulations and found no duplicate. Furthermore, the directives of S.B. 310 require the specific implementation of these proposed rules.

13. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

The Commission's plan for implementation of the proposed rules is for the EDUs to file changes to their bill formats and for the Service Monitoring and Enforcement Department of the Commission to adopt measures that will ensure consistent and predictable application of the regulation to EDUs and ESCs.

Adverse Impact to Business

14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

a. Identify the scope of the impacted business community;

The scope of the business community impacted by the proposed rules in Ohio Adm.Code 4901:1-10-35 and 4901:1-21-19 includes all EDUs and ESCs, respectively.

b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and

The adverse impact of the proposed rules includes the short-term costs of implementation of the new billing formats. This may include the costs of reprogramming EDUs' and ESCs' billing software, as well as costs related to the exchange of information between EDUs and ESCs in order to ensure required disclosures are included on customers' bills. Another cost may include employee time necessary to make billing system changes.

c. Quantify the expected adverse impact from the regulation.

The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a "representative business." Please include the source for your information/estimated impact.

The expected adverse impact includes EDUs' and ESCs' direct costs and costs as far as employee time required to implement changes to their billing systems. These costs are expected to vary greatly between different businesses depending on the flexibility of the existing billing systems in place.

15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

The Commission did not make a determination that the regulatory intent justifies the adverse impact to the regulated business community; rather the Commission determined that, under S.B. 310, the Commission is required to incorporate the proposed rules into Ohio Adm.Code Chapters 4901:1-10 and 4901:1-21 not later than January 1, 2015. The proposed rules were drafted in an effort to minimize any adverse impact on business while complying with the specific statutory directives of the General Assembly set forth in in S.B. 310.

Regulatory Flexibility

16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

No. The rules do not provide any exemptions or alternative means of compliance. S.B. 310 requires the specific disclosure of these costs as line items on a customer's bill. An exemption or alternative means of compliance would be contrary to the statute.

17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

The proposed rules added to Ohio Adm.Code Chapters 4901:1-10 and 4901:1-21 are specifically intended to carry out the statutory directives made by S.B. 310. The focus of the review process was not on seeking penalties for first-time paperwork offenses. Fines and penalties for violating these rules may only be ordered by the Commission after notice and hearing. The Commission will fully comply with R.C. 119.14 and will not seek to recover administrative fines or civil penalties on any small business for a first-time paperwork violation, unless such violation falls within one of the exceptions set forth in paragraph (C) of that section and without providing adequate due process to the small business.

18. What resources are available to assist small businesses with compliance of the regulation?

The Commission's Staff works with small regulated companies to assist such companies with compliance. Additionally, at the workshop held by the Commission on these proposed rules changes, stakeholders and the general public, including small businesses, were invited to participate to discuss potential revisions to the rules to decrease or eliminate any negative effects on business. Further, small businesses may contact the Commission at any time and may comment on the proposed revisions during the open comment period once the written proposed rules have been released via Commission Entry.