

**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 Sub. S.B. 310.

**REPLY COMMENTS
OF NOBLE AMERICAS ENERGY SOLUTIONS LLC**

On June 13, 2014, the Governor of Ohio signed into law Substitute Senate Bill 310 (Sub. S.B. 310), which became effective on September 11, 2014. This new legislation includes Section 4928.65, Revised Code, which requires the Public Utilities Commission of Ohio (“Commission”) to adopt rules governing disclosure of the costs to customers of the renewable energy resource, energy efficiency savings, and peak demand reduction requirements set forth in Sections 4928.64 and 4928.66, Revised Code. Section 4928.65, Revised Code, applies to both electric distribution utilities (“EDUs”) and to competitive retail electric service (“CRES”) suppliers. Noble Americas Energy Solutions LLC (“Noble”) is a CRES supplier operating in Ohio and Noble provides dual billing to its Ohio customers. As a result, Noble will be directly affected by Sub. S.B. 310 and the new rules required by Section 4928.65, Revised Code.

The Commission Staff proposed rule revisions and the Commission requested comments on the proposal. Eight sets of Initial Comments were filed on November 5, 2014. In these reply comments, Noble hereby submits its support of the Staff’s proposal as presented and urges the Commission to reject the requests to include additional, non-mandated information in customer bills. Also, Noble concurs with one commenter’s suggestion that the Commission should allow,

after the new rules are finalized, sufficient time for EDUs and CRES providers to make the necessary billing system changes before the costs must be included on their customer bills.

I. Substitute Senate Bill 310

Section 4928.65 states as follows:

(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.

(2) For purposes of division (A)(2) 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 services companies, as listed in the commission's most recently available alternative energy portfolio standard report.

(C) The costs required to be listed under division (A)(1) of this section shall be listed on each customer's monthly bill as three distinct line items. The cost required to be listed under division (A)(2) of this section shall be listed on each customer's monthly bill as a distinct line item.

II. Staff's Proposed Rule Revisions

Staff has proposed to include the customer disclosure requirement applicable to the EDUs in a newly created rule – Rule 4901:1-10-35, OAC. As proposed by Staff, the rule is consistent with the language of Sub. S.B. 310. Moreover, placement of this new requirement in Chapter 4901:1-10 is appropriate, as that chapter applies specifically to EDUs.

Also, Staff has proposed to include the customer disclosure requirement applicable to the CRES providers in a newly-created rule – Rule 4901:1-21-19, OAC. As proposed by Staff, this rule likewise is consistent with the language of Sub. S.B. 310. Placement of this new requirement in Chapter 4901:1-21 is appropriate, as that chapter applies specifically to CRES providers.

III. Commenters' Proposed Revisions

Many commenters argued that the rules should require disclosure of additional information beyond that which is listed in Section 4928.65, Revised Code.¹ They urge the Commission to include the benefits of energy efficiency and peak demand reduction in the mandated bill information. Some presented specific language for bill messages on customer bills,² while others recommended dissemination of this additional information through bill inserts.³ A plain reading of Section 4928.65, Revised Code, clearly shows that the statute does not address the benefits of energy efficiency and peak demand reduction. Thus, these

¹ Initial Comments of Ohio Manufacturers' Association Energy Group ("OMAEG") at 5-6, 8-9; Initial Comments of Environmental Law and Policy Center/Sierra Club/ Natural Resources Defense Council/Ohio Environmental Council ("ELPC et al.") at 4-7; and Initial Comments of the Ohio Consumers' Council ("OCC") at 3-6.

² ELPC et al. Initial Comments at 5-6 and OCC Initial Comments at 6.

³ OMAEG Initial Comments at 9.

recommendations are beyond what the Ohio Legislature has directed the Commission to do. The Commission is a creature of the General Assembly and may exercise no jurisdiction beyond that conferred by statute. *Toledo v. Public Util. Comm.*, 135 OS 57, 13 OO 329 (1939); *Penn Central Trans. Co. v. Public Util. Comm.*, 35 Ohio St. 2d 97, 64 Ohio Op. 2d 60, 298 N.E.2d 587 (1973). Accordingly, this suggestion should be rejected.

Also, ELPC et al. has recommended that the Commission require every company subject to Section 4928.65, Revised Code, and the new rules to file a sample bill and sample calculation for review and approval by the Commission every year that these bills are issued to customers.⁴ This suggestion should be rejected as to CRES provider bills. Unlike with the EDUs, the Commission does not review and approve the bill format of CRES providers and does not have statutory authority to do so. *See*, Chapter 4928, Ohio Revised Code. Moreover, nothing in Section 4928.65, Revised Code, has now granted the Commission such authority. Accordingly, the Commission cannot accept this suggestion as to CRES provider bills.

Finally, inasmuch as Noble provides dual bills to its Ohio customers, Noble urges the Commission to allow, after the new rules are finalized, sufficient time for all affected companies (EDUs and CRES providers) to make the necessary billing system changes before the costs must be included on customer bills. Direct Energy Services LLC/Direct Energy Business LLC/Direct Energy Business Marketing LLC (collectively “Direct Energy”) recommended that the Commission allows 90 days for the implementation.⁵ Noble believes that timeframe is appropriate.

⁴ ELPC et al. Initial Comments at 10.

⁵ Direct Energy Initial Comments at 7.

IV. Conclusion

WHEREFORE, Noble supports the Staff's proposed rule changes and recommends their adoption by the Commission no later than January 1, 2015. As detailed above, the requests by other commenters seeking to have the Commission require additional, non-mandated information in customer bills should be rejected. Finally, Commission should allow, after the new rules are finalized, sufficient time for EDUs and CRES providers to make the necessary billing system changes before the costs must be included on their customer bills.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The Public Utilities Commission of Ohio's e-filing system will electronically serve notice of the filing of this document on the parties referenced on the service list of the docket card who have electronically subscribed to the case. In addition, the undersigned certifies that a courtesy copy of the foregoing document is also being served (via electronic mail) on the 17th day of November 2014 upon all persons/entities listed below.

/s/ Gretchen L. Petrucci

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Summary: Reply Comments electronically filed by Mrs. Gretchen L. Petrucci on behalf of Noble Americas Energy Solutions LLC