

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of the Northeast     )  
Ohio Public Energy Council for a Waiver of             )     Case No. 16-2177-EL-WVR  
Rule 4901:1-21-17(F),                                     )

**NORTHEAST OHIO PUBLIC ENERGY COUNCIL’S  
REQUEST FOR LIMITED WAIVER  
AND REQUEST FOR EXPEDITED RULING**

Now comes the Northeast Ohio Public Energy Council (“NOPEC”) pursuant to Rules 4901-1-12 and 4901-1-38, Ohio Admin. Code, and respectfully requests the Public Utilities Commission of Ohio (“Commission”) to grant a limited waiver of Rule 4901:1-21-17(F), Ohio Admin. Code. Because no other parties are involved in this ministerial request, and the request does not affect substantial rights, NOPEC requests that an expedited ruling be issued, pursuant to Rule 4901-1-12(F), Ohio Admin. Code. The grounds for NOPEC’s motion are set forth in the attached Memorandum in Support.

Respectfully submitted,



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**MEMORANDUM IN SUPPORT**

The Northeast Ohio Public Energy Council (“NOPEC”) is a regional council of governments established under R.C. Chapter 167, and is the largest governmental retail energy aggregator in the State of Ohio. Comprised of over 200 communities in the 13 northeast Ohio counties of Ashtabula, Lake, Geauga, Columbiana, Cuyahoga, Summit, Lorain, Mahoning, Medina, Seneca, Trumbull, Portage and Huron, NOPEC provides electric aggregation service to approximately 500,000 retail electric customers located in the service territories of The Cleveland Electric Illuminating Company and Ohio Edison Company (collectively, the “Utilities”).

NOPEC entered into an agreement (Master Agreement) effective January 1, 2010, for FirstEnergy Solutions (“FES”) to supply electric service to its aggregation program through December 31, 2019. FES served NOPEC’s first aggregation program from January 1, 2010 through December 31, 2012. FES also is serving NOPEC’s successive aggregation program, which commenced on January 1, 2013 and is to end December 31, 2016. On October 12, 2016, NOPEC filed in its certification docket (PUCO Case No. 00-2317-EL-GAG) the required opt-out notification materials for its next three-year aggregation program, which was to be in place from January 1, 2017 through December 31, 2019. FES also was to be the supplier. However, on October 28, 2016, FES notified NOPEC that it was terminating the Master Agreement effective January 1, 2017.

FES's termination of the Master Agreement raises the possibility that a substantial number of NOPEC's 500,000 customers could be returned to the Utilities' standard service offer. The potential return of such a huge number of customers raises the potential for mass customer confusion and the potential for future increases in the SSO price. To prevent each from happening, NOPEC has entered into expedited negotiations with other CRES providers. NOPEC believes that it will have a supplier in place to serve its members by January 1, 2017, making the transition from NOPEC's current aggregation program to its new program nearly seamless to its customers.

However, to commence service under the new aggregation program by January 1, 2017, NOPEC must comply with certain regulatory timelines in enrolling its customers in the new program. Those timelines include providing eligible customers a 21-day opt-out period<sup>1</sup> and a 7-day rescission period.<sup>2</sup> In addition, the Utilities require a 10-day period to switch aggregation members to the new supplier. Faced with such time constraints under unique circumstances, NOPEC respectfully requests a limited, one-time waiver of Rule 4901:1-21-17(F), which requires that proposed opt-out notices be docketed 10 days prior to their mailing. Further, NOPEC requests an expedited ruling on its waiver request, pursuant to Rule 4901-1-12(F), Ohio Admin. Code. The purpose of the 10-day advance filing does not affect the substantial rights of any customer, but rather is intended to provide the Commission's Staff with sufficient time for compliance review. NOPEC has over 15 years of experience working with Staff in the review of NOPEC's anniversary opt-out notices, as well as NOPEC's more frequent quarterly "movers and refreshers" notices, for both the electric and natural gas markets in Ohio. NOPEC's familiarity with the requirements, its ability to work constructively with Staff, and the likelihood that the

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<sup>1</sup> See Rule 4901:1-21-17(B).

<sup>2</sup> See Rule 4901:1-10-29(F)(1)(c).

product offered in this next aggregation program will be substantially similar to NOPEC's other product offerings support the requested limited, one-time waiver of the 10-day advance filing requirement. In its place, NOPEC respectfully proposes to file its opt-out notice for Staff's review one day prior to its mailing to eligible customers.

Respectfully submitted,

A handwritten signature in black ink, reading "Dane Stinson", written in a cursive style. The signature is positioned above a horizontal line.

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Summary: Motion for Waiver electronically filed by Dane Stinson on behalf of Northeast Ohio Public Energy Council