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December 15, 2006

By Messenger Delivery

Ms. Renee J. Jenkins
Director of Administration
Secretary of the Public Utilities Commission of Ohio
180 East Broad Street
Columbus, Ohio 43215

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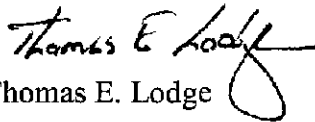
Re: In the Matter of the Review of Chapters 4901:5-17, 4901:5-19, 4901:5-21, 4901:5-23, 4901:5-25, 4901:5-29, 4901:5-33, 4901:5-35, and 4901:5-37 of the Ohio Administrative Code, Public Utilities Commission of Ohio, Case No. 06-1201-AU-ORD

Dear Ms. Jenkins:

Enclosed are an original and ten (10) copies of the Initial Comments of Ohio Rural Electric Cooperatives, Inc. and Buckeye Power, Inc., to be filed in connection with the above-referenced matters.

Thank you for your assistance. If you have any question, please feel free to call.

Very truly yours,



Thomas E. Lodge

cc: Jeanne W. Kingery, Attorney Examiner
Kurt P. Helfrich, Esq.
William R. Case, Esq.
Carolyn S. Flahive, Esq.
Ann B. Zallocco, Esq.

Enclosures

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BEFORE

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THE PUBLIC UTILITIES COMMISSION OF OHIO

2006 DEC 15 AM 10:45

In the Matter of the Review of Chapters 4901:5-)
17, 4901:5-19, 4901:5-21, 4901:5-23, 4901:5-25,)
4901:5-29, 4901:5-33, 4901:5-35, and 4901:5-37) Case No. 06-1201-AU-ORD
of the Ohio Administrative Code)
)

PUCO

INITIAL JOINT COMMENTS OF
OHIO RURAL ELECTRIC COOPERATIVES, INC.
AND BUCKEYE POWER, INC.

OHIO RURAL ELECTRIC COOPERATIVES, INC. ("OREC") and BUCKEYE POWER, INC. ("Buckeye") (together with their respective members, the "Cooperatives") hereby submit their Comments on the Commission's proposed new and revised energy emergency regulations, in accordance with the Commission's Entry of October 11, 2006 (the "Entry").

BACKGROUND

OREC is an Ohio nonprofit corporation and the statewide trade association for the electric distribution cooperatives providing retail electric service to approximately 380,000 member/consumers in 77 out of Ohio's 88 counties.¹ These retail consumers are primarily residential and small commercial loads located in rural areas in the State of Ohio. The load of these electric distribution cooperatives represents approximately 5% of the electric load in the State of Ohio. The largest retail load of any Cooperative is only 55 MW.

Buckeye is an Ohio nonprofit corporation and the provider of wholesale electric power and energy and transmission services to the 25 electric distribution cooperatives providing retail electric

¹ The 24 members of OREC are Adams Rural Electric Cooperative, Inc., Buckeye Rural Electric Cooperative, Inc., Butler Rural Electric Cooperative, Inc., Carroll Electric Cooperative, Inc., Consolidated Electric Cooperative, Inc., Darke Rural Electric Cooperative, Inc., Firelands Electric Cooperative, Inc., The Frontier Power Company, Guernsey-Muskingum Electric Cooperative, Inc., Hancock-Wood Electric Cooperative, Inc., Holmes-Wayne Electric Cooperative, Inc., Licking Rural Electrification, Inc. d/b/a The Energy Cooperative, Logan County Cooperative Power and Light Association, Inc., Lorain-Medina Rural Electric Cooperative, Inc., Mid-Ohio Energy Cooperative, Inc., Midwest Electric, Inc., North Central Electric Cooperative, Inc., North Western Electric Cooperative, Inc., Paulding-Putnam Electric Cooperative, Inc., Pioneer Rural Electric Cooperative, Inc., South Central Power Company, Tricounty Rural Electric Cooperative, Inc., Union Rural Electric Cooperative, Inc., and Washington Electric Cooperative, Inc.

service in Ohio.² Buckeye and its members operate their electric utilities on a non-profit cooperative basis for the mutual benefit of the their member/consumers.

Buckeye owns two out of three units at the Cardinal Station, a base-load, coal-fired electric generating station located near Brilliant, Ohio, along the Ohio River. Ohio Power Company owns the other unit at the Cardinal Station. An affiliate of Buckeye owns the Robert P. Mone Plant, a natural gas-fired, peaking electric generating station located near Convoy, Ohio. Pursuant to a power purchase agreement, Buckeye has the rights to its affiliate's rights to the output of the Robert P. Mone Plant. An affiliate of Buckeye also owns 9% of the capital stock of the Ohio Valley Electric Corporation (OVEC) and has corresponding contractual rights to the electric generating capacity and energy of OVEC's electric generating plants, one of which, the Kyger Creek Plant, is located near Cheshire, Ohio. Pursuant to a power purchase agreement, Buckeye is entitled to all of its affiliate's entitlement to the output of OVEC.

Neither Buckeye nor its affiliates directly operates any of their plants, and they all contract with others for operation and maintenance services.

Buckeye owns no transmission facilities and is entirely dependent on the transmission systems of others -- the transmission facilities of investor-owned electric utilities in Ohio -- for transmission service.

