

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

**INITIAL COMMENTS OF DIRECT ENERGY SERVICES, LLC
DIRECT ENERGY BUSINESS, LLC,
AND DIRECT ENERGY BUSINESS MARKETING, LLC
(CORRECTED VERSION)**

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I. INTRODUCTION

On October 15, 2014, the Public Utilities Commission of Ohio (“Commission”) issued an Entry in the above-captioned docket and set an initial comment deadline of November 5, 2014, and a reply comment deadline of November 17, 2014. Direct Energy Services, LLC, Direct Energy Business, LLC, and Direct Energy Business Marketing, LLC (“Direct Energy”) now respectfully submits its Initial Comments in this proceeding.

In this corrected version the only change is to modify the request of time to implement the changes to 90 days instead of the 60 days reflected in the version previously filed.

II. INITIAL COMMENTS

Disclosure of CRES Compliance Costs on Electric Distribution Utility (“EDU”) Bills

Proposed Rule 4901:1-10-35(B)(1)(d) states:

“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.**” (emphasis added)

The draft rule violates new R.C. 4928.65(A)(1). Specifically, new R.C. 4928.65 states

[emphasis added in subsection (A)(1) and (2)]:

(A) Not later than January 1, 2015, the public utilities commission shall adopt rules governing the disclosure of the costs to customers of the renewable energy resource, energy efficiency savings, and peak demand reduction requirements of sections 4928.64 and 4928.66 of the Revised Code. The rules shall include both of the following requirements:

(1) That every electric distribution utility list, on all customer bills sent by the utility, including utility consolidated bills that include both electric distribution utility and electric services company charges, the individual customer cost of the **utility's** compliance with all of the following for the applicable billing period:

(a) The renewable energy resource requirements under section 4928.64 of the Revised Code, subject to division (B) of this section;

(b) The energy efficiency savings requirements under section 4928.66 of the Revised Code;

(c) The peak demand reduction requirements under section 4928.66 of the Revised Code.

(2) That every electric services company list, on all customer bills sent by the company, the individual customer cost, subject to division (B) of this section, of **the company's** compliance with the renewable energy resource requirements under section 4928.64 of the Revised Code for the applicable billing period.

(B) (1) For purposes of division (A)(1)(a) of this section, the cost of compliance with the renewable energy resource requirements shall be calculated by multiplying the individual customer's monthly usage by the combined weighted average of renewable-energy-credit costs, including solar-renewable-energy-credit costs, paid by all electric distribution utilities, as listed in the commission's most recently available alternative energy portfolio standard report.

R.C. 4928.65(A)(1) does not provide an EDU the option to include a cost comparison on consolidated bills for shopping customers that is the same calculation as a dual billing competitive retail electric supply (“CRES”) provider would provide to its customers. R.C. 4928.65(A)(1), for consolidated bills sent by the EDU that include EDU and CRES charges, directs the comparison number listed on customer bills to be the “individual customer cost of the

utility's compliance” (emphasis added) with the renewable energy mandates. The proposed rule should be changed to remove “or, for CRES customers, the cost as calculated in paragraph (B)(1) of rule 4901:1-21-19 of the Administrative Code” and replace the first comma with a period. The legislature did not put this option into this new Ohio Revised Code section and the proposed language extends beyond the Commission’s statutory authority. As demonstrated by subsection (A)(2) of R.C. 4928.65, the legislature understood that CRES providers incur different costs than an EDU to comply with the mandates, yet the legislature chose to only include language related to the utility's compliance with the mandates to be placed on the bills of consolidated billed customers.

Distinct Line Item

Both proposed Rule 4901:1-10-35(B)(4) and Rule 4901:1-21-19(D) require the renewable energy requirement costs be listed as a “distinct line item” in accordance with the newly added provisions to R.C. 4928.65(C). The Commission should make an important clarification as part of Rule 4901:1-21-19(D) to minimize customer confusion. The Commission should, either as part of the rule language itself or in its Order adopting the rules, clarify that “distinct line item” does not mean the cost must be listed in the same section as the customer’s actual charges.

As drafted, the rule could be read to contemplate an $A + B = C$ calculation, with A being the ordinary commodity costs, B being the renewable energy mandate costs, and C being the total cost of the bill for the customer for that month. CRES providers ordinarily bill their customers a single total rate (that includes the renewable energy mandate costs within that total rate) times their consumption to arrive at the amount owed by the customer. There is no separate

line item or charge for the renewable energy portion of their electricity costs. Nor would this line item actually be a charge to be included in the total amount due. Therefore, placing the renewable energy mandate charge on the bill as a “distinct line item”, as calculated in accordance with the proposed rules, would have the appearance of double counting the renewable energy compliance costs for that billing period. However, customers would not actually be charged that amount because the costs are included in the total rate. Customers will be confused if their bills do not actually add up to the individual amounts listed in the charges section of their bills.

