

**BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission’s Review of its Rules for Competitive Retail Electric Service Contained in Chapters 4901:1-21 and 4901:1-24 of the Ohio Administrative Code. ) ) Case No. 12-1924-EL-ORD )

## BORDER ENERGY ELECTRIC SERVICES, INC.'S COMMENTS ON PROPOSED RULES RELATING TO THIRD-PARTY VERIFICATION

Border Energy Electric Services, Inc. (“Border”) respectfully submits its comments regarding the proposed amendments to Chapter 4901:1-21 of the Ohio Administrative Code pursuant to the schedule set forth in the Commission’s November 7, 2012 Entry in this case (“Entry”).

Although the proposed amendments are generally appropriate, Border suggests a few changes to alleviate the new burden on CRES providers engaging in door-to-door marketing and enrollment. Border addresses these issues below.

**4901:1-21-06 Marketing and solicitation.**

Proposed 4901:1-21-05(D) states that “CRES providers shall perform criminal background checks on all employees and agents engaged in door-to-door marketing and enrollment.” Border does not object to requiring criminal background checks. However, if the CRES provider hires a third-party company to perform door-to-door marketing on its behalf, that company, and not the CRES provider, should bear the responsibility for performing the criminal background check.

To address this concern, Border suggests that the Commission adopt the following modified language: “CRES providers, or third-party companies engaged by CRES providers

to perform door-to-door marketing and enrollment, shall perform criminal background checks on all employees and agents engaged in door-to-door marketing and enrollment.”<sup>1</sup>

**4901:1-21-06 Customer enrollment.**

Proposed OAC 4901:1-21-06(D)(1)(h) provides new requirements for third-party verification in the case of door-to-door marketing and enrollment. Border understands and agrees with the Commission that a verification process is appropriate for door-to-door solicitation. However, Border would suggest that CRES providers be permitted to either use a third-party verifier *or* allow the sales person to record the customer verification using video technology. Allowing the customer’s decision to switch CRES providers to be recorded provides the same level of assurance that the customer understands and intends to switch electric service providers as does requiring third-party verification. However, it would be less burdensome on the CRES provider.

To the extent the Commission requires third-party verification in all instances, Border nonetheless takes issue with the requirement that its sales person leave the premises during the third-party verification process, and be disallowed to return. Proposed OAC 4901:1-21-06(D)(1)(h)(ii) states that “[t]he independent third-party verifier must confirm with the customer that the sales agent has left the property of the customer. The sales agent is not to return before, during or after the TPV process.” This provision is overly burdensome and makes witting via door-to-door extremely difficult. Indeed, as currently drafted, it does not allow the CRES provider’s sales person to ever return, even once the third-party verification is complete.

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<sup>1</sup> All modifications from the Commission’s proposed language are underlined.

The requirement that the sales person leave the property prior to completion of the TPV process places significant restrictions on the CRES providers ability to solicit new customers through door-to-door marketing and enrollment that are unnecessary in light of other requirements. Indeed, the approach that the Commission had previously taken with respect to third-party verification in door-to-door solicitation of gas services did not require the sales person to leave during the verification process. *See* 4901:1-29-06(D)(6). Further, Rule 4901:1-21-06(D)(1)(k) already requires the sales person to leave at the request of the property owner. And, Rule 4901:1-21-06(D)(1)(e) already gives the customer seven days – now seven business days under the Proposed Rule – to rescind if he/she changes his/her mind. Third-party verification and a seven-day grace period for cancellation are sufficient safeguards to ensure that customers knowingly change their electric service provider, but also give CRES providers flexibility to sign up new customers through door-to-door marketing and enrollment.

To address this concern, Border suggests that the Commission exclude subsection 4901:1-21-06(D)(1)(h)(ii) from the final rule.

\* \* \*

Border appreciates the opportunity to comment on the proposed amendments to the Commission's Rules for Competitive Retail Electric Service Contained in Chapter 4901:1-21 of the Ohio Administrative Code, and respectfully urges the Commission to adopt Border's suggested revisions thereto.

Dated: January 7, 2013

**BORDER ENERGY ELECTRIC SERVICES,  
INC.**

By: /s/ Stephanie M. Chmiel

Stephanie M. Chmiel  
THOMPSON HINE LLP  
41 South High Street, Suite 1700  
Columbus, Ohio 43215-6101  
(614) 469-3247

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Summary: Comments electronically filed by Ms. Stephanie M Chmiel on behalf of Border Energy Electric Services, Inc.