

BEFORE

THE OHIO POWER SITING BOARD

In the Matter of the Commission's	)	Case Nos:
Review of Ohio Adm. Code Chapters	)	17-1843-EL-ORD
4901:1-21, 4901:1-23, 4901:1-24, 4901:1-	)	17-1844-EL-ORD
27, 4901:1-28, 4901:1-29, 4901:1-30,	)	17-1845-GA-ORD
4901:1-31, 4901:1-32, 4901:1-33, and	)	17-1846-GA-ORD
4901:1-34 Regarding Rules Governing	)	17-1847-GA-ORD
Competitive Retail Electric Service and	)	17-1848-GA-ORD
Competitive Retail Natural Gas Service	)	17-1849-GA-ORD
	)	17-1850-GA-ORD
	)	17-1851-GA-ORD
	)	17-1852-GA-ORD
	)	17-1862-EL-ORD
	)	

**REPLY COMMENTS OF OHIO RURAL ELECTRIC COOPERATIVES, INC.**

Ohio Rural Electric Cooperatives, Inc. ("OREC") submits these Reply Comments in response to the Public Utility Commission of Ohio's ("Commission" and "PUCO") September 8, 2021, Entry in this docket, which invited interested parties to file comments and reply comments related to the Commission's review of the rules governing Competitive Retail Electric Service ("CRES") and Competitive Retail Natural Gas Service (Ohio Administrative Code Chapters 4901:1-21, 4901:1-23, 4901:1-24, 4901:1-27, 4901:1-28, 4901:1-29, 4901:1-30, 4901:1-31, 4901:1-32, 4901:1-33, and 4901:1-34) in accordance with Ohio Revised Code Sections 111.15(B) and 106.03(A). OREC has reviewed the initial comments of other parties filed in this docket and files this reply in support of portions of the comments made by the OCC, and OREC also offers additional comments. OREC appreciates this opportunity to provide its reply pursuant to the September 8 Entry.

**I. OREC's Interest**

Ohio Rural Electric Cooperatives, Inc. d/b/a Ohio's Electric Cooperatives is an Ohio non-profit corporation with its principal place of business located at 6677 Busch Boulevard,

Columbus, Ohio 43229. OREC is the statewide trade and services association representing the interests of the 24 electric distribution cooperatives based in the state of Ohio.<sup>1</sup> Those member distribution cooperatives serve nearly 400,000 residential, commercial, and industrial customers in service territories encompassing parts of 77 of Ohio's 88 counties. Electric cooperatives are owned and operated by their customers, referred to as their members. The cooperatives' members elect their boards of directors, who in turn set the rates and terms and conditions for electric service. Electric cooperatives are operated on a not-for-profit and cooperative basis so that any margins (income over expenses) are allocated and paid to their members as patronage capital. As a result, electric cooperatives are run solely for the benefit of their members—not shareholders.

Unlike investor-owned utilities, electric cooperatives were not subject to electric deregulation that occurred in 2001 and are not subject to competitive retail electric choice for generation.<sup>2</sup> Rather, electric cooperatives continue to provide bundled distribution, generation and transmission services for their retail customers. Each individual cooperative provides distribution services to all customers in its certified territory, while Buckeye Power, Inc., which is owned and operated by the electric distribution cooperatives collectively, provides electricity and transmission functions for each distribution cooperative pursuant to a long-term wholesale power contract. Buckeye Power, Inc. is also operated on a not-for-profit cooperative basis so

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<sup>1</sup> The 24 distribution cooperative members of Ohio Rural Electric Cooperatives, Inc. are: Adams Rural Electric Cooperative, Inc.; Buckeye Rural Electric Cooperative, Inc.; Butler Rural Electric Cooperative, Inc.; Carroll Electric Cooperative, Inc.; Consolidated Cooperative, Inc.; Darke Rural Electric Cooperative, Inc.; Firelands Electric Cooperative, Inc.; The Frontier Power Company; Guernsey-Muskingum Electric Cooperative, Inc.; Hancock-Wood Electric Cooperative, Inc.; Holmes-Wayne Electric Cooperative, Inc.; Licking Rural Electrification, Inc.; Logan County Cooperative Power and Light Association, Inc.; Lorain-Medina Rural Electric Cooperative, Inc.; Mid-Ohio Energy Cooperative, Inc.; North Central Electric Cooperative, Inc.; North Western Electric Cooperative, Inc.; Paulding-Putnam Electric Cooperative, Inc.; Pioneer Rural Electric Cooperative, Inc.; South Central Power Company; Tricounty Rural Electric Cooperative, Inc.; Union Rural Electric Cooperative, Inc.; and Washington Electric Cooperative, Inc.

