



## Ohio Administrative Code

### Rule 4901:1-21-17 Opt-out disclosure requirements.

Effective: December 1, 2014

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(A) Prior to including a customer's electric account or accounts in an aggregation, a governmental aggregator shall provide each customer written notice that the customer's account(s) will be automatically included in the aggregation unless the customer affirmatively opts out of the aggregation. The notice, clearly marked from the outside "important notice regarding your electric service" written in plain language, shall, at a minimum, include:

(1) A summary of the actions that the governmental entity took to authorize the aggregation.

(2) A description of the services that the governmental aggregator will provide under the aggregation.

(3) Disclosure of the price that the governmental aggregator will charge customers for electric generation service. For fixed-rate contracts, the governmental aggregator shall provide the price per kilowatt hour, and if applicable, for generation and transmission service. If the governmental aggregator offers a variable rate, the governmental aggregator shall provide an understandable description of the factors that will cause the price to vary (including any associated indices) and disclose how frequently the rate will change. If the governmental aggregator charges different rates to different rate classes within the aggregation, the governmental aggregator shall disclose the applicable rate(s) to customers within each rate class.

(4) An itemized list and explanation of all fees and charges that are not incorporated into the rates charged for electricity generation that the governmental aggregator will charge to the customer for participating in the aggregation, including any early termination penalties and any surcharges, or portions thereof, that may be assessed pursuant to division (I) of section 4928.20 of the Revised Code. The early termination penalties shall not apply to a customer that moves out of the governmental aggregator's territory.

(5) Disclosure of the dates covered by the governmental aggregation program, including an



estimated service commencement date, and notice that the customer may opt out of the aggregation at least every three years without penalty.

(6) A statement informing customers that choose to opt out of the governmental aggregation program prior to the commencement of the governmental aggregation program that they will be served by the standard service offer established pursuant to section 4928.14 of the Revised Code or until the customer chooses an alternative supplier of electric service.

(7) A statement informing customers that, if they switch back to (name of electric utility), they may not be served under the same rates, terms, and conditions that apply to other customers served by the electric utility.

(8) If the governmental aggregator elects not to receive standby service from the electric utility under an approved electric security plan during the term of the governmental aggregation program pursuant to division (J) of section 4928.20 of the Revised Code, a statement informing customers that any customer returning to the electric utility after the commencement of the governmental aggregation program will pay the market price of power incurred by the electric utility to serve that consumer plus the amount attributable to the electric utility's compliance with the alternative energy resource provisions of section 4928.64 of the Revised Code, unless such customer becomes ineligible pursuant to paragraph (E)(1)(a) or (E)(1)(g) of this rule, or any customer who moves within the aggregation boundaries where the electric utility considers the customer that is moving to be a new customer.

(9) Disclosure of any credit and/or deposit policies and requirements.

(10) Disclosure of any limitations or conditions on customer acceptance into the aggregation.

(11) A description of the process and associated time period for customers to opt out of the aggregation. The process shall include provisions for customers to return a postcard or similar notice to the governmental aggregator or its agent. The process may include, in addition, other opt-out methods, such as telephonic or internet notice, provided that these alternative methods allow for verification of a customer's election to opt out of the aggregation. The time period for a customer to choose to opt out of the aggregation shall extend at least twenty-one days from the date of the



postmark on the written notice. If a customer's return postcard or notice is postmarked before the opt-out deadline has elapsed, the customer shall be deemed to have opted out of the aggregation.

(12) A local or toll-free telephone number, with the available calling hours, that customers may call with questions regarding the formation or operation of the aggregation.

(B) At least every three years from the establishment of its governmental aggregation program, a governmental aggregator shall provide notice to all customers served by the governmental aggregation of their right to opt out of the aggregation and take service pursuant to the electric utility's standard service offer without penalty. This notice shall follow the procedures established for the initial opt-out notice set forth in this rule and shall prominently disclose to customers all changes to the terms and conditions associated with the aggregation. The governmental aggregator shall not send an opt-out notice to the same customer account during the period covered by the aggregation where such customer account has previously opted out.

(C) No governmental aggregator or electric services company serving a governmental aggregation may impose any terms, conditions, fees, or charges on any customer served by a governmental aggregation unless the particular term, condition, fee, or charge was clearly disclosed to customers at the time the customer chose not to opt out of the aggregation.

(D) List of eligible governmental aggregation customers.

(1) To assist in the preparation and dissemination of required opt-out notices, a governmental aggregator that is certified by the commission shall request that an electric utility provide, for all customers residing within the governmental aggregator's boundaries, including those customers who have opted off the pre-enrollment list, the following information:

(a) An updated list of names, addresses, account numbers, rate codes, percentage of income payment plan codes, load data, and other related customer information, consistent with the information that is provided to other CRES providers.