INTRODUCTION

Attached to the Entry are proposed new and revised regulations (the "Staff Proposal") governing fuel emergencies related to the generation of electricity (4901:5-19) and emergency reporting (4901:5-37), among other situations and emergency obligations. As discussed in more detail below, the Staff Proposal would directly affect Buckeye and its and OREC's members both during declared energy emergencies and at times prior to declared energy emergencies. Buckeye

² The 25 members of Buckeye include the 24 members of OREC and Midwest Energy Cooperative.

and OREC have a particular interest in the Staff Proposal because, even though Buckeye and the Cooperatives are not statutory “public utilities,” the Staff Proposal purports to extend the Commission’s jurisdiction over Buckeye and the Cooperatives to circumstances well beyond the Commission’s limited statutory jurisdiction. Following their discussion below, OREC and Buckeye will address the specific rules with which they take issue. For convenience, OREC and Buckeye have attached a markup of the Staff Proposal, designated “OREC/Buckeye Power Exhibit 1.”

DISCUSSION

The Staff Proposal is both unfounded as a matter of law and unwise as a matter of policy. As a result, the proposed rules should be revised.

a. Legal Principles

The Staff Proposal, in many instances, exceeds the Commission’s statutory authority over the Cooperatives. It is well settled that the Commission, “as a creature of statute, has and can exercise only the authority conferred upon it by the General Assembly.”³ Under Rev. Code §§4905.02, 4905.04, 4905.05 and 4905.06, the Commission has no general jurisdiction over the Cooperatives. Rev. Code §4905.04 vests the Commission with power and jurisdiction to supervise and regulate “public utilities.” The definition of “public utilities” set forth in Rev. Code §4905.02, however, explicitly exempts from Commission jurisdiction electric light companies that operate their utilities not-for-profit. Rev. Code §4905.05, which sets forth the scope of the Commission’s jurisdiction, provides that nothing in that section or section 4905.06 (General Supervision) applies to public utilities that are excepted from the definition of “public utility” under section 4905.02(A) of the Revised Code. Therefore, the Commission’s jurisdiction over the Cooperatives, which are electric light companies that operate their utilities not-for-profit, is limited to other express statutory grants of authority.

³ *Tongren v. Pub. Util. Comm.* (1999), 85 Ohio St.3d 87, 88.

The Commission has only limited and specified authority to regulate the Cooperatives, for example pursuant to (a) Rev. Code §4935.03, which allows the Commission to adopt, amend and rescind rules pertaining to declared energy emergencies, (b) Rev. Code Chapter 4928, to the extent that electric cooperatives provide competitive retail electric service, which none of the Cooperatives presently do,⁴ and (c) Rev. Code §§4933.81-4933.89 (the Certified Territories Act). The Staff Proposal exceeds this limited jurisdiction by requiring that Cooperatives comply with rules that pertain in situations other than declared energy emergencies. Such an extension of the Commission's jurisdiction is unlawful and can not withstand scrutiny.

OREC and Buckeye submit that the Staff Proposal should be modified consistent with the OREC/Buckeye Power Exhibit 1 attached hereto.

b. Comments on Specific Rules

The Staff Proposal reflects modifications to a number of chapters within the Ohio Administrative Code. However, it is only chapters 4901:5-19 and 4901:5-37 that include revisions to rules or new rules that unlawfully apply to the Cooperatives. OREC and Buckeye will discuss each such rule individually below.

4901:5-19

The only definition of "Electric Cooperative" provided in Ohio Adm. Code 4901:5-19-01, as set forth in the Staff Proposal, appears within the definition of "Electric Provider." The OREC/Buckeye Power Exhibit 1 adds a separate definition for "Electric Cooperative" (consistent with the definition found in Rev. Code §4928.01(A)) and, therefore, deletes the same such reference from the definition of "Electric Provider" in 4901:5-19-01.

Ohio Adm. Code 4901:5-19-02 establishes general provisions intended, according to subsection (A) of this rule in the Staff Proposal, to "provide the governor with the means of

⁴ None of the Cooperatives has, to date, made the irrevocable filing to "opt-in" to competition set forth in Rev. Code §4933.81(F).

managing, on a statewide basis, a continuing fuel shortage.” These general provisions cannot extend to the Cooperatives outside of a declared energy emergency, yet the Staff Proposal imposes burdens and obligations on Cooperatives that are beyond the Commission’s jurisdiction (see the reporting requirements of subsections (E), (F), (G), and (H) of 4901:5-19-02 as proposed by Commission Staff). The OREC/Buckeye Power Exhibit 1 properly excludes the Cooperatives from the obligations that are not associated with a declared energy emergency.

Ohio Adm. Code 4901:5-19-03 is modified under the Staff Proposal to allow 4901:5-19-02, 4901:5-19-04, and pertinent definitions in 4901:5-19-01, to be implemented and enforced without the governor declaring an energy emergency and without designation of the affected rules. The OREC/Buckeye Power Exhibit 1 clarifies that such expansion of the power to enforce and penalize outside of declared energy emergencies cannot apply to Cooperatives.

Ohio Adm. Code 4901:5-19-04 as set forth in the Staff Proposal clearly cannot apply to the Cooperatives. This rule establishes actions that the Commission may order to be taken “prior to an energy emergency” (emphasis added; see 4901:5-19-04(A)). The OREC/Buckeye Power Exhibit 1 properly modifies the proposed rule to exclude application to the Cooperatives.

4901:5-37

As with 4901:5-19-01, Ohio Adm. Code 4901:5-37-01, as set forth in the Staff Proposal, fails to include a definition of “Electric Cooperative.” Again, the OREC/Buckeye Power Exhibit 1 includes a definition within this rule that is consistent with the definition found in Rev. Code §4928.01(A).

Ohio Adm. Code Sections 4901:5-37-02, 4901:5-37-03, 4901:5-37-04, and 4901:5-37-05 set forth provisions that extend obligations to the Cooperatives outside the context of a declared energy emergency. OREC and Buckeye note that the definition of “emergency” set forth in Ohio Adm. Code 4901:5-37-01 extends to situations that are not declared energy emergencies, which is in

direct contrast with the definition of “energy emergency” in Ohio Adm. Code 4901:5-19-01, which clearly applies only in cases of declared energy emergencies.

