

**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)	

**APPLICATION FOR REHEARING BY
THE ENVIRONMENTAL LAW & POLICY CENTER, OHIO ENVIRONMENTAL
COUNCIL, SIERRA CLUB, AND NATURAL RESOURCES DEFENSE COUNCIL**

I. INTRODUCTION

Pursuant to Ohio Revised Code (“R.C.”) 4903.10 and Ohio Admin. Code 4901-1-35, the Environmental Law & Policy Center, Ohio Environmental Council, Sierra Club, and Natural Resources Defense Council (collectively, “Environmental Advocates”) hereby file this application for rehearing of the December 17, 2014 Finding and Order (“Order”) of the Public Utilities Commission of Ohio (“Commission”) in this uncontested proceeding. The Commission’s Order promulgated rules for the implementation of R.C. 4928.65, which requires electric distribution utilities and electric services companies to disclose on customer bills the individual customer cost of their compliance with renewable energy resource requirements under R.C. 4928.64 and energy efficiency savings and peak demand reduction requirements under R.C. 4928.66.

The Order is unlawful and unreasonable for the following reason, as further explained in the accompanying Memorandum in Support:

1. The Order failed to consider whether an explanation of the costs to be disclosed under R.C. 4928.65 is necessary to ensure customer bills are accurate, clear, and understandable as required by Ohio Admin. Code 4901:1-10-22, 4901:1-21-14, and 4901:1-10-33.

Dated: January 16, 2015

Respectfully submitted,

/s/ Madeline Fleisher

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**MEMORANDUM IN SUPPORT OF APPLICATION FOR REHEARING BY
THE ENVIRONMENTAL LAW & POLICY CENTER, OHIO ENVIRONMENTAL
COUNCIL, SIERRA CLUB, AND NATURAL RESOURCES DEFENSE COUNCIL**

I. INTRODUCTION

The Environmental Law & Policy Center, Ohio Environmental Council, Sierra Club, and Natural Resources Defense Council (collectively, “Environmental Advocates”) seek rehearing of the December 17, 2014 Finding and Order (“Order”) of the Public Utilities Commission of Ohio (“Commission”) in this case. The Commission’s Order promulgated rules for the implementation of Ohio Revised Code (“R.C.”) 4928.65, which requires 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.

The Order is unlawful and unreasonable because the Commission rejected all proposals to require some explanation of the costs being disclosed, without considering whether such an explanation is necessary to ensure customer bills are accurate, clear, and understandable as required by Ohio Admin. Code 4901:1-10-22, 4901:1-21-14, and 4901:1-10-33.

II. ARGUMENT

The comments filed by the Environmental Advocates and other parties urged the Commission to order utilities to provide some explanation of the utility activities funded by the costs that must be disclosed under R.C. 4928.65, in particular the EE and PDR costs pursuant to R.C. 4928.66.¹ The Commission rejected this recommendation on the ground that:

Disclosure of any information beyond the three line items for EDUs [electric distribution utilities] and single line item for CRES [competitive retail electric service] providers required by R.C. 4928.65 is not required or discussed by the statute or S.B. 310. Consequently, the Commission declines to adopt any recommendations for additional disclosures beyond the brief, temporary explanation that the charges are not new as discussed above.

Order at 7. This holding is unlawful and unreasonable because it does not account for the Commission's obligation to ensure that these disclosures are consistent with its own preexisting rules, Ohio Admin. Code 4901:1-10-22, 4901:1-21-14, and 4901:1-10-33, which mandate that a customer bill from either a distribution utility or an electric services company must be accurate and "contain clear and understandable form and language."²

The Commission's Order fails to consider whether the cost disclosures under R.C. 4928.65 will be clear and understandable to customers, as required under these rules. The only description provided of these disclosed costs under the Commission's Order is that they represent the "individual cost of compliance" with R.C. 4928.64 and R.C. 4928.66. It seems likely that customers will simply view these costs as additional charges that add to the overall amount of their bill. However, that view is inaccurate with respect to the costs of EE and PDR programs under R.C. 4928.66. Those programs are designed to, and in fact do, reduce overall

¹ Environmental Advocates' Initial Comments at 4-7.

² OAC 4901:1-10-22(B), 4901:1-10-33(C). The provision regarding bills from electric services company alone, OAC 4901:1-21-14(C), contains slightly different language, directing that "[r]esidential and small commercial customer bills issued by or for CRES providers shall be accurate and understandable."

energy costs for all customers.³ In other words, it is probable that the EE and PDR costs disclosed as a separate charge on a customer's bill have in fact resulted in a *reduction* of the customer's overall bill. Without some explanation of this relationship, a customer is likely to be misled into thinking that these costs are *additive* to their overall bill – whereas they are in actuality providing bill savings across each customer class. Therefore, in order to prevent widespread customer misunderstanding of information disclosed under R.C. 4928.65 and to ensure that these bill disclosures comply with Ohio Admin. Code 4901:1-10-22, 4901:1-21-14, and 4901:1-10-33, the Commission must require utilities to provide customers with some explanation regarding the effects of EE and PDR expenditures on their overall bills.

The Commission's Order in this docket does recognize the obligation to prevent customer confusion on other elements of the cost disclosure. To prevent the misimpression that the costs disclosed under R.C. 4928.65 represent new charges, the Commission determined that bills must include "a temporary, short, informational statement on bills that the charges are not new."⁴ A parallel effort to explain the substance and impacts of these charges, in the form of a short bill message referring the customer to further sources of information or a temporary bill insert, would likewise prevent customers from similarly misunderstanding EE and PDR costs as a separate payment on top of their monthly electricity costs, rather than as an investment in cost-

³ Ohio Admin. Code 4901:1-39-04 provides that the Commission will only approve a utility's EE and PDR program portfolio plan if it is "cost-effective on a portfolio basis." As one example, Ohio Power Company (AEP Ohio) provided an annual status report regarding its 2013 EE and PDR programs in which it reported that those programs are comfortably cost-effective, with a benefit to cost ratio of 1.8 demonstrated by the total resource cost test applicable under Commission rules, which considers whether avoided costs are greater than the sum of the program measures cost and the EE/PDR program administrative costs. *In the Matter of the Annual Portfolio Status Report Under Rule 4901:1-39-05(C), Ohio Administrative Code, by Ohio Power Company*, Case No. 14-0853-EL-EEC, 2013 Portfolio Status Report of the Energy Efficiency and Peak Demand Response Programs at 9 (May 15, 2014).

⁴ Order at 5.

effective programs that are likely to reduce their overall energy costs. As an alternative to the proposed bill language offered in the Environmental Advocates' Initial Comments, we suggest a brief message to be included on a bill alongside the disclosure of EE and PDR costs, stating:

These amounts pay for cost-effective energy efficiency and peak demand reduction programs that have been demonstrated to reduce the overall costs of electricity on your bill.

The Commission's Order never considered whether such a disclosure would be necessary to ensure customer bills remain accurate, clear, and understandable as required by applicable Commission rules. The Commission must therefore address this issue on rehearing.

III. CONCLUSION

For the reasons set forth above, the Environmental Advocates respectfully request that the Commission grant rehearing and require utilities to provide customers with an explanation of the costs disclosed under R.C. 4928.65 to ensure these disclosures are clear and understandable as required by the Commission's rules.

Dated: January 16, 2015

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Application for Rehearing has been electronically filed with the Public Utilities Commission of Ohio and has been served upon the following parties via electronic mail on January 16, 2015.

/s/ Madeline Fleisher

Madeline Fleisher

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Summary: App for Rehearing Application for Rehearing 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