

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission’s Review)
of the Green Pricing Programs Chapter) Case No. 20-1195-EL-ORD
4901:1-42 of the Ohio Administrative Code)

INITIAL COMMENTS BY THE CITIZENS’ UTILITY BOARD OF OHIO

I. INTRODUCTION

Pursuant to the Entry of February 24, 2021 (“Entry”), the Citizens’ Utility Board of Ohio (“CUB Ohio”) submits these comments on the pending review of Ohio Administrative Code Chapter 4901:1-42 by the Public Utilities Commission of Ohio (“Commission” or “PUCO”). CUB Ohio is an independent, non-profit consumer watchdog that advocates for residential and small business utility customers in Ohio. We respectfully urge the Commission to amend Ohio Adm. Code Chapter 4901:1-42 to ensure that Ohio customers seeking to purchase “green” energy can adequately understand what they’re getting for their money. These revisions should provide robust safeguards that (1) allow consumers to differentiate between renewable offers and offers characterized by other environmental attributes; and (2) provide consumers with the information necessary to differentiate between renewable offers backed by national Renewable Energy Credits (“RECs”) versus procurement from renewable generation that may actually displace fossil fuel generation from the PJM grid serving Ohio.

II. COMMENTS

The rules codified in Ohio Administrative Code Chapter 4901:1-42 should align with the Commission’s responsibilities under R.C. 4928.70, which authorizes the Commission to “periodically review any green pricing program offered in this state as part of competitive retail electric service” and “make recommendations to improve or expand the program subject of the

review,” as well as to “adopt rules necessary to carry out purposes of this section.” This is an important role given the complexity of the “green” energy marketplace and the Commission’s own expertise regarding the retail electricity market. While the Commission’s existing rules in Chapter 4901:1-42 may have sufficed in the past, they have not kept pace with the evolution of generation resources in the PJM region and the multiplication of “green” energy offers that are widely marketed to Ohio ratepayers.

Ohio consumers interested in shopping for “green” electricity do, fortunately, have many options available to them. The state’s “Apples to Apples” website lists an array of 100% renewable electricity offers for residential and small business customers across all four investor-owned utilities’ service territories.¹ However, this proliferation of choice has also created many opportunities for customer confusion as Ohioans attempt to navigate disparate terminology, descriptions, and disclosures regarding “green” electricity offers, especially for customers who do not rely on the Apples to Apples website with its relatively standardized information.

In particular, CUB Ohio is concerned that the Commission’s current rules do not provide a reliable way for a customer to determine: (1) the difference between a “green” offer based on renewable energy as defined under Ohio law versus other environmental attributes; and (2) whether a renewable offer involves resources that deliver electricity to PJM and thus may displace non-renewable energy supply from the grid. Both of these items may be important to

¹ See, e.g., Energy Choice Ohio, Apples to Apples Comparison Chart, American Electric Power, <http://www.energychoice.ohio.gov/ApplesToApplesComparison.aspx?Category=Electric&TerritoryId=2&RateCode=1> (last visited March 24, 2021).

consumers with preferences regarding the types of “green” energy they support, as well as what role that “green” resource plays in actually providing electricity to Ohio.

A few examples from the current Ohio market may help illustrate the potential for customer confusion on these points:

Lack of definition of “clean” or “carbon-free” offers versus renewable offers: The existing rules do provide a definition of “renewable” energy in Ohio Admin. Code 4901:1-42-01(G) as having “the meaning as set forth in section 4928.01 of the Revised Code.” However, Competitive Retail Electric Service (“CRES”) providers today use other terminology that is not defined in the Commission’s rules, which may result in confusion for customers who are unsure whether terms like “green,” “clean,” or “carbon-free” have the same definition as “renewable.” As one example, the Energy Harbor website includes a section on “Green Energy for Your Home” which discusses both “Green” and “Carbon-Free” electricity plans. Energy Harbor explains that the latter “provides residences and businesses with clean energy options that are both simple and affordable, with Emission Free Energy Certificates (EFECs),” the majority of which come from its nuclear generation units in Ohio and Pennsylvania.²

Notably, if a customer enters their zip code on the “Green Energy for Your Home” page under the prompt “Enter your zipcode to find 100% Green plans in your area,”³ then the first tier of results are not renewable offers, but rather three “Safe Harbor” options with no advertised renewable content.⁴ Only upon clicking a button to “show more offers” would a customer be able

² See Attachment A at 5-6.

³ *Id.* at 3.

⁴ *Id.* at 10-11.

to see Energy Harbor’s renewable energy plan. This process could easily lead a customer to believe that they are enrolling in a renewable energy product when that is not in fact the case.

Lack of explanation regarding renewable energy credits versus actual sources of electricity supply: Multiple CRES providers in Ohio offer 100% renewable energy products that are based on the purchase of RECs in proportion to a customer’s monthly electricity usage. However, these products do not always include an explanation that purchase of such a product means that some amount of a customer’s payment may go toward fossil fuel-generation resources.

For example, a 100% renewable offer from Public Power states that it is “100% Green” / “100% renewable energy.”⁵ Meanwhile, the available Terms and Conditions document for this offer does not provide any explanation of the use of Renewable Energy Credits, and does not disclose that (at least for 2021), the company projected that more than half of its energy supply would in fact come from coal and natural gas resources.⁶ That information is only provided in fine print on the Environmental Disclosure Information which is not directly accessible from the company’s enrollment webpage.⁷ Thus, a customer seeking to pay for renewable energy – and just as important, to avoid their money going to support fossil fuel generation – might inadvertently enroll in a “renewable” offer without being aware that it does not match their actual preferences.

⁵ Attachment B at 2-3.

⁶ See Attachment C, Attachment D.

⁷ See Attachment B, Attachment D.

By contrast, other CRES providers provide transparent disclosures, readily available at least during the online customer enrollment process, that provide environmental information sufficient for a customer to determine the source of their generation as well as the basis for a claim that the offer is “green” or “renewable.”⁸ These examples demonstrate how the competitive marketplace can provide a viable mechanism for consumers with specific preferences regarding green energy to understand their options and choose the ones that best fit their intentions and price parameters.

While the Commission’s Staff can review the marketing materials for each CRES suppliers’ “green” offers individually pursuant to Ohio Admin. Code 4901:1-42-03(A) to ensure they all meet this benchmark, there are now dozens such offers available today, they change periodically, and depending on a customer’s avenue for enrolling in an offer that customer may not actually see all of the marketing collateral provided to the Commission. Therefore, CUB Ohio respectfully urges the Commission to set a baseline requirement for all green offers to include environmental disclosure information easily accessible to every customer during the course of enrollment, either as a separate document or included in the terms and conditions for that offer, by revising Rule 4901:1-42-03 as follows:

⁸ See, e.g., Clean Sky Energy, Affordable Wind 12, <https://rates.cleanskyenergy.com:8443/rates/index?customerTypeId=7&zipcode=43221> (includes environmental disclosure statement); Sunwave Gas + Power https://signup.gosunwave.com/en/browse?zip_code=43221#detail-7765 (includes disclosure document).

