



Ohio Administrative Code

Rule 4901:1-21-05 Marketing, solicitation, and customer information.

Effective: December 1, 2014

(A) Each competitive retail electric service (CRES) provider that offers retail electric generation service to residential or small commercial customers shall provide, in marketing materials that include or accompany a service contract, sufficient information for customers to make intelligent cost comparisons against offers they receive from other CRES providers.

Offers shall at a minimum include:

(1) For fixed-rate offers, the cost per kilowatt hour for generation service and, if applicable, transmission service.

(2) For per cent-off discounted rates, an explanation of the discount and the basis on which any discount is calculated.

(3) For variable rate offers, a clear and understandable explanation of the factors that will cause the price to vary, including any related indices, and how often the price can change.

(4) For flat-monthly rate offers, a specific listing of the rate to be charged per month for the duration of the contract.

(5) The amount of any other recurring or nonrecurring CRES provider charges.

(6) A statement that the customer will incur additional service and delivery charges from the electric utility.

(7) A statement of any contract contingencies or conditions precedent.

(B) A CRES provider's promotional and advertising material that is targeted for residential and small commercial customers shall be provided to the commission or its staff within three business days of



a request by the commission or its staff.

(C) No CRES provider may engage in marketing, solicitation, or sales acts, or practices which are unfair, misleading, deceptive, or unconscionable in the marketing, solicitation, or sale of a CRES. Such unfair, misleading, deceptive, or unconscionable acts or practices include, but are not limited to, the following:

(1) Soliciting customers to enroll at either of the following times:

(a) After suspension, rescission, or conditional rescission of its certification by the commission.

(b) After denial of certification renewal by the commission.

(2) Failing to comply with paragraph (A) or (B) of this rule.

(3) Failing to provide in or with its advertisements and promotional materials that make an offer for sale, a toll-free telephone number (and address for printed materials) which the potential customer may call or write to request detailed information regarding the price, terms, conditions, limitations, restrictions, and, if applicable, environmental characteristics of the service offered.

(4) Soliciting via telephone calls initiated by the CRES provider (or its agent) without first taking both of the following actions:

(a) Obtaining the list of Ohio individuals who have requested to be placed on the federal trade commission's "do not call" registry by the appropriate area code.

(b) Obtaining monthly updates of the federal trade commission's "do not call" registry for the appropriate area code.

(5) Engaging in telephone solicitation of individuals who have been placed on the federal trade commission's "do not call" registry and who are not otherwise exempted.

(6) Engaging in telephone solicitation to residential customers either before nine a.m. or after nine



p.m.

(7) Engaging in direct solicitation to residential customers where the CRES provider's sales agent fails to wear and display a valid CRES provider photo identification. The format for this identification shall be preapproved by the staff.

(8) Advertising or marketing offers that:

(a) Claim that a specific price advantage, savings, or guarantee exists if it does not.

(b) Claim to provide a CRES when such an offer is not a bona fide offer to sell such services.

(c) Offer a fixed price for CRES without disclosing the cost per kilowatt hour and all recurring and nonrecurring charges.

(d) Offer a variable price for CRES without disclosing all recurring and nonrecurring charges.

(e) Fail to disclose all material limitations, exclusions, contract contingencies, conditions precedent and offer expiration dates.

(f) Offer a variable price for competitive retail electric service that is not based on verifiable factors.

(g) Fail to conspicuously disclose an affiliate relationship with an existing Ohio electric utility.

(h) Lead the customer to believe that the CRES provider is soliciting on behalf of or is an agent of an Ohio electric utility when no such relationship exists.

(9) Marketing, advertising, or claiming that the environmental characteristics of any generation service energy source(s) provide an environmental advantage that does not exist.

(10) Engaging in any solicitation that will lead the customer to believe that the CRES provider is soliciting on behalf of or is an agent of any entity other than the CRES provider.



(11) Engaging in direct solicitation to customers without complying with all applicable ordinances and laws of the customer's jurisdiction.

(D) CRES providers shall perform criminal background checks on all employees and agents engaged in door-to-door marketing and enrollment. The criminal background check shall be done by an independent contractor and the CRES provider shall confirm that the independent contractor has performed a comprehensive criminal background check on its employees or agents in accordance with this rule.

(E) In the absence of local ordinances or regulations and to ensure the safety of all involved, CRES providers, and their agents shall not conduct door-to-door marketing, solicitation, or enrollment outside the hours of nine a.m. to seven p.m.