(b) An identification of customers who are currently in contract with an electric services company or in a special arrangement with the electric utility.



(c) On a best efforts basis, an identification of mercantile customers.

(2) The governmental aggregator shall use the list of eligible aggregation customers to distribute its opt-out notices within thirty calendar days of the date the list is received from the electric utility.

(3) The governmental aggregator shall remove from its list of eligible aggregation customers the accounts of customers who appear on the commission's "do not aggregate" list sixty calendar days prior to the distribution of its opt-out notice.

(4) The governmental aggregator shall not, without the customer's consent or an appropriate order, disclose or use for any purpose, other than formation and operation of its aggregation, a customer's account number, social security number, or any information regarding customers who opted off of an electric utility's pre-enrollment list. Before a governmental aggregator releases any customer account number, service delivery identification number, or any information related to a customer who has opted off of an electric utility's pre-enrollment list for any purpose other than those specified in this rule, unless the release is pursuant to a court or commission order, the governmental aggregator shall obtain the customer's written consent or electronic authorization. Before a governmental aggregator releases a customer's social security number for any purpose other than those specified in this rule, unless the release is pursuant to a court order, the governmental aggregator shall obtain the signature of the customer on a written release. The release shall be on a separate form. The release shall be clearly identified on its face as a release of personal information and all text appearing on the release shall be in at least sixteen-point type. The following statement shall appear prominently on the release, just prior to the signature, in type darker and larger than the type in surrounding sentences: "I realize that under the rules and regulations of the public utilities commission of Ohio, I may refuse to allow (name of aggregator) to release the information set forth above. By my signature, I freely give (name of aggregator) permission to release the information designated above." The information that the governmental aggregator seeks to release shall be specified on the form. Forms requiring a customer to circle or to check off preprinted types of information to be released may not be used.

(E) Notice of governmental aggregation and opt-out notice.

(1) Each governmental aggregator shall ensure that only eligible customers are included in its



aggregation. For purposes of this rule, the following customers are not eligible and shall not be included in an aggregation:

- (a) A customer that is not located within the governmental aggregator's boundaries.
  - (b) A customer who appears on the commission's "do not aggregate" list.
  - (c) A customer that has opted out of the aggregation.
  - (d) A customer in contract with a certified electric services company other than the current supplier of the governmental aggregation.
  - (e) A customer that has a special arrangement with the electric utility.
  - (f) A mercantile customer that has not provided affirmative consent to join the aggregation.
  - (g) A customer who enrolls in the percentage of income payment plan pursuant to section 4928.52 of the Revised Code.
- (2) If accounts of customers who appear on the commission's "do not aggregate" list, accounts from outside the governmental aggregator's governmental boundaries, accounts of customers who have opted out of the aggregation, accounts of customers in contract with an electric services company, accounts of customers with a special arrangement under Chapter 4901:1-38 of the Administrative Code, or accounts of mercantile customers who did not opt into the governmental aggregation are switched to the governmental aggregation, the governmental aggregator shall promptly inform the customer and take all necessary actions to have the customer switched back to the customer's former service provider. In addition, if the customer's former rate was less than the rate charged by the governmental aggregator, then the governmental aggregator shall reimburse the customer the difference between the customer's former rate and the governmental aggregator's rate multiplied by the customer's usage during the time that the customer was served by the governmental aggregator.
- (3) If a customer is enrolled in a governmental aggregation program at the time the customer first appears on the "do not aggregate" list, the governmental aggregator shall remove the customer from



the governmental aggregation program at the next opt-out opportunity that is available to the customer under section 4928.20 of the Revised Code.

(4) If a mercantile customer was enrolled in an opt-out governmental aggregation program that the mercantile customer subsequently became ineligible for, the governmental aggregator shall remove the mercantile customer from the governmental aggregation program at the next opt-out opportunity that is available to the customer under section 4928.20 of the Revised Code unless that mercantile customer affirmatively consents to remain in the governmental aggregation program.

(F) The governmental aggregator shall docket with the commission's docketing division the final opt-out and any supplemental opt-outs no more than thirty days but no less than ten days prior to sending the opt-outs to customers. The notice to the commission shall include the beginning and ending dates of the twenty-one day opt-out period and the identification of the selected CRES provider.

(G) Upon its election for its customers to not receive standby service from the electric utility pursuant to the electric utility's approved electric security plan for those customers who return to the electric utility during the governmental aggregation program, a governmental aggregator shall file written notice with the commission and the electric utility. Such notice shall explain the process that the governmental aggregator will use to notify customers, including a description of the potential impact on customers in the aggregation program.