(A) Any Ohio EDU or CRES providers offering a green pricing program shall ensure that any program or marketing materials distributed to customers accurately portray the product. These materials must include information readily accessible to the customer during the enrollment process that:

(1) Indicates whether the product does or does not include renewable energy, and in what amount;

(2) If the product includes any green energy component that does not constitute renewable energy, indicate the amount for that component and describe the type of generation resource that provides the basis for that green energy claim;

(3) If a renewable energy component of the product is based on the purchase of renewable energy credits, provides a clear and accurate definition of a renewable energy credit and the amount of the product that purchase comprises; and

(4) Discloses the historical or projected generation resource mix used to produce the product.

CUB Ohio recommends these revisions as providing a practicable and straightforward mechanism for customers interested in procuring green energy to have easy access to the information they need to make their purchasing decision.

This approach constitutes a reasonable application of the Commission’s authority under R.C. 4928.70, simply offering more detail as to the existing regulatory requirement in Ohio Admin. Code 4901:1-42-03(A) for a provider “offering a green pricing program shall ensure that any program or marketing materials distributed to customers accurately portray the product.” It is also necessary to carry out state policy under R.C. 4928.02(B), consistent with the Commission’s authority to enact rules to effectuate such policies pursuant to R.C. 4928.06(A). Section (B) of R.C. 4928.02 sets forth Ohio’s policy to “[e]nsure the availability of unbundled and comparable retail electric service that provides consumers with the supplier, price, terms, conditions, and quality options they elect to meet their respective needs.” In the absence of the information necessary to easily evaluate offers purporting to meet their environmental preferences,

consumers have not in fact been provided with “the supplier, price, terms, conditions, and quality options they elect to meet their respective needs.” Conversely, providing that essential information to consumers in a clear and accessible manner will ensure they have the appropriate tools to decide how to spend their money.

March 24, 2020

Respectfully submitted,

/s/ Madeline Fleisher
Madeline Fleisher (0091862)
(Counsel of Record)
Dickinson Wright PLLC
150 East Gay Street, Suite 2400
Columbus, Ohio 43215
(614) 591-5474
mfleisher@dickinsonwright.com

Counsel for Citizens' Utility Board of Ohio

Attachment A

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Green Energy for Your Home

Protect your price and the environment

Energy Harbor offers our customers a selection of affordable Green and Carbon-Free electricity plans that allow you to do your part to protect the environment. We offer a selection of 100% green products, which offset your electricity consumption through renewable energy certificates purchased from wind generators across the country.



Carbon Free Power

Working together, we can make a difference. Energy Harbor is committed to doing our part.

[Learn More](#)

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Going Green

Green energy made affordable

Get peace of mind for both your bill and the environment by locking in long-term price certainty while ensuring that your energy usage is offset by 100% green renewable





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Find your plan

Enter your zipcode to find 100% Green plans in your area

 Enter your zipcode

Find Offers



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[Green Energy](#)

[Green Energy](#)

[Find Your Program](#)

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[Leadership](#)

[Lower Your Bill](#)

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[FAQs](#)

[Investor Relations](#)

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Residential Inquiries

Business Inquiries

1-888-254-6359

1-888-254-4769

Monday - Friday from 8:00 am to 5:00 pm ET



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For Home

For Business

For Communities

Generation

About

Carbon Free Power

Energy Harbor is committed to a carbon-free future. We are one of the largest generators of clean, reliable carbon-free electricity in the country. Working together, we can make a difference. Energy Harbor is striving to do our part.

Energy Harbor provides residences and businesses with clean energy options that are both simple and affordable, with Emission Free Energy Certificates (EFECs). Why should you consider Energy Harbor Emission Free Energy Certificates?



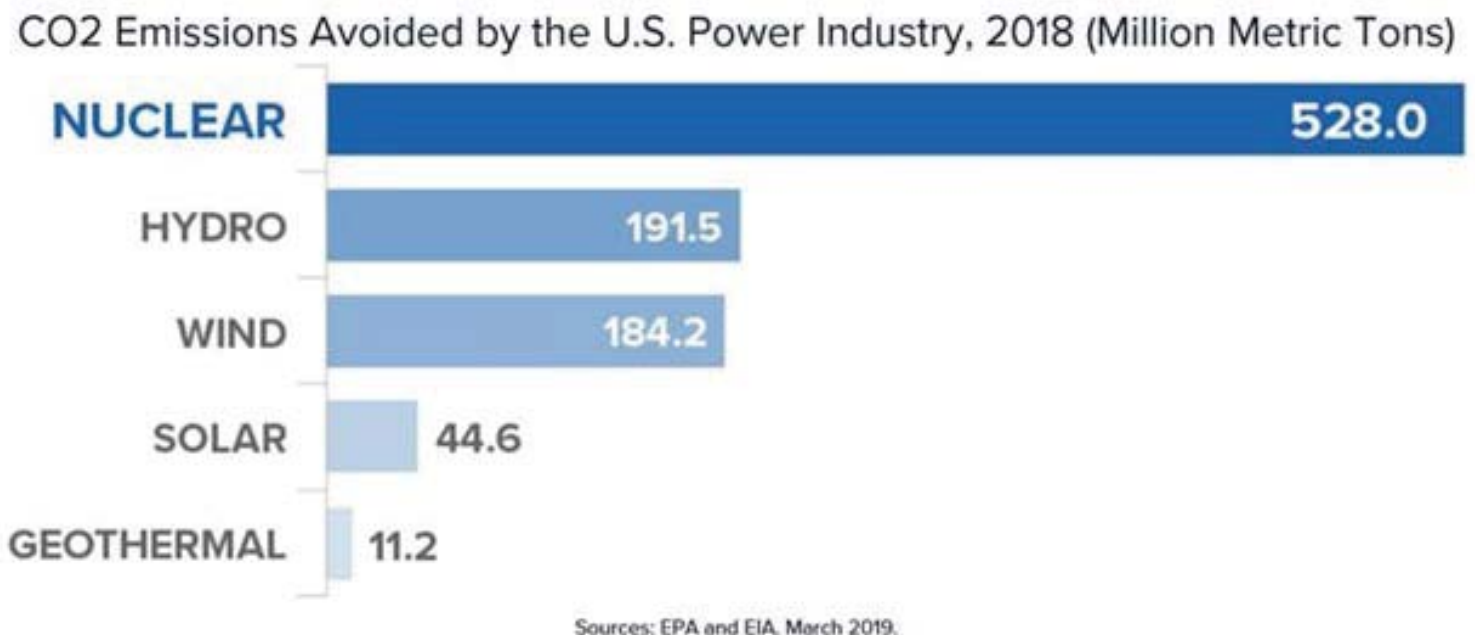
Power your home or business with Emission Free Energy Certificates

The majority of our Emission Free Energy Credits (EFECs) come from one of our four nuclear generation units located in Ohio and Pennsylvania, which are capable of generating more than thirty million EFEC's annually.

