

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke	)	
Energy Ohio, Inc. for Authority to Establish	)	
a Standard Service Offer Pursuant to R.C.	)	Case No. 14-841-EL-SSO
4928.143, in the Form of an Electric	)	
Security Plan.	)	

In the Matter of the Application of Duke	)	
Energy Ohio for Authority to Amend its	)	Case No. 14-842-EL-ATA
Certified Supplier Tariff, P.U.C.O. No 20.	)	

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**APPLICATION FOR REHEARING AND MEMORANDUM IN SUPPORT OF DIRECT  
ENERGY SERVICES, LLC AND DIRECT ENERGY BUSINESS, LLC**

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Pursuant to Section 4903.10, Revised Code, and Rule 4901:1-35, Ohio Administrative Code, Direct Energy Services, LLC and Direct Energy Business, LLC (collectively, “Direct Energy”) respectfully file an Application for Rehearing in this matter. Specifically, Direct Energy alleges the April 2, 2015 Opinion and Order is unreasonable in the following respects:<sup>1</sup>

1. The Opinion and Order is unreasonable inasmuch as it fails to approve Duke’s request to require Certified Suppliers to consent to billing adjustments or resettlement upon request by Duke, or in the alternative, narrow the situations in which the required consent applies.

WHEREFORE, Direct Energy respectfully requests that the Public Utilities Commission of Ohio (“Commission”) grant its Application for Rehearing in this matter and modify its Opinion and Order in the manner suggested by Direct Energy.

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<sup>1</sup> Direct Energy’s decision not to address any other aspects of the Commission’s Opinion and Order should not be construed as Direct Energy’s agreement with those aspects of the Opinion and Order.

Respectfully Submitted,

/s/ Joseph M. Clark

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## **MEMORANDUM IN SUPPORT**

On April 2, 2015, the Commission modified and approved an electric security plan (“ESP”) for the period of June 1, 2015 through May 31, 2018. Direct Energy hereby files its request for rehearing in this case. Direct Energy also supports the Application for Rehearing filed by the Retail Energy Supply Association (“RESA”).

Direct Energy’s Application for Rehearing narrowly focuses on the Commission’s decision not to approve Duke’s request to require Certified Suppliers to consent to billing adjustments or resettlement upon request by Duke. Opinion and Order at 90-91. The Commission acknowledged it can be burdensome to acquire all of the necessary consents to run the resettlement, but found it unreasonable to force a competitive retail electric service (“CRES”) provider’s consent where it may not exist. Opinion and Order at 91.

Direct Energy (specifically Direct Energy Business, LLC) has a current, real life example where this very situation is playing out. Direct Energy is directly affected by Duke’s current inability to require Certified Suppliers to resettle or accept billing adjustments upon request by Duke. Direct Energy has a pending Complaint at the Commission (Case No. 14-1277-EL-CSS) that may be directly impacted by this tariff change. As explained in the Direct Energy testimony filed in that case,<sup>2</sup> a metering error by Duke (as alleged by Direct Energy) caused Direct Energy to be overbilled by PJM. However, a remedy to the error (resettlement) was attempted outside of the ordinary 60-day settlement process and therefore PJM requires consent from all affected load serving entities (“LSE”) to run the resettlement in that circumstance (called Resettlement C). However, when Duke instituted the process of acquiring the necessary consents, very few LSEs actually responded. And, according to PJM, the consent must be affirmative consent – e.g.

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<sup>2</sup> Direct Energy notes the testimony in case number 14-1277 was filed after the Commission issued its Opinion and Order in this case.

affected LSEs who do not respond cannot be deemed/assumed to have consented by their silence.

The Commission should grant rehearing on this matter and approve Duke's request. Duke should have no incentive (financial or otherwise) to ask for resettlements or billing adjustments except to make corrections due to errors or reconciliations – in other words to do the right thing. Affected CRES providers should have no objections inasmuch as Duke would simply be correcting an error or making a reconciliation. Further, because PJM will not run a resettlement without affirmative consent of the other affected LSEs, the proposed tariff is an important step in filling in a gap to ensure market participants are treated fairly in a well-functioning market.

In the alternative, if the Commission feels the tariff language is too broad, the Commission should narrow the situations in which the required consent applies to metering errors where resettlement is needed to keep a party whole. Such a change would address real world, current situations affecting CRES providers where a gap needs filled.

## **CONCLUSION**

Direct Energy respectfully requests the Commission grant Direct Energy's Application for Rehearing and approve Duke's requested tariff addition, or in the alternative, narrow and approve the situations where required consent applies.

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 *Application for Rehearing of Direct Energy Services, LLC and Direct Energy Business, LLC* was sent by, or on behalf of, the undersigned counsel to the following parties of record this 1st day of May 2015 via e-mail.

/s/ Joseph M. Clark  
Joseph M. Clark

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Summary: Application for Rehearing and Memorandum in Support electronically filed by JOSEPH CLARK on behalf of Direct Energy Services, LLC and Direct Energy Business, LLC