

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission's Review)	
of its Rules for Competitive Retail Natural)	
Gas Service Contained in Chapters)	Case No. 12-925-GA-ORD
4901:1-27 through 4901:1-34 of the Ohio)	
Administrative Code)	

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

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.¹ Specifically, Direct Energy alleges the December 18, 2013 Finding and Order and adopted rules of the Public Utilities Commission of Ohio ("Commission") are unreasonable as it relates to adoption of Rule 4901:1-29-06(B)(6)(b)(ii), Ohio Administrative Code ("O.A.C."). Specifically, Direct Energy avers the Commission's modification to this rule is unreasonable in the following respects:

1. The adopted rule regarding presence of the agent during the third party verification ("TPV") does not differentiate between residential and small commercial customer door-to-door sales.
2. The adopted rule does not provide flexibility as it relates to a door-to-door agent returning to the customer's premise after the TPV.

¹ Except for the items identified in the instant Application for Rehearing, in accordance with the Commission's policy of consolidating like positions and eliminating duplicative filings, Direct Energy supports the Application for Rehearing filed in this docket by the Retail Energy Supply Association. Additionally, Direct Energy's decision not to address any other portion of the Finding and Order or the adopted rules should not be construed as either Direct Energy's support or opposition to such rule changes.

WHEREFORE, Direct Energy respectfully requests that the Commission grant its Application for Rehearing in this matter and modify its Finding and Order and adopted Rule 4901:1-29-06(B)(6)(b)(ii), O.A.C., in the manner suggested by Direct Energy.

Respectfully submitted,

/s/ Joseph M. Clark

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MEMORANDUM IN SUPPORT

Section 4903.10, Revised Code, requires applications for rehearing from Commission orders be made within thirty (30) days after such order is entered upon the Commission's journal. Direct Energy hereby respectfully requests rehearing of the Commission's December 18, 2013 Finding and Order and adopted Rule 4901:1-29-06(B)(6)(b)(ii), O.A.C. Rule 4901:1-29-06(B)(6)(b)(ii), O.A.C., as adopted by the Commission in its December 18, 2013 Finding and Order, reads as follows:

(b) A retail natural gas supplier or governmental aggregator enrolling customers through door-to-door solicitation shall provide for an independent third-party verification to ensure the validity of enrollment prior to submission to the incumbent natural gas company and shall not initiate enrollment with the incumbent natural gas company without a valid independent third-party verification. The independent third-party verification shall be conducted in accordance with paragraph (D)(1) of rule 4901:1-29-06 of the Administrative Code and the process shall include the following:

...

- (ii) The independent third-party verifier must confirm with the customer that the representative of the retail natural gas supplier or governmental aggregator has left the property of the customer. The representative of the retail natural gas supplier or governmental aggregator is not to return before, during, or after the independent third-party verification process.

A. The Commission's Finding and Order and adopted rule is unreasonable inasmuch as the adopted rule regarding presence of the agent during the third party verification ("TPV") does not differentiate between residential and small commercial customer door-to-door sales.

Direct Energy supports the adopted rule to the extent that it prohibits an agent remaining with a residential customer during a residential customer's TPV. However, Direct Energy submits the Commission should differentiate between residential and small commercial customers (as defined in Adopted Rule 4901:1-29-01(BB), O.A.C.). Unlike residential customer sales, small commercial sales agents are ordinarily building a longer term relationship with the specific customer to continue after the initial door-to-door contact. In addition, a small

commercial customer is less likely to be intimidated by having an agent present during a TPV. The purpose of the agent not being present during a TPV is to alleviate any pressure a customer may feel by having the agent at their residence or premise. However, small commercial sales involve the building of a longer term relationship with a business after the initial contact. Having a small business sales agent leave and return can be awkward if the agent and the customer will be interacting again after the sale, perhaps for a meal or other activity to grow the relationship. In addition, a business is less likely to be intimidated by an agent being present. Direct Energy encourages the Commission to change the rule to permit a door-to-door sales agent to be on a small commercial customer's property before, during, and after the TPV.

B. The Commission's Finding and Order and adopted rule is unreasonable inasmuch as the adopted rule does not provide flexibility as it relates to a door-to-door agent returning to the customer's premise after the third party verification.

Under the rule as adopted, a door-to-door sales agent cannot return to the customer's property before, during, or after the TPV process. Direct Energy requests the Commission amend the rule to permit a door-to-door sales agent to return after the TPV if the customer requests the door-to-door agent return. Generally speaking, a TPV agent is not allowed to sell to or persuade a customer, or answer additional questions. If a customer has additional questions the TPV will fail and no sale is completed. This ensures the independence of the TPV from the sale. However, the customer may wish to ask the door-to-door agent the questions the TPV agent is not permitted to answer. Therefore, Direct Energy encourages the Commission to amend the rule to permit a door-to-door sales agent to return if the customer indicates to the TPV agent they would like answers to their questions from the CRNGS provider (at which time the third party verifier contacts the door-to-door sales person to return) or if the customer takes the initiative to proactively engage the door-to-door agent.

CONCLUSION

For the reasons contained within, Direct Energy respectfully requests the Commission grant its Application for Rehearing and amend adopted Rule 4901:1-29-06(B)(6)(b)(ii), O.A.C., in the manner suggested by Direct Energy.

Respectfully submitted,

/s/ Joseph M. Clark

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Application for Rehearing was served this 17th day of January, 2014, by electronic mail upon the persons on the service list below:

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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