Nuclear energy provides more than 55 percent of carbon-free electricity in the United States and The International Panel on Climate Change found that nuclear energy's life cycle carbon emissions were lower than solar, geothermal and hydropower and comparable to wind-generated power. According to The International Panel on Climate Change, nuclear energy is as clean as renewable energy. Electricity generated with nuclear energy avoids the emissions of more than 528 million metric tons of carbon dioxide every year. That's more than the emissions from 111 million passenger vehicles—all of the passenger vehicles on the road in the U.S.



Carbon-free nuclear generation is the most dependable source of electricity, operating 24/7 at more than 92 percent average capacity factor. (Capacity factor is the ratio of the actual amount of electricity generated by a plant compared to the maximum amount that it could potentially generate.) That's more than two times the capacity factor of any other clean source. Nuclear plants are capable of operating for 18-24 months without interruption.





Monday - Friday from 8:00 am to 5:00 pm ET

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Suppliers



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For Home

For Business

For Communities

Generation

About

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[Contact Us](#)
Home Energy Plans
Enroll by phone



1-888-254-6359

Bundle

Long-term Stability

Safe Harbor 36



36 Months

5.29¢ per
kWh

Fixed Price: A guaranteed fixed price for 36 months

Enroll Now

[View Details](#)

Multi-Season Rate Lock

Live Chat

Safe Harbor 24

24 Months

5.49¢ per
kWh

Fixed Price: A guaranteed fixed price for 24 months

Enroll Now

[View Details](#)

Most Popular

Safe Harbor 18

18 Months

5.39¢ per
kWh

Fixed Price: A guaranteed fixed price for 18 months

Enroll Now

[View Details](#)

[+ Show more offers](#)



Monday - Friday from 8:00 am to 5:00 pm ET

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Mobile Tools
Suppliers



-
-

Attachment B

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CUSTOMER ENROLLMENT

[< Start Over](#)

Service Selection

Customer
Information

Utility Information



Confirmation



Finish

Good News! We provide service in your area. Here's what's available:

ELECTRIC PLANS Please choose from the electric plans below. ☐ Not Interested

Electric 12 Month
Standard Fixed Rate

*Public Power Fixed
Electric Standard*

Rate: **5.99 ¢/kWh**

Term: 12 Months

Enrollment Fee: \$0

Early Termination Fee: \$0

☐ **SELECT**

[More Details](#)

**Electric 24 Month
Standard Fixed Rate**

***Public Power Fixed
Electric Standard***

Rate: **6.09 ¢/kWh**

Term: 24 Months

Enrollment Fee: \$0

Early Termination Fee: \$0

☐ **SELECT**

[More Details](#)

**Electric 36 Month
Standard Fixed Rate**

***Public Power Fixed
Electric Standard***

Rate: **6.29 ¢/kWh**

Term: 36 Months

Enrollment Fee: \$0

Early Termination Fee: \$0

☐ **SELECT**

[More Details](#)

**Electric 12 Month
100% Green Fixed
Rate**

***Electric 12 Month
100% Green Fixed
Rate***

Rate: **6.59 ¢/kWh**

Term: 12 Months

Enrollment Fee: \$0

Early Termination Fee: \$0

☐ **SELECT**

[Close Details](#)

Instant value with responsible energy, yours at a fixed rate for a full 12 months. Lock in a great rate on 100% renewable energy with our

[View Terms & Conditions](#)

fixed rate plan. You'll get the same reliable rate throughout your 12-month term. Control your energy budget and help the planet too!

CONTINUE

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PURA Docket Numbers: 07-06-13 APPLICATION OF PUBLIC POWER, LLC F/K/A PUBLIC POWER & UTILITY, LLC FOR AN ELECTRIC SUPPLIER LICENSE, 11-10-06 PURA INVESTIGATION OF PUBLIC POWER, LLC, 13-02-08 PURA INVESTIGATION INTO PUBLIC POWER LLC'S TRADE PRACTICES Public Utilities Regulatory Authority (PURA), Ten Franklin Square, New Britain, CT 06051 PH: 800-382-4586
D.C. - Order #16726, IL - Order #12-0167, NY – ESCO PUPU, OH – Certificate #11-418E(2), RI – Docket #D-96-6 (M5), MD – License No. IR-1781, PA - Docket #A-2009-2143245

Public Power, LLC and its subsidiaries are not endorsed by or affiliated with the American Public Power Association (APPA) or its members, the Public Power Association of New Jersey, or any government owned not-for-profit utility.

Attachment C



OHIO TERMS & CONDITIONS

You authorize Public Power, LLC ("Company"), a member of the Crius Energy family of brands, to change your electricity and/or natural gas supplier, as the case may be, to Company and to supply your home or small business with all the Services you need, subject to the eligibility requirements of your local electric distribution utility (EDU) or local natural gas distribution utility (LDU) ("Utility"). Company is a supplier of energy products. We often use independent brokers to sell our energy products. Please review this contract carefully. If there are any discrepancies with the product features you were sold and the terms and conditions of such products, please call our customer care center at 1-888-354-4415. Your Enrollment Documentation, which includes your welcome letter, welcome package, as applicable, and these Terms and Conditions create your agreement with the Company ("Agreement") and supersedes any oral or written statements made in connection with this Agreement or the supply of your Services. Capitalized terms used herein have the meaning ascribed to them as listed within the Agreement as well as in the "Definitions" section herein.

1. **SERVICES.** Upon successful completion and receipt of all customer enrollment requirements, Company will supply Services for your home or small business. Company is a retail marketer of Services and is not your Utility. Your Utility will continue to deliver Services to your home or small business, read your meter, send your bill and make repairs and charge you for its services related to delivering your commodities. Your Utility will also respond to emergencies and provide other traditional utility services. You understand that you are not required to switch your Services to Company. The Company does not charge you for starting or stopping Service; however, your Utility may charge switching fees, so please check with your Utility. This Agreement is subject to the eligibility requirements of your Utility and Company may choose not to accept this Agreement for any reason. If you are enrolled in any Utility or government programs, enrolling with Company may impact your participation in these programs. Please check with your Utility or program administrator before enrolling with Company.