Since the Commission exceeds its jurisdiction over the Cooperatives in Chapter 4901:5-37, the OREC/Buckeye Power Exhibit 1 revises the Staff Proposal to exclude the Cooperatives from Ohio Adm. Code Chapter 4901:5-37 during times other than declared energy emergencies (see new subsection (C) of 4901:5-37-02).

OREC has not specifically modified Ohio Adm. Code Sections 4901:5-37-03, 4901:5-37-04, or 4901:5-37-05 in the Staff Proposal because, pursuant to 4901:5-37-02 as modified in the OREC/Buckeye Power Exhibit 1, none of the rules in chapter 4901:5-37 apply to the Cooperatives unless an energy emergency has been declared.

c. Policy Considerations

The Cooperatives are organized and operate on a not-for-profit, cooperative basis whereby their member/consumers (and their duly elected Boards of Trustees), in fact, own, control and regulate the Cooperatives. The duly elected Boards of Trustees of the Cooperatives control all aspects of the Cooperatives’ operations, including the procedures for restoration of service, and the handling of emergencies. Their first priority, at all times, is meeting the electric service needs of their member/consumers. There is no divorce between the needs of the consumers of the Cooperatives and the requirements of investors/owners because the consumers and the owners are one and the same.

The Cooperatives are small, generally rural companies that, collectively, provide less than 5% of the electric load in Ohio. Furthermore, the Cooperatives generally do not serve large industrial electric loads. As mentioned above, the largest single retail electric load of any member of Buckeye is only 55 MW. Therefore, any regulation of the Cooperatives in non-emergency, pre-emergency or emergency situations is likely to have only a negligible effect on load curtailment.

Furthermore, the Cooperatives do not own transmission facilities. Therefore, any emergency situations caused by problems with the transmission grid can not be remedied by any non-emergency, pre-emergency or emergency actions that the Cooperatives could take.

In addition, all of the Cooperatives' electric generation facilities are operated and maintained by third parties as integrated parts of investor-owned electric utility systems, and they are all located in PJM Interconnection, LLC, and are dispatched pursuant to instructions from PJM. Any regulation of Buckeye or the Cooperatives would, therefore, have very little effect on generation resources in non-emergency, pre-emergency or emergency situations.

Finally, despite the lack of Commission jurisdiction over the Cooperatives in non-declared energy emergencies, the Cooperatives have cooperated with the Commission when requested to do so by the Commission, and the Cooperatives will certainly continue to do so. During ice storms in recent years, the Cooperatives cooperated with the Commission during restoration efforts and informed the Commission of restoration progress. Of course, the Cooperatives will continue to do so during non-declared energy emergencies even without Commission jurisdiction over the Cooperatives.

Any attempt by the Commission to regulate the Cooperatives before the declaration of an energy emergency is not only unlawful because doing so would exceed the Commission's jurisdiction, but it would also not be in the best interests of the Cooperatives' member/consumers. The Cooperatives would be burdened economically if the Commission were to impose reporting and other compliance obligations on the Cooperatives in non-emergency or pre-emergency situations. Such requirements would inject unnecessary expense and burden into the operations of the Cooperatives' businesses. With limited personnel and budgets, the Cooperatives must remain focused on providing the high quality service that the Cooperatives' member/consumers are accustomed to receiving. The Cooperatives simply do not have the same resources as investor-

owned electric utilities to comply with the many non-emergency and pre-emergency regulations and obligations set forth in the Staff Proposal.

Of course, the Cooperatives are bound by and will comply with the Commission's regulations applicable during declared energy emergencies and properly promulgated under Revised Code Section 4935.03, as such regulations are set forth in Ohio Adm. Code §§4901:5-17-02 and 4901:5-19-05.

CONCLUSION

For the foregoing reasons, Ohio Rural Electric Cooperatives, Inc. and Buckeye Power, Inc. urge the Commission to adopt the rules proposed as OREC/Buckeye Power Exhibit 1 attached hereto.

Respectfully submitted,

OHIO RURAL ELECTRIC COOPERATIVES, INC.
and BUCKEYE POWER, INC.

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OREC/BUCKEYE POWER EXHIBIT 1

4901:5-17-02 Governor's emergency powers.

For any type or level of energy emergency declared under the provisions of section 4935.03 of the Revised Code, the governor shall have the power to take any of the following actions:

- (A) Restrict the energy consumption of state and local government offices and industrial and commercial establishments.
- (B) Restrict or curtail public or private transportation, or require or encourage the use of car pools or mass transit systems.
- (C) Order any electric light, natural gas or gas, or pipeline company; any supplier subject to certification under section 4928.08 of the Revised Code or section 4929.20 of the Revised Code; electric power or gas utility that is owned by a municipal corporation or not-for-profit; coal producer or supplier; electric power producer or marketer; or petroleum fuel producer, refiner, wholesale distributor, or retail dealer to sell electricity, gas, coal, or petroleum fuel in order to alleviate hardship or, if possible, to acquire or produce emergency supplies to meet emergency needs.
- (D) Order other energy conservation or emergency energy production or distribution measures to be taken in order to alleviate hardship
- (E) Mobilize emergency management, national guard, law enforcement, or emergency medical services.

4901:5-19-01 Definitions.

