

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application Ohio Power)
Company for Authority to Establish a) Case No. 13-2385-EL-SSO
Standard Service Offer Pursuant to)
§4928.143, Revised Code, in the Form of an)
Electric Security Plan)

In the Matter of the Application of Ohio) Case No. 13-2386-EL-AAM
Power Company for Approval of Certain)
Accounting Authority)

**MEMORANDUM CONTRA OF
DIRECT ENERGY SERVICES, LLC AND
DIRECT ENERGY BUSINESS, LLC**

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I. INTRODUCTION

On March 27, 2015 Ohio Power Company (“AEP-Ohio”) filed an Application for Rehearing of the Public Utilities Commission of Ohio’s (“Commission”) Opinion and Order in its electric security plan (“ESP”) case. Direct Energy Services, LLC and Direct Energy Business, LLC (“Direct Energy”) hereby files its Memorandum Contra AEP-Ohio’s Application for Rehearing in this proceeding. Direct Energy’s decision to not address any aspect of AEP-Ohio’s Application for Rehearing or any of the other Parties’ Applications for Rehearing should not be construed as agreement with those respective Applications for Rehearing. Direct Energy also supports and agrees with the Memorandum Contra filed by the Retail Energy Supply Association (“RESA”) in this docket.

II. ARGUMENT

- A. The Commission should deny AEP-Ohio’s Application for Rehearing to force a competitive retail electric service (“CRES”) provider to participate in AEP-Ohio’s purchase of receivables (“POR”) program if the CRES provider also uses utility consolidated billing (“UCB”).

In its Opinion and Order, the Commission approved the concept of a POR program for AEP-Ohio and directed that several items be worked out in the market development working group (“MDWG”). However, the Commission did issue 5 directives related to the POR program: (1) receivables must be purchased at a single discount rate that applies to all CRES providers; (2) only commodity-related charges may be included in the POR program; (3) participation in the POR program by CRES providers that elect consolidated billing must not be mandatory; (4) a detailed implementation plan should be filed with the MDWG, with a proposal subsequently filed for the Commission’s consideration; and (5) AEP is authorized to establish a bad debt rider (“BDR”) initially set at zero.

As Direct Energy explained in its Initial Brief, currently AEP-Ohio will bill and collect for non-commodity items such as in-home warranty products.¹ Despite having options for the utility, AEP further proposed to restrict CRES provider products using utility consolidated billing to an unknown and undefined “commodity only”. The Commission was correct to give CRES providers the ability to charge for full and total competitive retail electric service by choosing not to participate in POR when it doesn’t fit within whatever random interpretation of “commodity” AEP alone creates. The Opinion and Order appropriately allows the market to grow without forcing all CRES providers into the same box. However, AEP-Ohio’s proposed POR program (which AEP-Ohio again asks for on rehearing) would take away this important option for customers to be billed by AEP-Ohio for additional products and services outside of the “commodity only” restriction. As noted in the Opinion and Order, Direct Energy asked the Commission to modify AEP-Ohio’s proposal to allow for continued billing and collection for non-POR items (outside of the collections process) even if a CRES provider participates in POR or AEP-Ohio to allow CRES providers to continue to participate in utility consolidated billing and *not* participate in its POR program.² The Commission chose the latter option in its Opinion and Order.³

AEP-Ohio’s Application for Rehearing claims the Commission’s decision to require AEP-Ohio to allow a CRES provider to participate in UCB without also electing POR is unreasonable and unlawful.⁴ In the alternative, AEP-Ohio suggests the Commission could require CRES providers to participate in POR on a 5-year basis or could thrust upon CRES

¹ For example, AEP-Ohio entered into an agreement with HomeServe USA to bill and collect for home warranty products and services. See http://www.homeserveusa.com/mail/aepohio?utm_source=redirect&utm_medium=mail&utm_campaign=363 (and look under Frequently Asked Questions).

² Opinion and Order at 79.

³ Opinion and Order at 80.

⁴ Application for Rehearing at 55-56.

providers not participating in POR undetermined incremental program costs beyond what AEP-Ohio proposed to recover in the ESP case.⁵

The Commission should reject AEP-Ohio's Application for Rehearing and affirm its Opinion and Order. As a threshold matter, AEP-Ohio cites to no Ohio Revised Code or Ohio Administrative Code sections to support its argument that the Commission's decision is unlawful. The Commission's decision fits squarely within its statutory authority and the Commission should reject AEP-Ohio's unsupported claim that its decision is unlawful. Additionally, as to factual matters, AEP-Ohio cites to Mr. Gabbard's testimony several times to bolster its arguments, which demonstrates it raises nothing new for the Commission's consideration and the Commission should deny the Application for Rehearing on that basis alone. Finally, as to AEP-Ohio's purported alternatives, which are brand new suggestions, the Commission should reject them as they have no record support nor have those alternatives been vetted out by the other parties in this case.

Should the Commission reach the merits of AEP-Ohio's Application for Rehearing, there are solid reasons for rejecting AEP-Ohio's rehearing rationale.