2. **TERM.** Company will begin supplying your Services when the Utility switches your account to Company. Your Agreement will continue for the Term specified in the Enrollment Documentation or herein, and if applicable for the Renewal Term. Your Term is based on monthly billing cycles as determined by your Utility and each monthly billing cycle may not represent a full calendar month. If your Utility bills bimonthly, Company will treat this as two monthly billing cycles. Typically it takes one to two billing cycles for your Service to be switched from your Utility to the Company, but there may be a delay before the Utility switches Services and you understand that Company is not responsible for any such delays. Your natural gas enrollment with Company is subject to certain Company minimum Utility pooling requirements; if such requirements are not met in a reasonable time period, your Agreement will not be accepted and you will remain with your current service provider. You may receive written notification from your Utility confirming your switch to Company.

3. **PRICE.** Company does not charge any fee for you to switch from your utility to Company. Please note that some products have specific fees related to the product or plan you choose which are detailed in your product Enrollment Documentation; these fees are not switching fees. Each month you will pay for the Services you consume. For electricity, your bill will be calculated by multiplying your Rate by the amount of electricity you consumed in kilowatt-hours during the billing cycle, plus any applicable Fees. For natural gas, your bill will be calculated by multiplying your Rate by the amount of natural gas you consumed in mcfs, ccfs or therms, as

applicable, during the billing cycle, plus any applicable Fees. Depending on your Utility's billing practices, your Rate during the billing cycle may be applied pro rata, resulting in a blended rate of the previous month and the current month Rate. If your price is based on an estimated usage for such Services, the Company has the right to bill you on actual usage when such information is made available and you have the obligation to pay Company for such actual usage amounts.

4. **RATE PLAN OPTIONS.**

a. **Fixed Rate.** If you selected a fixed rate, the Rate for your Service is the Rate indicated in your Enrollment Documentation and guaranteed not to change for the Term ("Fixed Rate").

b. **Variable Rate.** If you selected a variable rate, the Rate for your Service for your first billing period is the Rate indicated in your Enrollment Documentation ("Variable Rate"). Variable Rates change at the Company's discretion and may be higher or lower each month based on business and market conditions. Variable Rates are set in the Company's discretion and may vary based on numerous factors, including, but not limited to, the Company's assessment of applicable market and business conditions, operation costs, historic and projected supply and hedging costs, prior meter read cycle's pricing and balancing costs, projected customer bill amounts and Utility pricing or "price to compare" and applicable pricing reset dates and may include the following additional costs: ancillary services and other ISO costs, capacity costs, transmission costs, line loss costs, RMR costs, credit costs, balancing costs, winter reliability costs, and costs associated with meeting any applicable renewable portfolio standards, and a profit margin determined in the Company's discretion that may vary from month to month. Your Variable Rate will not include taxes, which will be assessed separately, and will not include any fees, taxes or charges directly assessed by the Utility or any other third party with the right to assess taxes or fees for the Services.

c. **Index Rates.** If you selected an index product, the Rate for your Service will be the index and the adder indicated in your Enrollment Documentation and will vary in accordance with the terms of the specific index ("Index Rate").

d. **Understanding and Selecting Rates.** You understand that unless you have been offered a Rate confirmed by the Company in writing that expressly provides otherwise, there are no guaranteed savings and your Rate may be higher or lower than the Utility's rate in any given month. You can always review existing Service offers to

compare your Rate under this Agreement to other current offers by going to your state's public rate chart.

5. **RESCISSION; TERMINATION.** You may rescind or terminate this Agreement as provided below.

a. **Right of Rescission.** You have the right to cancel your Agreement without fees or penalties (i) with respect to Electric Service, at any time within seven (7) calendar days after the postmark date on your Utility's confirmation notice to you relating to Electric Service, and (ii) with respect to Gas Service, at any time within seven (7) business days after the postmark date on your Utility's confirmation notice to you relating to Gas Service (each, a "Rescission Period").

b. **Your Right to Terminate.** For residential customers, you may terminate a Fixed Rate plan at any time; provided that, if you terminate after the Rescission Period and before the end of the Term or Renewal Term, the applicable termination fee listed in your Enrollment Documentation will apply for the Service you terminate. Unless otherwise detailed in your Enrollment Documentation, you may terminate a Variable Rate Plans and Index Rate Plans at any time and no termination fee will apply. If you are a Small Commercial customer, and selected a Fixed Rate, unless otherwise stated in your Enrollment Documentation, your termination fee is equal to the greater of (i) \$150.00, or (ii) liquidated damages which you agree is the Remaining Contract Quantity times the greater of (A) Contract Price less Market Price at the time of the termination, or (B) \$0.02/kWh or \$0.20/Ccf/therm. Remaining Contract Quantity shall mean the total estimated usage for the period remaining in the Fixed Term of this Agreement at the time of termination, based on Buyer's historical usage or Company's estimated usage calculated in a commercially reasonable manner. The Market Price for the remainder of the Fixed Term will be determined by Company in a commercially reasonable manner.

c. **Termination for Failure to Pay.** Failure to pay your bill may result in the disconnection of Services in accordance with the Utility's policies and rules, and this Agreement may be automatically terminated. Company may terminate this Agreement on at least fourteen (14) calendar days written notice to you should you fail to pay your bill or fail to meet any agreed-upon payment arrangements with the Company.

d. **Termination Due to Move.** You may terminate without penalty if you move outside the Company's service area or into an area where Company charges a different price.

e. **Termination Notice; Effect of Termination.** To terminate or rescind this Agreement, you may notify Company as detailed in Section 15 or your Utility. Please provide your name, address, phone number, account number and a statement that you are rescinding or terminating the Agreement. Rescission is effective immediately. Termination will be processed immediately but is effective upon your Utility processing your termination and you are obligated to pay for the Services provided pursuant to this Agreement until you are returned to your Utility or alternative supplier.

6. **BILLING AND PAYMENT.** The Services you purchase from Company will be included in your Utility monthly bill or in a separate invoice from Company. If from the Utility, the Utility will set your payment due date and the payment address. Any bill not paid in full by its due date will incur a late payment fee in

accordance with the Utility's or the Company's billing and payment policies and procedures. You may be liable for the costs the Company incurs if Company must terminate your Services for failure to pay, such as collection costs or attorney fees. Company shall have the right to setoff and net against any undisputed amounts owed by you under this Agreement, and the Company shall additionally have the right to setoff and net against any deposit or security provided by you pursuant to this Agreement any amounts, charges or damages owed by you to Company. If you have provided Company, its affiliates or agents with a credit card number, you provide authorization to charge any outstanding balance to such credit card. You will be billed and pay Company for the Services based on meter readings and consumption information that Company receives from your Utility ("Billing Quantity"). The Company does not offer budget billing for the generation portion of your bill. For Small Commercial accounts, Company will have the option to adjust the Billing Quantity for fuel and line loss retained by your Utility and interstate transporters from the Purchased Quantities. You are responsible for paying and reimbursing Company for all applicable Fees. If you are tax exempt, you must furnish Company an exemption certificate before your Services commence.

