

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Adoption of Chapter)	
4901:1-42, Ohio Administrative Code,)	Case No. 12-2157-EL-ORD
Regarding Green Pricing Programs, to)	
Implement Am. Sub. S.B. 315.)	

**INITIAL COMMENTS OF
OHIO POWER COMPANY**

INTRODUCTION

By entry dated October 16, 2012 the Commission seeks comments from interested parties to review the various rules related to green pricing programs in OAC Chapter 4901:1-22 and file comments no later than November 19, 2012 and file reply comments by December 4, 2012. Ohio Power (dba AEP Ohio) submits the following comments below in response to the Commission's invitation for feedback.

4901:1-42-03 Requirements

Regarding proposed Rule 4901:1-42-03(B), AEP Ohio would like to clarify that the 10-day advance submittal to Staff of marketing materials is not intended to convey any need for express or implicit approval of marketing materials by Staff. It makes sense that Staff would be provided the materials in advance so that the Staff can be aware of marketing activities and prepare for questions or issues that may arise from customers. But it is unwise, unnecessary and inappropriate for the rule to require advanced Staff approval of marketing materials prior to them being used. Advanced approval of marketing materials is unwise because it could unduly disadvantage of one competitive provider over another; holding up one provider's marketing activities while letting

another's proceed without delay could stifle competition in this area, especially given the lack of specific guidance as to what materials should be deemed acceptable. Advanced approval is unnecessary because Staff can always pursue compliance and enforcement where needed without advanced approval of marketing materials. Finally, it is inappropriate because marketing materials are commercial free speech and should not be subject to being eliminated through an informal and subjective view that amounts to "gag order"; after all, there are no objective standards in the proposed rule that would facilitate and independent and objective determination by Staff that the materials should be approved. Because the Staff can raise any concerns regarding compliance with the Commission's rules if such matters arise, which would hopefully be addressed and resolved informally as between the Staff and the Company, it is simply impractical and over-reaching to require advanced approval of marketing materials. Accordingly, AEP Ohio recommends replacing the phrase "for review" to "on an informational basis" in order to clarify this point. Alternatively, the Commission could leave the proposed language in place but directly clarify in its Finding and Order that advanced Staff approval of marketing materials is not required.

CONCLUSION

For the foregoing reasons, AEP Ohio respectfully requests that the Commission consider the above comments. AEP Ohio reserves the right to file reply comments.

Respectfully submitted,

//s/ Steven T. Nourse

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Summary: Comments Initial Comments of Ohio Power Company electronically filed by Mr. Steven T Nourse on behalf of Ohio Power Company