

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission's	)	
Review of Chapter 4901:1-10, Ohio	)	Case No. 12-2050-EL-ORD
Administrative Code, Regarding	)	
Electric Companies		

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**REPLY COMMENTS OF DIRECT ENERGY SERVICES, LLC  
AND DIRECT ENERGY BUSINESS, LLC**

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**I. INTRODUCTION**

On January 15, 2014, The Commission issued a Finding and Order in this case that adopted amended and no changes rules in Ohio Admin. Code Chapter 4901:1-10, and ordered that they be filed with the Joint Committee on Agenda Rule Review (JCARR), the Secretary of State, and the Legislative Service Commission. Subsequently, rule 4901:1-20-28, regarding net metering, was withdrawn from JCARR for further consideration. On May 5, 2015, the Commission's Staff conducted a workshop to receive stakeholder input on net metering. At that workshop, Teresa Ringenbach provided comments on behalf of Direct Energy Services, LLC and Direct Energy Business, LLC (jointly, "Direct Energy"). On November 18, 2015, the Commission issued an Entry with proposed changes to Chapter 4901:1-10-28, Ohio Admin Code and set a procedural schedule for initial and reply comments.

On December 18, 2015, Direct Energy submitted timely comments, fundamentally supporting the rules as proposed. Initial comments were also filed by Ohio Power Company ("AEP Ohio"), Duke Energy Ohio ("Duke"), The Toledo Edison Company, the Cleveland Electric Illuminating Company, and Ohio Edison Company (collectively, "FirstEnergy"), The Dayton Power and Light Company ("DP&L"), IGS Solar, IGS Generation, and Interstate Gas

Supply, Inc. (collectively, “IGS Energy”), the Environmental Law and Policy Center, Ohio Environmental Council, Natural Resources Defense Council, Environmental Defense Fund, and Vote Solar (collectively, “Environmental Advocates”), One Energy LLC (“One Energy”), Ohio Consumers’ Counsel (“OCC”), and The Alliance for Solar Choice (“TASC”).

## **II. REPLY COMMENTS**

As indicated in Initial Comments, Direct Energy largely supports the proposed rules and believes that some of the changes proposed by the Commission could positively impact the continued development of these industries in Ohio. After review of parties’ Initial Comments, Direct Energy now respectfully submits the following Reply Comments; the decision not to address every aspect of each proposed rule or respond to every issue expressed in other parties Initial Comments should not be construed as agreement or disagreement with such comments.

**A. System size should be limited to 100% of a customer’s annual requirements for electricity at the time of interconnection, regardless of whether the customer is taking service from the utility’s net metering tariff or being served by an competitive electric services company.**

In response to Subsection 4901:1-10-28(B)(7)(b), AEP Ohio, Duke, FirstEnergy, and DP&L all object to the proposed rule that would permit customers taking service under the electric utility’s standard to size their facilities up to one hundred and twenty percent of their electricity requirements at the time of interconnection and suggest that customers must size their facility so as not to exceed one hundred percent of the customer’s requirements for electricity at the time of interconnection.<sup>1</sup> The utilities also argue that this proposed modification is consistent with R.C. 4928.01(A)(31)(d)’s mandate that a net metering system be “intended primarily to offset” the customer’s requirements for electricity. Direct Energy agrees with this

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<sup>1</sup> AEP Ohio Initial Comments at 13;

recommendation, and further suggests that if it is adopted by the Commission, the requirement apply regardless of whether a customer is served under a utility's net metering tariff or is served by a CRES provider.

While Subsection 4901:1-10-28(B)(1) makes clear that an electric services company is not required to enter into any net metering contract with any customer, and also that the terms of any such contract shall be defined by the customer and the electric services company, it is important that the rules regarding the sizing of a facility are consistent. This will ensure that if a customer appropriately sizes its facility as defined by the rules, that customer will be eligible to receive service under either the utility's net metering tariff or a CRES provider and also that a customer could elect, over time, to move from one service to another. Imposing a limit regarding the size of a facility to be served under a utility's and a different limit, or no limit, on the size of a facility to be served by a CRES provider is likely to create additional customer confusion and could limit the ability of a customer to receive net metering service. Therefore, Direct Energy suggests Subsection 4901:1-10-28(B)(7)(b) be modified as follows:

~~The electric utility's net metering tariff shall provide that the customer-~~**Customer-**generators taking service under **either** the electric utility's standard service offer **or from an electric services company** must size their facilities so as not to exceed one hundred and twenty percent of their requirements for electricity at the time of interconnection. ~~No limit on the size of a net metering facility shall be applied to customers taking service from an electric services company, except that customer generators taking service from an electric services company must intend primarily to offset part or all of their requirements for electricity.~~

**B. Customers should not be unduly burdened to estimate a facility's expected annual production or to demonstrate their annual electricity requirement.**

In Initial Comments, AEP Ohio suggests that Subsection 4901:1-10-28(B)(7)(a) should be modified to require that "[t]he customer must provide a signed attestation of its expected annual electricity generation and a report verifying that the generation is sized to offset the

customer's expected annual electricity usage when applying for net energy metering service.”<sup>2</sup>

Direct Energy does not object to a requirement that the customer provide an indication of the system's expected annual electricity generation and indicate that the system is sized to offset the customer's expected annual electricity usage as a line item in the customer's interconnection application. However, the terms “attestation” and “report” could be read to create unnecessary and undue burden upon customers seeking interconnection. A simple line item indicating the customer's historical annual usage (or expected annual usage) and an estimate of the expected annual production in the interconnection application should be sufficient.