7. **CUSTOMER INFORMATION.** All authorizations provided herein will remain in effect for the Term and, if applicable, the Renewal Term of this Agreement; however, authorization may be rescinded by you any time by contacting Company.

a. **Credit Requirement.** You authorize Company to obtain and review your credit history. If you fail to meet Company credit criteria, you understand that Company may refuse or terminate Service, or provide a substitute product. You may be required to promptly provide Credit Enhancements to continue Service if there is a deterioration in your credit rating or a Usage Increase. You have the right to request from Company, twice within a twelve-month period, up to twenty-four months of your payment history without charge.

b. **Customer Information; Privacy Policy.** You authorize Company to obtain your Customer Information from your Utility. This Agreement provides authorization for the Company to contact you about our other products and services or share information about your account with any designated partner or with any third-party vendor the Company uses to provide services and rewards to you. The Company reserves the right to share your Customer Information with Company Agents, to the extent permitted by law. Company is prohibited and will not disclose your social security number except for Company's own collections and credit reporting, participation in programs funded by the universal service fund pursuant to Section 4928.52 of the Ohio Revised Code, or assigning a customer contract to another Service provider.

8. **RENEWAL NOTICE FOR RESIDENTIAL CUSTOMERS.** For any residential customer that has selected a Fixed Rate plan, you will receive notice from Company (between thirty and sixty days prior to the end of your Term) that you will be automatically enrolled: (i) on the Fixed Rate plan provided in the notice, or (ii) on the Company's variable plan available at such time. Each new renewal period after your initial Term will be deemed a "Renewal Term". **For any Renewal Term, your affirmative consent is not required, even if there is a change in the rate or other terms and conditions, but you may terminate at any time during a Renewal Term without any fee or penalty of any kind.** For any Variable

Rate plan or Index Rate plan, you will not receive a renewal notice.

9. RENEWAL NOTICE FOR SMALL COMMERCIAL CUSTOMERS. For any Small Commercial customer that has selected a Fixed Rate plan, you will receive notice from Company (between thirty and sixty days prior to the end of your Term) that you will be automatically enrolled on the Company's Variable Rate plan available at such time. Each new renewal period after your initial Term will be deemed a "Renewal Term". For any Variable Rate plan, you will not receive a renewal notice as you have chosen the Company's variable rate plan that is a month-to-month plan that you may cancel at any time without any termination fees, or the Company may cancel by providing you notice as required by law.

10. PHONE COMMUNICATION POLICY. You agree that by accepting this Agreement and providing your phone number (which may include your wireless number) to the Company or its agents or affiliates, the Company and its agents or affiliates may text or call you with autodialed or pre-recorded promotional or product information. Your consent and acceptance of this policy is not a condition of purchase.

11. DISPUTE RESOLUTION AND MANDATORY AGREEMENT TO ARBITRATE ON AN INDIVIDUAL BASIS. If you have billing questions or would like to make an inquiry about the Company's terms of service, you may contact the Company as indicated in Section 15. We will attempt to resolve the matter within five (5) business days. If your complaint is not resolved after you have called the Company and/or the Utility, or for general utility information, residential and business customers may contact the Public Utilities Commission of Ohio (PUCO) for assistance at 1-800-686-7826 (toll free) from 8am to 5pm weekdays, or at <http://www.puco.ohio.gov>. Hearing or speech impaired customers may contract the PUCO via 7-1-1 (Ohio relay service). The Ohio Consumers' Counsel (OCC) represents residential utility customers in matters before the PUCO. The OCC can be contacted at 1-877-742-5622 (toll free) from 8am to 5pm weekdays, or at <http://www.pickocc.org>.

Regardless of whether you choose to pursue your dispute with the PUCO, your right to pursue individual arbitration with the Company will not be impacted under this Agreement as set forth below.

You and the Company both agree to resolve Disputes (as defined below) only by arbitration or in small claims court (for qualifying claims), subject to specific exceptions listed herein. The parties expressly agree that they are waiving their right to sue in court and that arbitration is the parties' sole remedy to resolve disputes. There is no judge or jury in arbitration, the procedures may be different, and it is subject to very limited review by a court. An arbitrator, however, can award you the same damages and relief, and must honor the same terms in this Agreement, as a court would. If the law allows for an award of attorneys' fees, an arbitrator can award them too. In addition, you and the Company also both agree that:

(a) "Disputes" are any claims or controversies against each other related in any way to, or arising from the Company's Services, this Agreement, or any related agreements, including but not limited to, billing, services and practices, policies, contract practices (including enforceability), service claims, privacy, or advertising, even if it arises after your Services with the Company have terminated. Disputes include any claims that: (i) you bring against the Company or any of its employees, agents, affiliates, or other representatives; (ii) you bring against a third party that are based on, relate to, or

arise from the Company's Services, this Agreement or any related agreements; or (iii) that the Company brings against you. It also includes, but is not limited to, claims related in any way to, or arising from any aspect of the relationship between you and the Company, whether based in contract, tort, statute, fraud, misrepresentation, or any other legal theory.

(b) Except as otherwise provided under Section 11(f) below, the Federal Arbitration Act, 9 U.S.C. § 1 *et seq.* (the "FAA") applies exclusively to this agreement to arbitrate, and this agreement to arbitrate is intended to be broadly interpreted. The arbitrator's decision and award is final and binding, with some exceptions under the FAA, and judgment on the award may be entered in any court with jurisdiction.

(c) Prior to initiating arbitration, a party must first send to the other, by certified mail, a written notice of dispute ("Dispute Notice"). The Dispute Notice to the Company should be addressed to the Notice Address listed in Section 15. The Dispute Notice must (i) describe the nature and basis of the claim or Dispute; and (ii) set forth the specific relief sought ("Demand"). If the Company and you do not reach an agreement to resolve the claim within thirty (30) days after the Dispute Notice is received, you or the Company may commence an arbitration proceeding. During the arbitration, the amount of any settlement offer made by the Company or you shall not be disclosed to the arbitrator.

(d) Unless the parties agree otherwise, the arbitration will be conducted by a single neutral arbitrator and will take place in the county (or parish) of the service address.