- (A) "COMMISSION" MEANS THE PUBLIC UTILITIES COMMISSION OF OHIO.
- (B) "CONSUMER" MEANS A PERSON WHO CONSUMES ELECTRIC ENERGY.
- (C) "ELECTRIC COOPERATIVE" HAS THE MEANING SET FORTH IN DIVISION (A)(5) OF SECTION 4928.01 OF THE REVISED CODE.
- (D) ~~(C)~~ "ELECTRIC POWER PRODUCER" MEANS, FOR PURPOSES OF THIS CHAPTER, A PERSON, MUNICIPALITY, OR GOVERNMENTAL OR POLITICAL SUBDIVISION, LOCATED IN THIS STATE AND ENGAGED IN THE BUSINESS OF GENERATING ELECTRICITY FOR LIGHTING, HEAT, OR POWER PURPOSES.
- (DE) "ELECTRIC POWER PRODUCER NORMAL BURN DAYS" MEANS THE NUMBER OF DAYS THAT EACH ELECTRIC POWER PRODUCER CAN MAINTAIN ITS THERMAL OUTPUT, THROUGH THE GENERATION OF ELECTRICITY AND/OR THROUGH THE PURCHASE OF ELECTRICITY UNDER EXISTING CONTRACTS, SUCH THAT IT CAN SERVE ITS ESTIMATED NORMAL LOAD PLUS FIRM SALES.
- (EF) "ELECTRIC PROVIDER" MEANS, FOR PURPOSES OF THIS CHAPTER, ANY:
 - (1) ELECTRIC DISTRIBUTION UTILITY, AS DEFINED IN DIVISION (A) OF SECTION 4928.01 OF THE REVISED CODE.
 - (2) MUNICIPAL ELECTRIC UTILITY, AS DEFINED IN DIVISION (A) OF SECTION 4928.01 OF THE REVISED CODE.
 - (3) ELECTRIC COOPERATIVE, ~~AS DEFINED IN DIVISION (A) OF SECTION 4928.01 OF THE REVISED CODE.~~
 - (4) ELECTRIC SERVICES COMPANY, AS DEFINED IN DIVISION (A) OF SECTION 4928.01 OF THE REVISED CODE, THAT IS SUBJECT TO CERTIFICATION UNDER SECTION 4928.08 OF THE REVISED CODE.
- (FG) "ENERGY EMERGENCY" MEANS :
 - (1) THE GOVERNOR HAS FILED A WRITTEN DECLARATION OF AN ENERGY EMERGENCY PURSUANT TO SECTION 4935.03 OF THE REVISED CODE, HAVING FOUND THAT THE HEALTH, SAFETY, OR WELFARE OF THE RESIDENTS OF THIS STATE OR OF ONE OR MORE COUNTIES OF THIS STATE IS SO IMMINENTLY AND SUBSTANTIALLY THREATENED BY AN ENERGY SHORTAGE WITH REGARD TO THE SUPPLY OF FUEL FOR ELECTRIC POWER GENERATION THAT IMMEDIATE ACTION OF STATE GOVERNMENT IS NECESSARY TO PREVENT LOSS OF LIFE,

PROTECT THE PUBLIC HEALTH OR SAFETY, AND PREVENT UNNECESSARY OR AVOIDABLE DAMAGE TO PROPERTY.

(2) SUCH WRITTEN DECLARATION IS IN EFFECT AND HAS NOT BEEN TERMINATED.

(GH) "NONPRIORITY USE" MEANS ALL USE OF ELECTRICITY OTHER THAN PRIORITY USE.

(HI) "NORMAL USAGE" MEANS ELECTRIC ENERGY CONSUMPTION DURING THE COMPARABLE PERIOD DURING THE PREVIOUS YEAR, ADJUSTED FOR WEATHER OR OTHER MAJOR CHANGES IN USAGE.

(IJ) "PERSON" MEANS AN INDIVIDUAL, CORPORATION, BUSINESS TRUST, ESTATE, TRUST, PARTNERSHIP, STATE OR FEDERAL AGENCY, OR ASSOCIATION.

(JK) "PRIORITY USE" MEANS THE AMOUNT OF ELECTRIC ENERGY NECESSARY FOR PROTECTION OF THE PUBLIC'S HEALTH AND SAFETY, AND FOR THE PREVENTION OF UNNECESSARY OR AVOIDABLE DAMAGE TO:

- (1) RESIDENCES (INCLUDING, BUT NOT LIMITED TO, HOMES, APARTMENTS, NURSING HOMES, INSTITUTIONS, AND FACILITIES FOR PERMANENT RESIDENTS OR TRANSIENTS).
- (2) HOSPITALS.
- (3) MEDICAL AND HUMAN LIFE-SUPPORT SYSTEMS AND FACILITIES.
- (4) ELECTRIC POWER GENERATING FACILITIES AND CENTRAL HEATING PLANTS SERVING THE PUBLIC.
- (5) TELEPHONE, RADIO, TELEVISION, AND NEWSPAPER FACILITIES.
- (6) LOCAL AND SUBURBAN TRANSIT SYSTEMS AND AIR TERMINAL FACILITIES.
- (7) POLICE, FIREFIGHTING, EMERGENCY MANAGEMENT AND RESPONSE FACILITIES, MILITARY BASES, FEDERAL FACILITIES ESSENTIAL TO NATIONAL DEFENSE, AND OHIO NATIONAL GUARD FACILITIES.
- (8) WATER SUPPLY AND PUMPING FACILITIES.
- (9) SANITARY SERVICE FACILITIES FOR COLLECTION, TREATMENT, OR DISPOSAL OF COMMUNITY SEWAGE.