AEP Ohio also suggests that when historical data is not available to estimate a customer's electricity requirements, the responsibility to provide such data should be placed on the customer, rather than the utility as proposed in Subsection 4901:1-10-28(B)(7)(a).<sup>3</sup> Direct Energy expects this is an area in which collaboration will be required between the utility, the solar developer or installer, and customers. To that extent, Direct Energy suggests that the utilities use an average customer consumption profile based on the square footage of the facility or the average customer usage within the rate class as the benchmark for new construction. Alternatively, if the burden to provide this information is put upon the customer, the Commission clarify the rules to indicate that such information could be based on an estimate of usage based on the square footage of the facility.

**C. The Commission should specifically indicate that an electric services company may contract with customers to provide a monetary credit, a kWh credit, or any combination thereof.**

In their Initial Comments, the Environmental Advocates encourage the Commission to replace the proposed approach of providing a monetary credit with providing a kWh credit under

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<sup>2</sup> AEP Ohio Initial Comments at 9 and 12-13.

<sup>3</sup> At 10-11.

the utility's net metering tariff<sup>4</sup>. Direct Energy takes no position on whether the utilities should be required to consider this approach but does find potential merit in the Environmental Advocates suggestion. Therefore, while Direct Energy fully supports the language in Subsection 4901:1-10-28(B)(1) which makes clear that an electric services company is not required to enter into any net metering contract with any customer and also that the terms of any such contract shall be defined by the customer and the electric services company, Direct Energy suggests that the Commission add clarifying language to this section to support the notion that such contract could include provisions for a monetary credit, a kWh credit, or any combination thereof.

Relatedly, several of the utilities provide comment on the billing impacts of an electric services company serving net metered customers. Specifically, FirstEnergy recommends that Subsection 4901:1-10-28(B)(9)(c) be modified to require that the electric services company notify the utility when a net metering contract has been accepted by customer and that the electric utility be permitted to automatically move the customer-generator to bill-ready billing if the electric services company has not elected to use dual billing.<sup>5</sup> Duke goes further to suggest that net metered customers served by an electric services company should be limited to dual billing.<sup>6</sup> Direct Energy does not object to a requirement that an electric services company use either bill-ready billing or dual-billing to serve net metered customers. However, Direct Energy strongly objects to a requirement that an electric services company be limited to the use of separate or dual billing to serve net metered customers; this would likely be a significant impediment and disservice to residential customers who are net metered and elect to be served by an electric services company. Finally, several parties opined on expiration of credits. Direct

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<sup>4</sup> Environmental Advocates Initial Comments at 4.

<sup>5</sup> FirstEnergy Initial Comments at 12.

<sup>6</sup> Duke Initial Comments at 2.

Energy once again supports the ability of electric services companies to determine their own contract terms including expirations of credits. Indefinite credits cannot be held by companies who may not always be the provider for the customer and therefore electric services companies must maintain their rights to negotiate those terms with their customers.

**D. The Commission should require that, at the request of a customer-generator or an electric services company serving such customer, net metering be accomplished by a meter capable of measuring hourly interval usage.**

AEP Ohio, Duke, and FirstEnergy each express concerns about the proposed requirement in Subsection 4901:1-10-28(B)(8) that, with the consent of the customer, the electric utility shall install a meter capable of measuring hourly interval usage. The utilities also object to the proposed data transmission requirements outlined in (B)(8)(d) and settlement requirements outlined in (B)(8)(f)<sup>7</sup>. Direct Energy strongly supports the proposed rules as drafted and urges the Commission to reject the objections and changes submitted by the utilities. To the extent that the utilities do not have such capabilities in place today, Direct Energy would support some transition period for such capabilities to be developed and for the utilities to receive cost recovery as permitted by the Commission.

An electric services company that purchases overproduction from a customer should receive the benefit of that power in their settlement with PJM. Therefore AEP's solution to require settlement only for those customers with hourly read meters would essentially have an electric services company paying to provide free power to AEP. Direct Energy would support a requirement for a customer to pay for an hourly meter as part of the bi-directional requirement. Settlement of power purchased to ensure it is properly credited to the entity that is purchasing the

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<sup>7</sup> AEP Ohio Initial Comments at 17 and 20; Duke Initial Comments at 3 and 5; FirstEnergy Initial Comments at 12.

power is critical to the net metering process and the rules should recognize this aspect of the process.

### **III. CONCLUSION**

Direct Energy requests the Commission accept its suggested changes to the proposed amendments contained in the Commission's November 18, 2015 Entry.

Respectfully submitted,

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### **CERTIFICATE OF SERVICE**

I certify that an accurate copy of the forgoing Initial Comments has been filed with the Public Utilities Commission of Ohio on January 8, 2016, and electronically served upon all parties of record via the PUCO's electronic filing system.

/s/ Jennifer L. Spinosi  
Jennifer L. Spinosi

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Summary: Comments Reply Comments electronically filed by Ms. Jennifer L. Spinosi on behalf of Direct Energy Business, LLC and Direct Energy Services, LLC