(e) The arbitration will be conducted by: (i) a neutral third party arbitrator mutually agreed upon by you and the Company; or (ii) the American Arbitration Association (the "AAA"). The arbitration will be governed by the Commercial Arbitration Rules and the Supplementary Procedures for Consumer Related Disputes (collectively, "AAA Rules") of the AAA, as modified by this Agreement. Where the terms of this agreement to arbitrate conflict with the AAA Rules, the terms of this agreement to arbitrate shall override and govern. The AAA Rules are available online at adr.org, by calling the AAA at 1-800-778-7879, or by writing to the Notice Address for the Company, which is listed in Section 15. The arbitrator is bound by the terms of this agreement to arbitrate. All issues are for the arbitrator to decide, except that issues relating to the scope and enforceability of the arbitration provision are for the court to decide. If your claim is for \$10,000 or less, the Company agrees that you may choose whether the arbitration will be conducted solely on the basis of documents submitted to the arbitrator, through a telephonic hearing, or by an in-person hearing as established by the AAA Rules. If your claim exceeds \$10,000, the right to a hearing will be determined by the AAA Rules. Regardless of the manner in which the arbitration is conducted, the arbitrator shall issue a reasoned written decision sufficient to explain the essential findings and conclusions on which the award is based. Upon your request, and you supplying appropriate documentation, the Company will reimburse your administrative costs for the arbitration over and above the costs associated with filing a case in court. If, however, the arbitrator finds that either the substance of your claim or the relief sought in the Demand is frivolous or brought for an improper purpose (as measured by the standards set forth in Federal Rule of Civil Procedure 11(b)), then the payment of all such fees will be governed by the AAA Rules. However, nothing in this paragraph will require or allow you or the Company to arbitrate on

a class-wide, representative or consolidated basis. An arbitration award and any judgment confirming it apply exclusively to the specific case. The arbitration award and judgment cannot be used for any other case except to enforce the award itself.

You and the Company each agree that arbitration will only be pursued on an individual basis, and will not be pursued on a class-wide, representative or consolidated basis. This Agreement does not allow class, representative or collective arbitrations even if the AAA procedures or rules would. If for any reason any court or arbitrator holds that this restriction is unconscionable or unenforceable, then this agreement to arbitrate does not apply and the dispute must be brought in court.

(f) You and the Company agree that notwithstanding this agreement to arbitrate, either party may bring qualifying claims in a small claims court. In addition, this arbitration provision does not prevent you from bringing your dispute to the attention of federal, state, or local government agencies (including the PUCO), and if the law allows, they can seek relief against the Company on your behalf.

(g) If for any reason a claim proceeds in court rather than through arbitration, you and the Company agree that there will not be a jury trial. You and the Company unconditionally waive any right to trial by jury in any action, proceeding or counterclaim arising out of or relating in any way to this Agreement or the Services provided by the Company. In the event of litigation, this paragraph may be filed to show a written consent to a trial by the court.

12. EMERGENCY. In the event of an emergency such as a power failure, a downed power line, or a natural gas leak, you should call your Utility. For electricity, if your Utility is Duke Energy, call 1-800-543-5599; Dayton Power & Light, call 1-877-468-8243; Columbus Southern Power, call 1-800-277-2177; Ohio Edison, Toledo Edison or Cleveland Illuminating Company, call 1-888-544-4877; Ohio Power, call 1-800-672-2231. For gas, if your Utility is Columbia Gas of Ohio, call 1-800-344-4077; Dominion East Ohio, call 1-877-542-2630; You can also call your local emergency personnel at 911 if the emergency warrants.

13. LIMITATIONS OF LIABILITY AND WARRANTY. NEITHER YOU NOR COMPANY WILL BE LIABLE TO THE OTHER OR TO ANY THIRD PARTY FOR ANY CONSEQUENTIAL, EXEMPLARY, PUNITIVE, INCIDENTAL OR INDIRECT DAMAGES ARISING FROM A BREACH OF THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, LOST PROFITS OR LOST REVENUES. COMPANY DOES NOT GIVE ANY TYPE OF WARRANTY, EXPRESS OR IMPLIED, AND TO THE FULLEST EXTENT OF THE LAW, DISCLAIMS ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. COMPANY WILL NOT BE LIABLE FOR BILLING OR COMMUNICATION ERRORS AFTER 90 DAYS IF YOU DO NOT CONTACT US REGARDING SUCH ERRORS WITHIN 90 DAYS AFTER THE STATEMENT SHOWING THE TRANSACTION HAS BEEN MAILED TO YOU.

14. FORCE MAJEURE. Company will not be responsible for supplying Services to you in the event of circumstances beyond Company's control such as events of force majeure, as defined by your Utility or any transmitting or transportation entity, which includes but is not limited to acts of terrorism, sabotage or acts of God.

15. CONTACTING COMPANY. For any notice required in this Agreement or to contact us generally, you may contact the Company by (i) email, at service@ppandu.com, (ii) mail, at 535 Connecticut Avenue, 6th Floor, Norwalk, CT 06854, or (iii) phone, at 1-888-354-4415. Our regular office hours are Monday through Friday, 9:00 a.m. to 5:00 p.m., Eastern Time. You can also visit us any time online at www.ppandu.com.

16. MISCELLANEOUS.

a. *Use of Services.* You must notify Company if you generate renewable energy or use net metering at your home or small business. If you use net metering, or if there is a Change in Usage, Company reserves the right to modify your Rate or terminate this Agreement and recover costs, if any. In addition, the Company has the right to refuse or terminate Services, and recover costs, if any, if your Service requirements are above the Usage Thresholds.

b. *Agency and Point of Sale.* (i) If you are receiving natural gas service, you hereby designate Company as your agent to: (A) arrange and administer contracts and service arrangements between you and your Utility, and between you and the interstate pipeline transporters of your natural gas (including capacity release, re-release, and recall arrangements); (B) nominate and schedule with the interstate pipelines the transportation of your natural gas from the Sales Points to the Delivery Points, and with your Utility for the transportation of your natural gas from the Delivery Points to your premises; and (C) aggregate your natural gas with the natural gas supplies of Company's other customers in order for you to qualify for transportation service and to address and resolve imbalances (if any) during the term of this Agreement. As your agent, Company will schedule the delivery of a quantity of natural gas at the Sales Points necessary to meet your city gate requirements based on the consumption and other information that Company receives from your Utility. Company, as your agent, will arrange for the transportation of natural gas from the Sales Points to the Delivery Points, and from the Delivery Points to your premises; and (ii) if you are receiving electric service, you hereby designate Company as your agent for the purpose of arranging, contracting for, and administering transmission services (including those provided by your Utility) for the delivery of electricity.