- (10) PRODUCTION FACILITIES FOR NATURAL GAS, ARTIFICIAL OR SYNTHETIC GAS, PROPANE, AND PETROLEUM FUEL, AND FOR FUEL REFINERIES (INCLUDING ETHANOL AND OTHER FUEL PRODUCTS).
 - (11) PIPELINE TRANSMISSION AND DISTRIBUTION FACILITIES FOR NATURAL GAS, ARTIFICIAL OR SYNTHETIC GAS, PROPANE, AND PETROLEUM FUELS.
 - (12) COAL MINES AND RELATED FACILITIES.
 - (13) PRODUCTION, PROCESSING, DISTRIBUTION, AND STORAGE FACILITIES FOR PERISHABLE MEDICINES AND MEDICAL SUPPLIES, DAIRY PRODUCTS, MEAT, FISH, POULTRY, EGGS, PRODUCE, GRAIN, BREADS, AND LIVESTOCK AND POULTRY FEED.
 - (14) BUILDINGS AND FACILITIES, LIMITED TO PROTECTING THE PHYSICAL PLANT AND STRUCTURE, APPURTENANCES, EQUIPMENT, PRODUCT INVENTORIES, RAW MATERIALS, LIVESTOCK, AND OTHER PERSONAL OR REAL PROPERTY.
 - (15) SUCH OTHER SIMILAR FACILITIES AS MAY BE DETERMINED BY THE COMMISSION TO BE A PRIORITY USE.
- (KL) "STATEWIDE NORMAL BURN DAYS" MEANS THE NUMBER OF DAYS THAT ALL ELECTRIC POWER PRODUCERS IN THE STATE CAN MAINTAIN THEIR THERMAL OUTPUT, THROUGH THE GENERATION OF ELECTRICITY AND/OR THROUGH THE PURCHASE OF ELECTRICITY UNDER EXISTING CONTRACTS, SUCH THAT THEY CAN SERVE THEIR ESTIMATED NORMAL OHIO LOAD PLUS FIRM SALES. STATEWIDE NORMAL BURN DAYS SHALL BE CALCULATED AS A WEIGHTED AVERAGE OF ELECTRIC POWER PRODUCER BURN DAY DATA.

4901:5-19-02 GENERAL PROVISIONS.

- (A) THE REQUIREMENTS OF THIS CHAPTER ARE INTENDED TO PROVIDE THE GOVERNOR WITH THE MEANS OF MANAGING, ON A STATEWIDE BASIS, A CONTINUING FUEL SHORTAGE. THESE REQUIREMENTS ARE KEYED TO REMAINING DAYS' SUPPLY OF FUEL FOR ELECTRIC GENERATION. IT IS EXPECTED THAT ELECTRIC PROVIDERS AND ELECTRIC POWER PRODUCERS WILL TAKE ALL PRUDENT MEASURES PRIOR TO REACHING MANDATORY ACTION LEVELS UNDER RULE 4901:5-19-05 OF THE ADMINISTRATIVE CODE. ONCE THE MANDATORY STAGES OF ACTION ARE INVOKED UNDER RULE 4901:5-19-05 OF THE ADMINISTRATIVE CODE, ELECTRIC PROVIDERS AND ELECTRIC POWER PRODUCERS ARE REQUIRED TO INITIATE AND TO CONTINUE IMPLEMENTATION OF REQUISITE ACTIONS UNTIL DIRECTED TO DO OTHERWISE. THE REQUIREMENTS OF THIS RULE 4901:5-19-02 APPLY TO ELECTRIC COOPERATIVES ONLY DURING DECLARED ENERGY EMERGENCIES.

- (B) THE INSTITUTIONAL AND REGULATORY RELATIONSHIP BETWEEN JURISDICTIONAL UTILITIES AND THE PUBLIC UTILITIES COMMISSION OF OHIO REMAINS INTACT. EXCEPT AS OTHERWISE PROVIDED BY THIS CHAPTER OR COMMISSION ORDER DURING AN ENERGY EMERGENCY, EACH ELECTRIC PROVIDER AND ELECTRIC POWER PRODUCER SHALL COMPLY WITH ALL APPLICABLE RULES AND REQUIREMENTS OF THE COMMISSION.
- (C) MEASURES REQUIRED BY THE GOVERNOR UNDER THESE RULES, IMPLEMENTED OR ENFORCED PURSUANT TO RULE 4901:5-19-03 OF THE ADMINISTRATIVE CODE, SHALL PREVAIL OVER ANY EXISTING REQUIREMENTS OF THE COMMISSION INCONSISTENT WITH SAID MEASURES.
- (D) THE ACTIONS REQUIRED OF ELECTRIC PROVIDERS AND ELECTRIC POWER PRODUCERS IN THIS CHAPTER SHALL BE IMPLEMENTED BY THE ELECTRIC PROVIDERS AND ELECTRIC POWER PRODUCERS. ALL ACTIONS REQUIRED IN THIS CHAPTER ARE INTENDED TO BE IMPLEMENTED BY EACH ELECTRIC PROVIDER AND ELECTRIC POWER PRODUCER TO THE EXTENT REASONABLY POSSIBLE. ACTIONS ORDERED OF CONSUMERS STAY IN EFFECT UNTIL TERMINATED OR CHANGED.
- (E) WHEN ANY ELECTRIC POWER PRODUCER HAVING A GENERATING CAPACITY OF FIVE HUNDRED MEGAWATTS OR MORE ADVISES THE COMMISSION OF ITS INTENTION TO IMPLEMENT ITS LONG-TERM FUEL EMERGENCY PLAN, ALL ELECTRIC POWER PRODUCERS HAVING A GENERATING CAPACITY OF FIFTY MEGAWATTS OR MORE SHALL, UPON NOTIFICATION BY THE COMMISSION, FILE A WEEKLY REPORT OF ELECTRIC SUPPLY ADEQUACY IN THE FORM PRESCRIBED BY THE COMMISSION. UPON REQUEST OF THE CHAIRMAN OF THE COMMISSION, THE REPORT OF ELECTRIC SUPPLY ADEQUACY SHALL BE FILED DAILY. THE REQUIREMENTS OF THIS PARAGRAPH DO NOT APPLY TO ELECTRIC COOPERATIVES UNLESS THERE IS A DECLARED ENERGY EMERGENCY.
- (F) UPON REQUEST OF THE COMMISSION, EACH ELECTRIC POWER PRODUCER SHALL CALCULATE ITS ELECTRIC POWER PRODUCER NORMAL BURN DAYS, ON THE BASIS OF REASONABLE ASSUMPTIONS. EACH ELECTRIC POWER PRODUCER SHALL PROVIDE THE CALCULATIONS TO THE COMMISSION AS DIRECTED, TOGETHER WITH A DETAILED DESCRIPTION OF ALL ASSUMPTIONS MADE, THE CAPACITY OF EACH GENERATION FACILITY UNDER THE CONTROL OF THE ELECTRIC POWER PRODUCER, THE QUANTITY OF COAL IN THE ELECTRIC POWER PRODUCER'S INVENTORY, AND THE ELECTRIC POWER PRODUCER'S NORMAL BURN RATE FOR THE SEASON. THE REQUIREMENTS OF THIS PARAGRAPH DO NOT APPLY TO ELECTRIC COOPERATIVES UNLESS THERE IS A DECLARED ENERGY EMERGENCY.
- (G) WHEN ANY ELECTRIC POWER PRODUCER IN THE STATE REACHES TWENTY UTILITY NORMAL BURN DAYS, OR WHEN IT IS DETERMINED THAT SUCH ACTION IS