<sup>2</sup> See Sub. Senate Bill 3, the Ohio Electric Restructuring Act; R.C. 4928.03 and R.C. 4933.81(F). An electric

that any margins generated through its power plant operations are passed on to its electric cooperative members.

OREC supports portions of the comments filed by Office of the Ohio Consumers' Counsel ("OCC") relating to CRES marketing and soliciting practices and offers additional comments, as described in more detail below.<sup>3</sup>

## **II. Reply Comments in Support of the OCC**

OREC agrees with the OCC's concerns regarding CRES providers engaging in unfair, misleading, deceptive, and unconscionable acts or practices. OREC further agrees with the OCC that the Commission's review of the CRES rules should include additional consumer protections to prevent alternative energy marketers from engaging in certain behavior, particularly relating to the marketing, solicitation, or sale of energy services by CRES providers.<sup>4</sup>

### **A. Solicitation of Cooperative Consumers Should be Specifically Prohibited as a Misleading, Deceptive, or Unconscionable Act or Practice**

OREC's member cooperatives receive complaints from time to time from their retail members that they are receiving unwanted solicitation by CRES providers, despite the retail members not being eligible for competitive retail electric service. OREC and its member cooperatives have made efforts, on behalf of their retail members, to stop CRES providers from soliciting and marketing to retail members of electric cooperatives, including by sending cease and desist letters to certain CRES providers. These efforts have not always been successful, and CRES providers continue to solicit and market their services to cooperative members. It is OREC's understanding that a CRES provider could easily avoid contacting cooperative retail

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cooperative can make an irrevocable election through a filing at the Commission to allow competitive retail electric service within its territory. To date, no electric cooperative in the state of Ohio has made this election.

<sup>3</sup> See Consumer Protection Comments filed by the Office of the Ohio Consumers' Counsel on October 8, 2021 in this case ("OCC Comments").

<sup>4</sup> OCC Comments, p. 2.

members by obtaining a list of eligible customers from the applicable IOU rather than engaging in blanket and unfocused solicitations of residents within a specific zip code or geographic area, without distinguishing between ineligible cooperative customers and eligible IOU customers.

OREC therefore agrees with the OCC's position that the PUCO should expand and clarify the definition of "unfair, misleading, deceptive, or unconscionable acts and practices" as defined in O.A.C. 4901:1-21-05(C) to enhance consumer protections.<sup>5</sup> Specifically, OREC proposes that the Commission adopt new language that states that CRES providers can only solicit, through telephone, mailing, or direct (door-to-door) solicitation, consumers of IOUs and electric cooperatives that have made the election to allow competitive retail supply in their service territories under Ohio law. Accordingly, OREC suggests that O.A.C. 4901:1-21-05(C) be amended to provide the following language:

(C) No CRES provider may engage in marketing, solicitation, or sales acts, or practices which are unfair, misleading, deceptive, or unconscionable in the marketing, solicitation, or sale of a CRES. Such unfair, misleading, deceptive, or unconscionable acts or practices include, but are not limited to, the following: . . .

(12) Soliciting customers who are ineligible to receive competitive retail electric service because they are customers of an electric cooperative that has not made the filing under division (F) of section 4933.81 of the Revised Code to eliminate permanently its certified territory as to competitive retail electric service.

B. OREC Supports OCC's Comments Relating to a "Do Not Call" System

OREC agrees with the OCC's suggestion that "marketers should be required, with PUCO oversight, to develop a 'do not call' system similar to the national 'Do Not Call' list, that marketers will observe to not call or visit consumers for sales."<sup>6</sup> If such a "do not call" system is developed, electric cooperatives and/or their members should be permitted to provide to CRES

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<sup>5</sup> *Id.* at p. 3.

<sup>6</sup> *Id.* at p. 26.

providers the addresses or other identifying information of cooperative customers within cooperative service territory who should be excluded from CRES solicitation and marketing.

### **III. CONCLUSION**

OREC requests that the Commission make the aforementioned changes to protect retail members of electric cooperatives from unfair, misleading, or deceptive business practices and unwanted solicitation by CRES providers.

WHEREFORE, OREC respectfully requests that the Commission consider OREC's foregoing comments and adopt the proposed changes to the applicable rules in accordance with Ohio Revised Code Sections 111.15(B) and 106.03(A).

Respectfully submitted,

OHIO RURAL ELECTRIC COOPERATIVES, INC.

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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 parties referenced on the service list of the docket card who have electronically subscribed to the case. In addition, the undersigned hereby certifies that a copy of the foregoing document is also being served via U.S Mail or electronic mail on the 22<sup>nd</sup> day of October, 2021, upon the persons listed below:

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Summary: Comments Reply Comments of Ohio Rural Electric Cooperatives, Inc.  
electronically filed by Ms. Lija Kaleps-Clark on behalf of Ohio Rural Electric Cooperatives,  
Inc.