

**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)**

On October 15, 2014, the Public Utilities Commission of Ohio (“Commission”) issued an Entry in the above-captioned docket setting forth its Staff’s proposed rules to implement R.C. 4928.65, recently enacted as part of Senate Bill (“S.B.”) 310. Ohio Revised Code (“R.C.”) 4928.65 requires the Commission to adopt rules providing for electric distribution utilities and electric services companies to disclose on customer bills the individual customer cost of their compliance with renewable energy resource (“RE”) requirements under R.C. 4928.64 and energy efficiency (“EE”) savings and peak demand reduction (“PDR”) requirements under R.C. 4928.66. In accordance with the October 15, 2014 Entry, the Environmental Law and Policy Center, the Sierra Club, the Natural Resources Defense Council, and the Ohio Environmental Council (collectively, the “Environmental Advocates”) respectfully submit these Reply Comments on the Staff proposal. The Environmental Advocates thank the Commission for this opportunity to provide these comments.

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R.C. 4928.64 and 4928.66, as well as the necessary context regarding the benefits provided by those expenditures. The Environmental Advocates continue to assert that the best way to accomplish these aims is for the Commission to exclude any costs not actually relating to the procurement of RE, EE, and PDR resources from the calculation of “individual customer costs” disclosed under R.C. 4928.65, and to require entities making such disclosures to provide customers with information regarding their RE purchases and EE and PDR programs.

Consistent with this approach, the Environmental Advocates urge the Commission to exclude from “individual customer costs” any expenses relating to the implementation of R.C. 4928.65 itself. Ohio Power Company (“AEP”) has “propose[d] to recover all costs for the work performed under these new rules through the existing Alternative Energy Rider (AER) and the Energy Efficiency and Peak Demand Reduction (EE/PDR) Rider.”¹ This category of costs will most likely consist primarily of the costs of reformatting the utility’s bills to include the new line items and any accompanying disclosures required by the Commission’s final rules. If the Commission adopts AEP’s proposal without altering the calculation of individual customer costs for EE and PDR, which is based on the amount of the EE/PDR rider under the draft rules, then the disclosed “individual customer cost” will be inflated by the cost of complying with R.C. 4928.65. That result would not be consistent with the language of R.C. 4928.65, which calls for the disclosure of the costs of compliance with R.C. 4928.64 and 4928.66, not any other provision.

Additionally, AEP’s proposal raises important questions regarding how R.C. 4928.65 compliance costs will be treated, even if they are not included as part of the “individual customer cost” disclosed on utility bills under the Commission’s final rules. AEP does appropriately

¹ AEP Ohio’s Initial Comments at 1.

concede that such costs should be subject to audit by Commission staff before AEP may recover them through its EE/PDR rider.² However, if the Commission authorizes such recovery in the course of this rulemaking without a formal amendment of AEP's rider under O.A.C. 4901:1-39-07, then there may remain significant uncertainty regarding the scope and timing of such audits. For example, it is unclear whether the cost of any billing upgrades conducted by a utility that relate to compliance with R.C. 4928.65 will be reviewed to determine whether the costs are entirely attributable to the need to comply with R.C. 4928.65 or also serve other, unrelated purposes and therefore cannot be fully recovered under an EE/PDR rider. Therefore, the Commission should reserve this issue for a separate proceeding where AEP offers a formal application to amend its rider with supporting details regarding its projected costs and schedule for compliance with R.C. 4928.65, so that all interested parties and the Commission itself have an adequate opportunity to review that application.

The Environmental Advocates also note that IEU-Ohio's position that the Commission lacks the discretion to include "some lesser amount of costs or some form of net costs and still be in compliance with the requirements of R.C. 4928.65"³ is inconsistent with the plan language of S.B. 310. As discussed in our Initial Comments, R.C. 4928.65 requires the disclosure of "the individual customer cost of the utility's *compliance with*" R.C. 4928.66.⁴ Because a company's EE/PDR rider is not designed to strictly reflect the costs of compliance with R.C. 4928.66, simply multiplying an individual customer's electricity usage by the amount of that rider will not accurately provide the information required under R.C. 4928.65. Therefore, contrary to IEU-

² *Id.*

³ IEU-Ohio's Initial Comments at 7.

⁴ R.C. 4928.65(A)(1) (emphasis added).

Ohio's assertion, the Commission must adjust the draft rules to screen out rider costs that a utility does not incur for purposes of statutory compliance.

Consistent with our Initial Comments, the Environmental Advocates urge the Commission to remove from the EE/PDR cost disclosure any costs corresponding to EE savings or PDR that the utility does not use for compliance with R.C. 4928.66. That may include the costs of experimental or pilot programs, if those programs are not counted toward statutory compliance, as well as any EE and PDR savings that represent over-compliance. Further, we concur with OMAEG's comment that any shared savings incentives and lost distribution revenue recovery should be excluded from the cost disclosure, as they represent profit for the company that was negotiated in settlement agreements.⁵ These incentives do not fall within "the individual customer cost of the utility's *compliance with*" R.C. 4928.66 contemplated in R.C. 4928.65.

Dated: November 17, 2014

Respectfully submitted,

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⁵ OMAEG's Initial Comments at 3.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Reply Comments has been electronically filed with the Public Utilities Commission of Ohio and has been served upon the following parties via electronic mail on November 17, 2014.

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Summary: Comments Reply Comments of the Environmental Law and Policy Center, Sierra Club, Natural Resources Defense Council, and Ohio Environmental Council electronically filed by Madeline Fleisher on behalf of Environmental Law and Policy Center