APPROPRIATE, THE GOVERNOR MAY ORDER OTHER ELECTRIC POWER PRODUCERS WITH GREATER FUEL SUPPLIES TO INCREASE SALES OF ELECTRIC ENERGY. THIS PARAGRAPH DOES NOT APPLY TO ELECTRIC COOPERATIVES UNLESS THERE IS A DECLARED ENERGY EMERGENCY.

- (H) EACH ELECTRIC PROVIDER AND ELECTRIC POWER PRODUCER SHALL BE REQUIRED TO ANSWER COMMISSION STAFF'S QUESTIONS, AS WELL AS TO UPDATE ITS COMPANY'S CONTACT INFORMATION WITH THE COMMISSION. THIS PARAGRAH DOES NOT APPLY TO ELECTRIC COOPERATIVES UNLESS THERE IS A DECLARED ENERGY EMERGENCY.
- (I) THE COMMISSION'S FUEL SOURCE ADVISORY COUNCIL MAY NOTIFY AND ADVISE THE CHAIRMAN OF THE COMMISSION ABOUT ELECTRIC POWER SUPPLY PROBLEMS AND SHORTAGES AND MAY MAKE RECOMMENDATIONS, INCLUDING THE NEED FOR THE GOVERNOR TO DECLARE AN ENERGY EMERGENCY AND TO IMPLEMENT RULE 4901:5-19-05 OF THE ADMINISTRATIVE CODE.
- (J) THE CHAIRMAN OF THE COMMISSION SHALL NOTIFY THE GOVERNOR WHEN, BASED ON THE INFORMATION AVAILABLE TO HIM, HE BELIEVES THAT EITHER OF THE FOLLOWING CONDITIONS EXISTS:
 - (1) AN ENERGY EMERGENCY MAY EXIST WITH REGARD TO THE SUPPLY OF FUEL FOR ELECTRIC GENERATION.
 - (2) AN ENERGY EMERGENCY NO LONGER EXISTS WITH REGARD TO THE SUPPLY OF FUEL FOR ELECTRIC GENERATION.
- (K) WHEN AND IF IT IS DETERMINED SUCH ACTION IS APPROPRIATE, THE GOVERNOR MAY REQUEST THE SECRETARY OF THE UNITED STATES DEPARTMENT OF ENERGY TO INVOKE SECTION 202(C) OF THE FEDERAL POWER ACT, 16 U.S.C. 824A (1935).
- (L) NOTHING CONTAINED IN THIS CHAPTER SHALL IN ANY WAY PRECLUDE THE COMMISSION FROM ALTERING OR AMENDING, IN WHOLE OR IN PART, THESE RULES AND REGULATIONS OR WAIVING ANY REQUIREMENT OF THESE RULES AND REGULATIONS FOR GOOD CAUSE SHOWN OR UPON ITS OWN MOTION. THE COMMISSION SHALL NOT ALTER OR AMEND THESE RULES TO IMPOSE REQUIREMENTS ON, OR REGULATION OVER, ELECTRIC COOPERATIVES, IN INSTANCES OTHER THAN DECLARED ENERGY EMERGENCIES.
- (M) THE COMMISSION MAY DIRECT THE ATTORNEY GENERAL TO BRING AN ACTION FOR IMMEDIATE INJUNCTION OR OTHER APPROPRIATE RELIEF TO ENFORCE COMMISSION ORDERS AND TO SECURE IMMEDIATE COMPLIANCE WITH THIS CHAPTER.

4901:5-19-03 Enforcement on governor's instruction.

- (A) No rule shall be implemented and no person shall be penalized under any rule in THIS CHAPTER, OTHER THAN RULES 4901:5-19-02 AND 4901:5-19-04 of the Administrative Code AND PERTINENT DEFINITIONS IN RULE 4901:5-19-01 OF THE ADMINISTRATIVE CODE, until the governor, by executive order, during a declared energy emergency, specifically designates by rule number and title which rule or rules are to be implemented and enforced and fixes the date and time after which the named rule or rules shall be implemented or enforced. At no time shall any rule applying outside of declared energy emergencies, including rules 4901:5-19-02 and 4901:5-19-04 of the Administrative Code and pertinent definitions in rule 4901:5-19-01 of the Administrative Code, apply to electric cooperatives. No electric cooperative shall be penalized under any rule in this chapter until the governor, by executive order, during a declared energy emergency, specifically designates by rule number and title which rule or rules are to be implemented and enforced and fixes the date and time after which the named rule or rules shall be implemented or enforced.
- (B) Alternatively, the governor may request, under section 4935.03 of the Revised Code, that the commission issue and enforce orders effecting the implementation of THIS CHAPTER.

