



## Ohio Administrative Code Rule 4901:1-21-11 Contract administration.

Effective: December 1, 2014

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(A) Competitive retail electric service (CRES) providers, except automatic governmental aggregation pursuant to division (A) of section 4928.20 of the Revised Code, and percentage of income payment plan customers for whom the Ohio development services agency procures electric services pursuant to section 4928.52 of the Revised Code, shall arrange for the provision of competitive retail electric service by contracting with their customers. In their administration of such contracts, CRES providers are prohibited from engaging in unfair, deceptive, misleading, and unconscionable acts and practices.

(B) CRES providers shall arrange for the provision of CRES to residential and small commercial customers in compliance with rule 4901:1-21-06 of the Administrative Code.

(C) CRES providers shall maintain copies of individual customer contracts for no less than two years after each such contract terminates. Copies may be saved in electronic formats if such preserves the image of the original signatures on signed documents.

(D) In its administration of residential and small commercial contracts, a CRES provider shall also comply with the following requirements:

(1) A CRES provider shall not assign customer contract(s) to another CRES provider without:

(a) Providing a minimum of fourteen calendar days written notice to the director of the service monitoring and enforcement department or the director's designee and any affected electric utility before the contract assignment. Such notice shall include:

(i) The name of the CRES provider to whom the contracts will be assigned.

(ii) The type of contracts to be assigned (i.e., residential, small commercial).



(iii) The number of contracts to be assigned.

(iv) The electric utility service territories involved.

(v) The date of the proposed assignment.

(vi) A copy of the customer notification.

(b) Providing written notice to the customer prior to the customer's next bill that includes a statement that following the assignment the customer's service will continue under the same rates, terms, and conditions established under the original contract and includes the new CRES provider's name, toll-free number, and address.

(2) When assigned a contract previously administered by another CRES provider, the CRES provider to whom the contract is assigned shall comply with all terms and conditions in effect for the contract before the assignment occurred.

(3) A CRES provider shall comply in a timely manner with all valid notices from customers to cancel or terminate the contract as provided for by the contract and by these rules.

(4) A CRES provider shall assign a number to each version of its standard contract form (including changes in contract price), retain such forms for no less than two years, and provide copies to staff within three business days of request.

(E) Residential and small commercial customers shall have the right to rescind their contracts, within seven calendar days following the postmark date on the electric utility's confirmation notice:

(1) By calling the electric utility at the designated local or toll-free number

(2) By written notice to the electric utility, which is effective as of the date of the postmark.

(F) Contract renewals



(1) The provisions of this paragraph apply to residential and small commercial contracts that contain automatic renewal clauses except those which renew on a month-to-month basis.

(2) For contracts that contain an early termination or cancellation option with no fee for early termination or cancellation, upon renewal, the CRES provider shall, in a separate notice, notify customers of such expiration at least forty-five calendar days, but not more than ninety calendar days, in advance of the contract expiration date. Such notice shall accurately describe or highlight any changes and state that the customer contract will renew at the specified rate unless the customer affirmatively cancels the contract. Such notices must clearly and accurately describe the manner in which the customer may cancel the contract and the time during which the customer must act to cancel the contract.

(a) The notice shall be made by separate mailing (envelope or postcard), the front cover of which shall state: "Important notice regarding your electric service contract."

(b) The notice shall, at a minimum, state any renewal period and how the customer may terminate, renew, and/or extend the contract.

(c) The renewal period for contracts with renewal provisions shall not exceed the initial contract period.

(3) For contract renewals that contain an early termination or cancellation option with a fee of twenty-five dollars or less for early termination or cancellation, upon renewal, the CRES provider shall provide the customer with two separate notices that accurately describe or highlight any changes and state that the customer contract will renew at the specified rate unless the customer affirmatively cancels the contract. Such notices must clearly and accurately describe in understandable language the manner in which the customer may cancel the contract and the time during which the customer must act to cancel the contract. The first notice shall be in writing in accordance with the requirements of this rule and shall be provided at least forty-five calendar days, but no more than ninety calendar days in advance of the contract expiration date. The second notice may be in writing in accordance with paragraphs (F)(2)(a) to (F)(2)(c) of this rule, by telephone, by a notice on the customer's monthly bill, or by electronic mail. The second notice shall be provided at least thirty-five calendar days in advance of the contract expiration and must contain the rate at



which the customer contract will renew, or in the case of a variable rate, the applicable formula.

(a) In the event that the CRES provider provides the second notice by telephone, the CRES provider or opt-in governmental aggregator must confirm that the customer of record is on the line, clearly explain both the new contract price and the manner in which the customer may cancel the contract, record the entire conversation, and retain such recording in a manner consistent with rule 4901:1-21-06 of the Administrative Code.

(b) In the event that the CRES provider provides the second notice on the customer's monthly bill, such notice must be in a different color, highlighted, or otherwise differentiated from the remainder of the bill.

(c) In the event that the CRES provider provides the second notice by electronic mail, the notice must:

(i) State "Important notice regarding your electric service contract" in the subject area of the message.

(ii) Be from an electronic mail address that is readily identifiable as the CRES provider.

(iii) Includes a mechanism by which both the submission and receipt of the renewal notice is recorded by date and time.

(d) This paragraph shall not apply to contract renewals which renew on a month-to-month basis.

(4) For contract renewals that contain an early termination or cancellation option with a fee greater than twenty-five dollars for early termination or cancellation or which contain no option for early termination or cancellation, upon renewal, the CRES provider shall notify the customer of any changes, describe or highlight each change, and also obtain the customer's affirmative consent to such changes pursuant to any of the enrollment procedures established in rule 4901:1-21-06 of the Administrative Code. In addition, the CRES provider shall notify the customer that no response will result in the customer automatically reverting to the electric utility unless the customer chooses another CRES provider. The notice shall be provided at least forty-five calendar days, but not more



than ninety calendar days in advance of the contract expiration date, and comply with paragraphs (F)(2)(a) to (F)(2)(c) of this rule. This paragraph shall not apply to contract renewals which renew on a month-to-month basis.

(G) The CRES provider shall furnish written notice to residential and small commercial customers of pending contract expiration between forty-five and ninety calendar days before the contract expires. Such notice shall be made by separate mailing (envelope or postcard), or by conspicuously placed bill message or bill insert. The front cover of such mailing shall contain the following statement: "Important notice regarding your electric service contract's expiration." This notice may be combined with a renewal notice specified in paragraph (F) of this rule. This paragraph does not apply to the expiration of contract periods of one month or less.

If the contract does not contain an automatic renewal clause, the notice shall include a statement that the customer will automatically default to the electric utility's standard offer service if the customer does not re-enroll with the current CRES provider or enroll with another CRES provider.

(H) In instances where the customer and the CRES provider agree to a material change to an existing contract, the CRES provider shall obtain proof of consent and provide details of the revised contract terms and conditions as delineated in paragraph (D) of rule 4901:1-21-06 of the Administrative Code.

(I) No CRES provider contract shall limit a residential or small commercial customer's right to make formal or informal complaints to the commission. A CRES provider shall not require a residential or small commercial customer as part of the terms of service to engage in alternative dispute resolution.