c. *Title; Risk of Loss.* You and Company agree that title to, control of, and risk of loss of the Purchase Quantities supplied under this Agreement will transfer from Company to you at the Sales Points. Company and you agree that transactions under this Agreement are originated and consummated outside the jurisdictional limits of the municipality and county, or other taxing authority where your service address is located. If a taxing authority determines that a gross receipts tax or other tax is applicable to the sale of the electric service or natural gas service under this Agreement, you agree to pay such tax, as invoiced. For Small Commercial customers only: (i) as between Company and you as a commercial customer, you will be deemed to be in exclusive control of the natural gas and/or electricity and responsible for any damage, injury, charges, transportation fees, costs or losses at and after the Sales Points, including, without limitation, any losses that Company incurs that result from having to resell, or its inability to resell, to another party natural gas and/or electricity supplies allocated for you and (ii) as between Company and you, Company will be deemed in exclusive control of the natural gas and/or electricity, and responsible for any damage, injury, charges, transportation fees, costs or losses until the natural gas and/or electricity is delivered to the Sales Points; provided, however, that in no event shall Company's liability under

this Agreement exceed the difference between the reasonable price of replacing any undelivered natural gas and/or electricity and the price of natural gas and/or electricity under this Agreement.

d. *Assignment.* You may not assign this Agreement without prior written consent of the Company. Company reserves the right to sell, transfer, pledge or assign this Agreement and your account, and related revenues and proceeds for financial purposes or in connection with a sale. You authorize Company to assign this Agreement to another competitive retail supplier, or other entity as authorized by the PUCO and any required assignment notice will be considered to have been made to the customer of record if mailed to the appropriate party. This Agreement is binding upon the parties hereto and their respective successors and legal assigns.

e. *Change in Law/Third Party Charges.* This Agreement is subject to any federal, state, local, or utility changes in law, which includes changes in legislation, regulatory actions, orders, rules, tariffs, regulations, policies, riders, fees, pricing structures, market structures, capacity charges, and changes in customer load profiles (each, a “Change in Law”). If there is a Change in Law which results in an increased cost to the Company, or the Company is prevented, prohibited or frustrated from carrying out its intent under this Agreement, Company may adjust your rate based upon such Change in Law. This provision applies to all rate plans, whether fixed, index or variable.

f. *Governing Law; Venue; Waiver of Jury Trial.* To the maximum extent permitted by law, (i) Venue for any lawsuit brought to enforce any term or condition of this Agreement shall lie exclusively in the State of Ohio, (ii) the Agreement shall be construed under and shall be governed by the laws of the State of Ohio without regard to the application of its conflicts of law principles and (iii) EACH OF THE PARTIES HERETO IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL, ARBITRATION OR OTHER PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

g. *Non-Waiver.* The failure by one party to require performance of any provision shall not affect that party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of this Agreement constitute a waiver of any subsequent breach or default or a waiver of the provision itself.

h. *Complete Agreement.* This Agreement constitutes the final and complete agreement between you and the Company. It is the complete and exclusive expression of the terms and conditions agreed upon for the matters contained in this Agreement. All prior and contemporaneous negotiations and agreements between the parties on the matters contained in this Agreement are expressly merged into and superseded by this Agreement.

i. *Severability.* If any provision of this Agreement is held unenforceable, then such provision will be automatically modified to reflect the parties' intention. All remaining provisions of this Agreement shall remain in full force and effect.

j. *Non-Reliance.* You acknowledge that (i) you are not relying on any advice, statements, recommendations or representations of the Company, other than the written representations in this Agreement; (ii) that you understand the risks of entering into this Agreement, including the risk that the Company's prices may be higher than your Utility's rates, and you are capable and willing to assume those risks; and (iii) you have made your own decision to enter into this Agreement, after consultation with your own advisors to the

extent you deem necessary.

k. *Electronic Signatures and Notices.* Each party agrees that electronic signatures, whether digital or encrypted, of the parties to execute this Agreement are intended to authenticate this writing and to have the same force and effect as manual signatures. Electronic signature means any electronic sound, symbol or process attached to or logically associated with a record and executed and adopted by a party with the intent to sign such record, including facsimile or email electronic signatures. Customer agrees that Company may send Customer notices via electronic means if Customer provides email address or other way of communicating electronically. You have a duty to provide a correct, working email address and update it accordingly; if you fail to do so, you could miss important notices.

l. *Customer Representation.* I am at least 18 years old and fully authorized to enter into this Agreement. I am the authorized account holder or have been given proper and binding authorization to change the Services and enter into this Agreement on behalf of the account holder.

m. *Environmental Disclosure.* Company will provide regularly updated environmental disclosures regarding the known sources of electricity and emissions. These disclosures will be available at: www.ppandu.com.

n. *Wi-Fi Thermostats.* To be eligible to receive a Wi-Fi thermostat offer (“Eligible Customer”), you must: (i) have an installed smart meter or other compatible device; (ii) not have baseboard heating; (iii) own the property where the thermostat is installed; and (iv) have the thermostat continuously hooked up to a Wi-Fi connection. In the event you are not an Eligible Customer: (i) Company is not obligated to provide you with a thermostat; (ii) if you do not return to Company any thermostat you receive, you may be charged for the full market value of the thermostat; and (iii) your Service may be switched to the corresponding non-thermostat rate plan for your same Term.

You understand that to get the most out of your Wi-Fi thermostat you should register your thermostat online and follow the procedures described in the accompanying instructions. You agree that Company may make real-time adjustments to your thermostat. Prior to any adjustment event, you will receive a notification on your thermostat providing you with the option to opt out of that specific adjustment event. You agree that, unless you opt out, Company may make these adjustments during and after the Term of this Agreement. If you would like Company to permanently cease all adjustments, you may opt out of all future adjustment events by contacting Company via email, mail, or phone as provided above. You may also manually override any adjustments to your thermostat at any time, and at no time are you obligated to keep your thermostat at the adjusted level.

If you experience problems with your thermostat while you receiving Service under this Agreement, please contact Company as provided for in Section 14. Company may assist you with troubleshooting your thermostat, but will not be responsible for any work involving your thermostat that Company did not direct. If you request Company-approved technicians to install your thermostat, you are obligated to pay Company's invoice for such installation and failure to pay such invoice according to its terms shall constitute a Default under this Agreement.

o. *Third Party Providers; Energy Related Products.* The Company only provides electricity and natural gas to you. Occasionally,

Company may work with third party providers that will offer you energy related products or rebates related to your electricity and natural gas purchases. If you select such offer or rebate from a third party, or elect to bundle or purchase a product that is not electricity or natural gas, or if a product that is installed in your home by a third party provider, such as a thermostat (“Energy Related Products”), you must contact the third party provider of such Energy Related Products for any products issues, rebates, warranties, or billing and service questions. Company will have no liability to you for Energy Related Products.

DEFINITIONS

“*Agents*” means parties that need to know Customer Information in connection with Services and Company’s affiliates and subcontractors.

“*Change in Usage*” means a change, or an anticipated or planned change, in the consumption of Services that is materially different than your historical usage.

