

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission's)	
Investigation of Ohio's Retail Electric)	Case No. 12-3151-EL-COI
Service Market.)	

**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. Specifically, Direct Energy alleges the March 26, 2014 Finding and Order is unreasonable in the following respects:

1. The Finding and Order is unreasonable inasmuch as it does not explicitly state that electric distribution utilities ("EDU") must provide interval customer energy usage data ("CEUD") to competitive retail electric service ("CRES") providers after the tariffs required by the March 26, 2014 Finding and Order are approved.
2. The Finding and Order is unreasonable inasmuch as it does not place time parameters on when the EDUs must file tariffs regarding interval CEUD after the Public Utilities Commission of Ohio ("Commission") issues its Order in Case No. 12-2050-EL-ORD.

WHEREFORE, Direct Energy respectfully requests that the Commission grant its Application for Rehearing in this matter and modify its Finding and Order in the manner suggested by Direct Energy.

Respectfully Submitted,

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MEMORANDUM IN SUPPORT

On March 26, 2014, the Commission issued its Finding and Order in this proceeding. Direct Energy applauds the Commission for its review of Ohio's retail electric service marketplace and for the steps it took in its Finding and Order. Direct Energy files this limited Application for Rehearing to further enhance the steps the Commission ordered as it relates to interval CEUD.

- 1. The Finding and Order is unreasonable inasmuch as it does not explicitly state that EDUs must provide interval CEUD to CRES providers after the tariffs required by the March 26, 2014 Finding and Order are approved.**

In its Finding and Order, the Commission adopted Staff's recommendation that the EDUs should file amended tariffs that specify the terms, conditions, and charges associated with providing interval CEUD. Finding and Order at 36. The Finding and Order also mandates that the tariff amendments should address or include the format, method, granularity, and frequency of CEUD that a CRES provider may receive. Id. The EDUs must also include in the tariffs implementation of individual network service peak load and peak load contribution formulas as well as the recovery of any necessary capital improvement or infrastructure costs to implement Staff's proposal. Id. Finally, the Finding and Order notes the Commission is continuing its reviews regarding CEUD and that the EDUs should file their revised tariffs after the Commission issues its Order in Case No. 12-2050-EL-ORD. Id.

Direct Energy appreciates the Commission's efforts to bring the important issues related to interval CEUD to a close. The manner in which this information is shared with CRES providers (especially format, method, granularity, and frequency) are critical issues to enable CRES providers to empower customers with products utilizing interval CEUD. Direct Energy looks forward to participating in the various EDU tariff proceedings.

However, there is one piece missing from this puzzle. The Finding and Order lacks an explicit declaration from the Commission that EDUs must provide interval CEUD data to CRES providers, who have received appropriate customer consent, upon the EDU tariff approval contemplated in its Finding and Order. Finding and Order at 36. While this may seem like an obvious by-product of the Commission's tariff approval, such a result cannot be taken for granted. Direct Energy's experience to this point yielded EDU responses that can be succinctly summed up – we cannot give you this information without explicit consent from the Commission. See, e.g., In the Matter of the Application of Duke Energy Ohio, Inc. to Adjust Rider DR-IM and Rider AU for 2012 Grid Modernization Costs, Case No. 13-1141-GE-RDR, Transcript at 19-20, (filed) March 19, 2014 (hereinafter Duke SmartGrid Case). And, in the 12-2050 proceeding, the Commission previously rejected a Direct Energy request for such an explicit declaration. In the Matter of the Commission's Review of Chapter 4901:1-10, Ohio Administrative Code, Regarding Electric Companies, Case No. 12-2050-EL-ORD, Finding and Order at 15-17 (October 16, 2013). Finally, Rule 4901:1-10-24(E)(3), Ohio Administrative Code, as adopted in the 12-2050 proceeding, merely states that an EDU “shall not” provide interval CEUD without the authorization required by the Commission. The adopted rule does not mandate that the EDU provide the customer's interval CEUD when the CRES provider acquires the proper authorization.

The tariff amendments suggested by the Commission all deal with important issues related to how information will be shared with CRES providers and Direct Energy is grateful for the progress in resolving these issues. However, there is no indication from the Commission that EDUs must actually provide the information to a CRES provider if the CRES provider has appropriate customer consent and meets the requirements in the approved tariff. The

Commission should explicitly affirm what appears to be implicit in its Finding and Order to ensure there is no misinterpretation of its Finding and Order. Direct Energy respectfully requests the Commission make an explicit declaration that the EDUs must provide interval CEUD to a CRES provider upon the CRES provider meeting the requirements of the respective future tariff proceedings contemplated in this case.