The Commission should clarify that the “distinct line item” may be included on a portion of the bill that is not a listing of the individual charges so long as it is listed by itself as a single line item where the customer can clearly see what the renewable energy mandate cost them, as an average for all customers served by CRES customers, for that billing period. This clarification would fulfill the statutory language as well as minimize customer confusion. The information provided on the bill is meant as an informational statement, not as a dollar for dollar cost to that particular customer, and is more akin to other informational items that are placed outside the charges section of the bill. This clarification also makes sense in that listing the renewable energy mandate costs on a bill will not reflect that individual CRES provider’s renewable energy mandate costs. Even if a CRES provider knows its own renewable energy mandate costs, under the rule it will list a cost that is an average of all CRES provider compliance costs, perhaps causing even more problems for implementation if the CRES provider must adjust other costs on its bill to ensure the total bill the customer should receive is the correct amount.

For these reasons the Commission should make the requested clarification regarding the “distinct line item” on the bill.

Applicable Billing Period

Proposed Rule 4901:1-21-19(B) and (C) also directs the renewable energy mandate cost should be calculated “for the applicable billing period” in accordance with new provisions of R.C. 4928.65(A)(2). As proposed, the rule appears to contemplate a different total cost would be provided to the customer each month depending on their usage for that month. In other words, the customer’s usage that month would be multiplied by the CRES provider compliance amount provided to the General Assembly in the annual report by the Commission.

The Commission should also make a clarification in this section to minimize customer confusion and for consistency with the proposed clarification regarding “distinct line item” discussed above. The Commission should clarify that “for the applicable billing period” does not mean the CRES provider must perform a calculation of the customer’s usage that billing period times the average CRES provider compliance cost every billing cycle. The Commission should explain that CRES providers may provide an average cost on the bill each month such that the total cost provided monthly would only need to be changed once per year when the Commission announces the average CRES provider compliance cost in its report to the General Assembly. Under this clarification, a CRES provider could take the customer’s average usage for the year prior to the announced CRES provider compliance cost and multiply that average usage times the announced CRES provider compliance cost for the next twelve (12) billing cycles until another new CRES provider compliance cost is provided in a report to the General Assembly.

This clarification would be consistent with the comments above requesting the “distinct line item” be provided outside of the charges section of the bill. Allowing a CRES provider to place a cost amount on the bill based upon the average usage for the year times the CRES

provider compliance cost is consistent with the text of the bill and the intent to provide customers an informational item for the customer to understand the cost of the renewable energy mandates to them. Additionally, it would remove the need to provide a moving target calculation every month for an item that is not an actual charge on the customer's bill. The CRES provider compliance portion of the total cost calculation is a weighted cost average of the compliance costs of all CRES providers. R.C. 4928.65(B)(2). Allowing the other half of the calculation to also be an average of the customer's usage for the previous year is consistent with the CRES provider compliance portion also being an average for the previous year.

Timing of Compliance

The statute requires the Commission adopt rules to implement the changes to R.C. 4928.65 by January 1, 2015. However, once the rules are final CRES providers and EDUs will need a window of time for programming and changes to comply. Direct Energy requests the Commission allow 90 days once the rules are finalized before companies must begin posting the renewable costs on customers' bills.

III. CONCLUSION

Direct Energy respectfully requests the Commission make the changes or clarifications recommended in these Initial Comments.

Respectfully submitted,

/s/ Joseph M. Clark

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CERTIFICATE OF SERVICE

In accordance with Rule 4901-1-05, Ohio Administrative Code, the PUCO's e-filing system will electronically serve notice of the filing of this document on the following parties. In addition, I hereby certify that a service copy of the foregoing *Initial Comments of Direct Energy Services, LLC, Direct Energy Business, LLC and Direct Energy Business Marketing, LLC* will be sent via electronic mail to the e-mail addresses below on this 5th day of November, 2014.

/s/ Joseph M. Clark

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Summary: Comments (Initial -- Corrected) electronically filed by JOSEPH CLARK on behalf of Direct Energy Services, LLC and Direct Energy Business, LLC and Direct Energy Business Marketing, LLC