Direct Energy's experience indicates that customers prefer a single bill for their commodity service. The same applies to paying for related products and services on their utility bill. The convenience of paying for related products and services on one bill is an important part of providing other products and services that customers' desire. AEP-Ohio's proposed plan would take away options currently provided and shut out CRES provider customers from paying for other products and services on their utility bill. CRES providers would be prohibited from offering demand response or energy efficiency types of products, air conditioner tune-ups, or any other energy-related service that might improve a customer's demand side energy usage. The

⁵ Application for Rehearing at 56.

Commission was correct to preserve this option for customers through CRES provider-offered products and services.

The legislature expressed its desire that the competitive marketplace continue to evolve to provide new products and services to customers to help them manage their energy use.⁶ AEP-Ohio's rehearing request would box out most CRES providers from this marketplace and would largely ensure that only the utility or larger companies (could or could not be CRES providers) who have their own billing and collections capabilities (through dual billing) will be able to offer other energy-related products and services to customers. CRES providers serving customers with other products and services beyond simple commodity products are a natural extension of the CRES-customer relationship.

Now is not the time to dial back on this important capability offered by AEP-Ohio. Ohio's required energy efficiency standards are ramping upwards and costs are increasing.⁷ While the burden to comply does fall solely on the electric distribution utilities ("EDU"), both the EDUs and competitive marketplace participants (such as CRES providers) should be engaging customers with products to help manage their energy usage. Additionally, AEP-Ohio has a pending proposal to install another 894,000 Smart Meters in its territory and to enhance the data provided to CRES providers from these meters.⁸ What kinds of products and services outside the realm of commodity service will be available from this data is unknown. Adopting AEP-Ohio's proposal would limit the ways customers' meters can be used to help them manage their energy usage before those efforts get off the ground. The Commission should not squash

⁶ Section 4928.02 (B), (C), (D), (G), and (J), Revised Code.

⁷ Section 4928.66, Revised Code.

⁸ *In the Matter of the Application of Ohio Power Company to Initiate Phase 2 of its gridSMART Project and Establish the gridSMART Phase 2 Rider*, Case No. 13-1939-EL-RDR, Application (Attachment A at 2-3) (September 13, 2013). See also Opinion and Order at 39 where the Commission "strongly encouraged" CRES providers offering new and innovative time of use products, in the context of time of use products.

these efforts from CRES providers while they are in their infancy, especially given the broad capabilities that might be unlocked for customers by the data from these meters. The Commission should be encouraging companies to engage customers on their energy usage and AEP-Ohio's proposal does the opposite.

The Commission should also reject AEP-Ohio's new alternatives. Again, the record lacks the concepts of these proposals yet alone any of the details needed to implement these new ideas. Moreover, the proposal to require a CRES provider to remain in the POR program for five years does not eliminate or in any obvious way alleviate the supposed burden and costs of maintaining two separate systems or different payment plans for customers depending on their CRES provider. Finally, AEP-Ohio provides no cost estimate for the incremental costs that would be borne by CRES providers given this is the option currently in place and not a new change. AEP-Ohio's proposed alternatives should be denied for these reasons.

B. Supplier Consolidated Billing ("SCB")

In its Opinion and Order, the Commission ordered the Market Development Working Group ("MDWG") to work through specifics of implementing the approved POR program and to file a proposed detailed implementation plan by August 31, 2015.⁹ The Commission also ordered the MDWG to discuss the SCB suggestions made by Direct Energy in this case.¹⁰ In its Application for Rehearing, AEP-Ohio asks the Commission to "clarify its dicta on non-implementation issues was not intended to be included in the plan for filing on August 31, 2015" as it relates to SCB and switching provisions.¹¹

⁹ Opinion and Order at 81.

¹⁰ Opinion and Order at 81.

¹¹ AEP-Ohio Application for Rehearing at 58.

The Commission already approved rules and regulations for SCB¹² but SCB has never actually been functionally available due to utility programming issues. SCB is yet another tool that CRES providers could use to bring innovative products and services to customers. Direct Energy requests the Commission affirm on rehearing that SCB is a priority and order the MDWG to create and file a plan to implement SCB in AEP-Ohio's service territory no later than six months from the Entry on Rehearing in this case that addresses SCB. This would ensure the issue is dealt with promptly by the MDWG while still maintaining the Commission's ability to review the construct and costs before implementation.

III. CONCLUSION

As the Ohio market evolves CRES providers should be allowed the option of offering customers a single bill without relying on the utility. The Commission got it right in its Opinion and Order and should reject AEP-Ohio's Application for Rehearing, as described above. Additionally, the Commission should order the MDWG to create and file a plan to implement SCB within 6 months from the Entry on Rehearing in this case that addresses SCB.

Respectfully Submitted,

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¹² See Rule 4901:1-21-18, Ohio Administrative Code.

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 *Reply Brief of Direct Energy Services and Direct Energy Business* was sent by, or on behalf of, the undersigned counsel to the following parties of record this 6th day of April 2015 via e-mail, except those specifically designated as being served via U.S. Mail.

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Summary: Memorandum Contra AEP-Ohio's Application for Rehearing electronically filed by JOSEPH CLARK on behalf of Direct Energy Services, LLC and Direct Energy Business, LLC