2. The Finding and Order is unreasonable inasmuch as it does not place time parameters on when the EDUs must file tariffs regarding interval CEUD after the Commission issues its Order in Case No. 12-2050-EL-ORD.

As discussed above, the Commission ordered each EDU to “file their revised tariffs after the Commission issues its Order in Case No. 12-2050-EL-ORD.” Finding and Order at 36. It is unreasonable for the Commission not to put a timeframe in which the EDUs must make the tariff filing contemplated in the Finding and Order. The Commission’s failure to adopt a phased approach to the tariff filings is also unreasonable.

Duke will complete its AMI meter rollout this calendar year. Duke SmartGrid Case, Transcript at 24-25, filed March 19, 2014. Additionally, pending before the Commission is an AEP case to convert an additional 894,000 meters to AMI (on top of the 132,000 AMI meters already converted) over a 4 year period. In the Matter of the Application of Ohio Power Company to Initiate Phase 2 of its girdSMART Project and Establish the gridSMART Phase 2 Rider, Case No. 13-1939-EL-RDR, Application (Attachment A at 2-3) (September 13, 2013).

In contrast, DP&L has no AMI meter deployment in its territory, withdrawing its proposed AMI meter implementation plan after it did not receive federal stimulus monies to help fund the project. In the Matter of the Dayton Power and Light Company for Approval of its Electric Security Plan, Case No. 08-1094-EL-SSO, *et al.*, Entry (January 5, 2011). FirstEnergy is in the process of completing Phase II of its deployment, which when combined with Phase I will total only approximately 44,000 AMI meters. In the Mater of the Application of Ohio Edison

Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Approval of Ohio Site Deployment of the Smart Grid Modernization Initiative and Timely Recovery of Associated Costs, Case Nos. 09-1820-EL-ATA, *et al.*, Finding and Order at 1 (May 15, 2013).

The Commission should order Duke and AEP to file tariff approval plans 60 days after the Commission issues its Order in the 12-2050 case. Currently the Finding and Order lacks this important timing element. A timeframe parameter is important to ensure prompt compliance with the Finding and Order. Otherwise, there is no timeframe in which Duke or AEP would have to file the mandated tariff. Both Duke and AEP are much further along in their development of their AMI meter rollout plans than the FirstEnergy companies or DP&L. Ensuring that Duke and AEP have tariffs ready promptly after the Commission issues its Order is important to give customers the opportunity to utilize the functionality of their AMI meters for benefits beyond the distribution service improvements provided by the AMI meters.

The Commission should Order the FirstEnergy companies to file the contemplated tariff at the time they make their next filing to deploy additional AMI meters. And, for DP&L, the Commission should mandate that DP&L make a tariff filing when it files its AMI meter plan required by its currently approved electric security plan (“ESP”) to receive additional rate stability funds. In the Matter of the Application of The Dayton Power and Light Company for Approval of its Electric Security Plan, Case Nos. 12-426-EL-SSO, *et al.*, Opinion and Order at 28 (September 4, 2013). Using the time and resources of Staff, FirstEnergy and DP&L, and other stakeholders to develop the contemplated tariffs would be inefficient and premature at this time given the lack of AMI meter deployment in those territories. Focusing on the Duke and AEP tariff filings first would be a more efficient use of all stakeholders’ resources. A lag in the tariff

approval proceedings for the FirstEnergy companies and DP&L would also allow stakeholders the opportunity to take any lessons learned from the Duke and AEP tariffs and apply them when the FirstEnergy companies and DP&L make their next AMI filings. This lag would also permit a fresh inclusion in the tariffs any new technological or other improvements that would not have been available or known during the Duke and AEP tariff cases.

CONCLUSION

Direct Energy applauds the Commission and Staff's efforts to bring innovative products to customers and in turn allow customers to experience the full value of their AMI systems. These two additional modifications will ensure there is no further arguing about if or when a CRES provider (who has appropriate authority from a customer) should have access to this critical data, but rather how to go about achieving this important step towards the goal of customers reaping the full benefits of their AMI meters.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing Initial Comments of Direct Energy Services, LLC and Direct Energy Business, LLC was served this 25th day of April, 2014 by electronic mail delivery upon the e-mail addresses listed below.

/s/ Joseph M. Clark

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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