“*Commodity Charges*” means the charges for basic natural gas supply service which is sold either by volume (ccf or Mcf) or heating value (dekatherms).

“*Credit Enhancements*” means cash escrow or deposit, establishing an ACH debit relationship with Company, or providing other reasonable assurances to the Company to establish your credit worthiness. If a deposit is required, before any deposit is taken, Customer will be provided notice as to all terms and conditions on such deposit, the amount and the rate of interest paid on the deposit and conditions associated with the return of any deposit at the time of Agreement termination.

“*Customer Information*” means account contact information, account number, meter number, billing history, payment history, historical and future electricity and natural gas usage, meter readings and characteristics of your electricity and natural gas service. It includes information obtained from the Utility as well as any information that you provide directly to Company or its agents.

“*Default*” means: (i) failure to maintain credit requirements or provide necessary credit information or Credit Enhancements, (ii) a Usage Threshold event, (iii) a Change in Usage event, or (iv) any material breach of the requirements of, or representations made under, this Agreement.

“*Delivery Points*” means: (i) for natural gas transported by interstate pipelines, the city gate stations of your Utility, and (ii) for electricity, one or more points at which Company, as your agent, has arranged for the delivery of electricity to a third party (such as your Utility) for your account or at your premises.

“*Enrollment Documentation*” means any application or enrollment documents, whether in paper, electronic, internet, phone or otherwise, provided to in order to commence Services, and the welcome letter and/or welcome package.

“*Fees*” means taxes, fees, assessments, government charges and

charges levied by your Utility for distribution and other services and taxes, fees paid to brokers and other third-party entities that may have referred you to Company for Services, minimum usage fees, base charges and other flat fees, fees and charges levied by Company or any other entity authorized to levy taxes, fees or charges for or related to the Services. This may include, but shall not be limited to, Utility taxes, gross receipts taxes, and sales or use taxes imposed on Company and/or you by federal, state, and/or local authorities that Company passes through to you.

“*Purchased Quantities*” means all the electricity or natural gas supply, or any combination of the two, that Company must purchase for your home or small business, as applicable.

“*Rate*” means Fixed Rate, Index Rate, or Variable Rate, as applicable.

“*Sales Points*” means: (i) for natural gas, a point or points located outside of the State of Ohio selected from time to time by Company to assure service reliability, and (ii) for the electricity, a point or points on the PJM administered transmission system located outside the municipal and county limits of your service address location, selected from time to time by Company to assure service reliability.

“*Service*” or “*Services*” means all the electricity or natural gas supply, or any combination of the two, that Company must purchase for your home or small business, as you have selected to be provided to you by Company in your Enrollment Documentation. Not all Services are available in all areas.

“*Small Commercial*” means (i) for electric Service, a customer that consumes less than seven hundred thousand kilowatt hours per year for nonresidential use and does not otherwise meet the definition of Mercantile Customer set forth in the Ohio Revised Code; and (ii) for natural gas Service, a customer that consumes less than five hundred thousand cubic feet of natural gas per year for nonresidential use and does not otherwise meet the definition of Mercantile Customer set forth in the Ohio Revised Code.

“*Usage Thresholds*” means if your usage of Services exceeds, for (i) electricity, peak demand greater than 75kW over any of the past twelve (12) months, or (ii) natural gas, usage exceeds 10,000 ccfs per month or 90,000 ccfs per year or the equivalent therms.

Attachment D

Environmental Disclosure Information – Annual Comparison

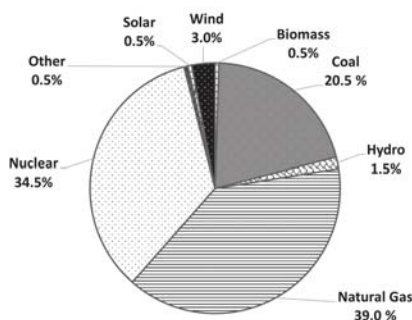
Public Power, LLC

Projected Data for the 2021 Calendar Year

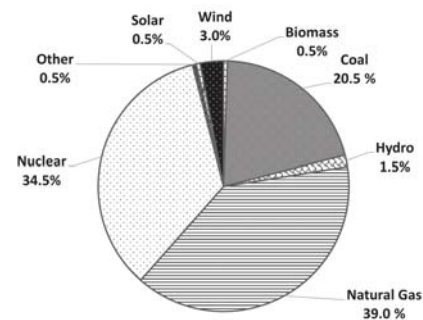
Generation Resource Mix -

A comparison between the sources of generation used to produce this product and the historic regional average supply mix.

Supplier's Product



Regional Product



Environmental Characteristics–

A description of the characteristics associated with each possible generation resource.

Biomass Power	Air Emissions and Solid Waste
Coal Power	Air Emissions and Solid Waste
Hydro Power	Wildlife Impacts
Natural Gas Power	Air Emissions and Solid Waste
Nuclear Power	Radioactive Waste
Oil Power	Air Emissions and Solid Waste
Other Sources	Unknown Impacts
Solar Power	No Significant Impacts
Unknown Purchased Resources	Unknown Impacts
Wind Power	Wildlife Impacts

Air Emissions –

A comparison between the air emissions related to this product and the regional average air emissions.



Radioactive Waste –

Radioactive waste associated with the product.

Type:	Quantity:	
High-Level Radioactive Waste	Unknown	Lbs./1,000 kWh
Low-Level Radioactive Waste	Unknown	Ft ³ /1,000 kWh

Public Power, LLC purchases Renewable Energy credits (RECs) as a means of complying with the renewable energy resource benchmark under the State of Ohio's alternative energy portfolio standard requirements. The requirement for 2021 is 5.5% renewable. The renewable energy sources associated with green electricity plans may include, but not be limited to, RECs from wind, solar, biomass, hydro, or other renewable energy sources. With in-depth analysis, the environmental characteristics of any form of electric generation will reveal benefits as well as costs. For further information, contact Public Power at www.ppandco.com or by phone at 888-354-4415.

CERTIFICATE OF SERVICE

The e-filing system of the Public Utilities Commission of Ohio will electronically serve notice of the filing of this document on the parties referenced in the service list of the docket card who have electronically subscribed to this case. In addition, the undersigned certifies that a copy of the foregoing document is also being served upon the persons listed below via electronic mail on March 24, 2021.

/s/ Madeline Fleisher
Madeline Fleisher

John.jones@ohioattorneygeneral.gov
Fdarr2019@gmail.com

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

3/24/2021 5:26:14 PM

in

Case No(s). 20-1195-EL-ORD

Summary: Comments - Initial Comments of Citizens' Utility Board of Ohio electronically filed by Ms. Madeline Fleisher on behalf of Citizens' Utility Board of Ohio