4901:5-19-04 PRE-EMERGENCY ACTIONS.

- (A) PRIOR TO AN ENERGY EMERGENCY, THE COMMISSION MAY, BY ORDER, REQUIRE THAT EACH ELECTRIC PROVIDER THAT IS NOT AN ELECTRIC COOPERATIVE:
- (1) NOTIFY ITS CONSUMERS THROUGH REPORTS IN THE NEWS MEDIA, OR WRITTEN NOTICE WHERE APPROPRIATE, ABOUT AN IMMINENT SHORTAGE OF ELECTRIC SERVICE AND REQUEST ITS CONSUMERS TO REDUCE THEIR CONSUMPTION OF ELECTRICITY AND TO IMPLEMENT ENERGY CONSERVATION MEASURES. THESE MEASURES SHALL INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING:
- (A) CURTAILING OUTDOOR LIGHTING, EXCEPT FOR ESSENTIAL SAFETY AND SECURITY PURPOSES.
- (B) REDUCING WATER HEATING TEMPERATURES.
- (C) ADJUSTING TEMPERATURES FOR BUILDINGS, FACTORIES, AND TRANSPORTATION FACILITIES.

- (2) ISSUE PERIODIC REPORTS TO NOTIFY CONSUMERS ABOUT THE FOLLOWING:
- (A) ELECTRIC SUPPLY LEVELS.
 - (B) PLANS AND PROCEDURES FOR TRANSFERS, RESTRICTIONS, CURTAILMENTS, AND REALLOCATIONS PURSUANT TO ITS CURTAILMENT PLAN OR COMMISSION ORDER.
 - (C) PROJECTED OR ACTUAL DATES WHEN CONSUMERS OR CLASSES OF CONSUMERS WOULD BE SUBJECT TO CURTAILMENT, REALLOCATION, OR RESTRICTION.
- (3) IMPLEMENT MEASURES THAT INCLUDE:
- (A) FULFILLING ELECTRIC REQUIREMENTS FOR PRIORITY USE BY ITS CONSUMERS.
 - (B) REALLOCATING AND/OR CURTAILING SUPPLIES AMONG ITS CONSUMERS. EACH ELECTRIC PROVIDER THAT CURTAILS DELIVERIES TO CONSUMERS THAT PURCHASE POWER ON AN INTERRUPTIBLE BASIS SHALL CURTAIL ELECTRIC DELIVERIES PURSUANT TO ITS CURTAILMENT PLAN AND VOLUNTARY ARRANGEMENTS WITH INDIVIDUAL CONSUMERS. EACH ELECTRIC PROVIDER SHALL MONITOR CONSUMER COMPLIANCE WITH ITS CURTAILMENTS AND SHALL REPORT THE LEVEL OF COMPLIANCE TO THE COMMISSION, AS REQUESTED.
- (B) NOTHING IN THIS RULE SHALL PRECLUDE THE ELECTRIC PROVIDER, AFTER NOTIFICATION TO THE COMMISSION, FROM INITIATING ITS CURTAILMENT PLANS PRIOR TO COMMISSION DIRECTIVE, IN ORDER TO MEET OPERATIONAL NEEDS.
- (C) PRIOR TO AN ENERGY EMERGENCY, THE COMMISSION MAY, BY ORDER, REQUIRE THAT EACH ELECTRIC POWER PRODUCER, OTHER THAN ELECTRIC COOPERATIVES, HAVING A GENERATING CAPACITY OF FIFTY MEGAWATTS OR MORE SHALL FILE A WEEKLY OR DAILY REPORT OF ELECTRIC SUPPLY ADEQUACY IN THE FORM PRESCRIBED BY THE COMMISSION.

4901:5-19-05 ACTIONS TAKEN UPON DECLARATION OF ENERGY EMERGENCY.

- (A) VOLUNTARY CURTAILMENT. UPON DECLARATION OF AN ENERGY EMERGENCY BY THE GOVERNOR AND WHEN THE STATEWIDE NORMAL BURN DAYS REACH FORTY DAYS, OR WHEN IT IS OTHERWISE DETERMINED BY THE GOVERNOR THAT SUCH ACTION IS APPROPRIATE, THE FOLLOWING PROVISIONS SHALL BE APPLICABLE:

- (1) EACH ELECTRIC PROVIDER THAT HAS NOT IMPOSED MANDATORY CURTAILMENTS UNDER ITS EMERGENCY CURTAILMENT PLAN ON FILE WITH THE COMMISSION SHALL INCREASE ITS EFFORTS TO EFFECT VOLUNTARY CONSERVATION, BY ALL CONSUMERS, OF AT LEAST TWENTY-FIVE PER CENT OF ALL NONPRIORITY USE OF ELECTRICITY.
- (2) EACH ELECTRIC PROVIDER SHALL IMPLEMENT A PUBLIC APPEALS CAMPAIGN THROUGH NEWS MEDIA TO ITS CONSUMERS, MAKING APPROPRIATE SUGGESTIONS FOR ACHIEVING USAGE REDUCTIONS. THESE REDUCTIONS SHOULD INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING:
 - (A) REDUCE OUTDOOR LIGHTING THAT IS NOT RELATED TO SAFETY OR SECURITY.
 - (B) REDUCE GENERAL INTERIOR LIGHTING LEVELS TO MINIMUM LEVELS, TO THE EXTENT THIS CONTRIBUTES TO DECREASED ELECTRICITY USAGE.
 - (C) REDUCE SHOW WINDOW AND DISPLAY LIGHTING TO MINIMUM LEVELS TO PROTECT PROPERTY.
 - (D) REDUCE THE NUMBER OF ELEVATORS OPERATING IN OFFICE BUILDINGS DURING NONPEAK HOURS.
 - (E) REDUCE ELECTRIC WATER HEATING TEMPERATURE TO MINIMUM LEVEL.
 - (F) MINIMIZE WORK SCHEDULES FOR BUILDING CLEANING AND MAINTENANCE, RESTOCKING, ETC., IN ORDER TO ELIMINATE THE NECESSITY FOR OFFICE OR COMMERCIAL AND INDUSTRIAL FACILITIES TO BE OPEN BEYOND NORMAL WORKING HOURS.
 - (G) MINIMIZE ELECTRICITY USE BY MAINTAINING A BUILDING TEMPERATURE OF NO LESS THAN SEVENTY-EIGHT DEGREES FAHRENHEIT BY OPERATION OF COOLING EQUIPMENT AND NO MORE THAN SIXTY-EIGHT DEGREES FAHRENHEIT BY OPERATION OF HEATING EQUIPMENT.
 - (H) ENCOURAGE, TO THE EXTENT POSSIBLE, DAYTIME SCHEDULING OF ENTERTAINMENT AND RECREATIONAL FACILITIES.
- (3) EACH ELECTRIC PROVIDER SHALL:
 - (A) ISSUE PERIODIC BULLETINS, INFORMING CONSUMERS OF:

- (1) THE ACTIONS WHICH WILL BE REQUIRED OF CONSUMERS IF IT BECOMES NECESSARY TO INITIATE MANDATORY CURTAILMENT OF ELECTRIC ENERGY, AND THE PROCEDURES TO BE FOLLOWED PRIOR TO AND DURING THE PERIOD WHEN ELECTRIC USAGE IS RESTRICTED.
 - (2) THE PROCEDURES TO BE FOLLOWED BY CONSUMERS WISHING TO SUBSTANTIATE A CLAIM FOR PRIORITY USE, AS DEFINED IN RULE 4901:5-19-01 OF THE ADMINISTRATIVE CODE.
- (B) PROVIDE TO THE COMMISSION WRITTEN INFORMATION CONCERNING ITS ANTICIPATED AND ACTUAL LOAD IN KILOWATT-HOURS CONSUMED, IN THE FORM PRESCRIBED BY THE COMMISSION. THIS REPORT SHALL BE FILED WEEKLY OR DAILY, AS INSTRUCTED BY THE COMMISSION.
- (4) EACH ELECTRIC POWER PRODUCER SHALL:
 - (A) ISSUE PERIODIC BULLETINS INFORMING CONSUMERS OF THE FUEL SUPPLY LEVEL, CALCULATED BASED ON APPENDIX A OF RULE 4901:5-19-01 OF THE ADMINISTRATIVE CODE, AT LEAST WEEKLY.
 - (B) PROVIDE TO THE COMMISSION ESTIMATES OF FUEL SAVINGS RESULTING FROM LOAD REDUCTION OR OTHER MEASURES.
 - (C) UPON ORDER OF THE COMMISSION OR THE GOVERNOR, OPERATE GENERATING PLANT TO OPTIMIZE FUEL USAGE.
- (5) THE COMMISSION SHALL CALCULATE THE STATEWIDE NORMAL BURN DAYS AND MAKE THE RESULTANT INFORMATION AVAILABLE TO THE GOVERNOR, THE UTILITIES, AND THE PUBLIC.
- (6) THE COMMISSION MAY ENCOURAGE ALL ELECTRIC PROVIDERS TO PURCHASE AND TO SHARE ENERGY AMONG THEMSELVES TO AID IN ALLEVIATING EXISTING ENERGY SHORTAGES AND TO PREVENT EVEN MORE SEVERE FUTURE ENERGY SHORTAGES.
- (7) ALL ELECTRIC PROVIDERS AND ELECTRIC POWER PRODUCERS SHALL REDUCE INTERNAL CONSUMPTION OF ELECTRIC ENERGY TO THE MAXIMUM DEGREE POSSIBLE, CONSISTENT WITH SAFE, EFFICIENT OPERATION. THE USE OF ELECTRICITY ON PREMISES, INCLUDING PARKING AND LARGE AREA LIGHTING AND INTERIOR LIGHTING, SHALL BE CURTAILED, EXCEPT LIGHTING ESSENTIAL FOR SECURITY OR SAFETY.

- (8) WHEN IT IS DETERMINED SUCH ACTION IS APPROPRIATE, THE GOVERNOR OR THE COMMISSION, IN CONSULTATION WITH THE DIRECTOR OF THE OHIO ENVIRONMENTAL PROTECTION AGENCY, MAY:

 - (A) REQUEST AUTHORIZATION FROM THE PROPER AUTHORITIES TO CURTAIL USE OF POLLUTION CONTROL FACILITIES.
 - (B) REQUEST AUTHORIZATION FROM THE PROPER AUTHORITIES TO BURN NON-CONFORMING COAL IN ORDER TO MAXIMIZE USE OF THE REMAINING STOCKPILES.
 - (C) REQUEST INDUSTRY TO UTILIZE INDUSTRIAL-OWNED GENERATION EQUIPMENT TO SUPPLEMENT UTILITY GENERATION TO THE MAXIMUM EXTENT POSSIBLE.
- (B) MANDATORY CURTAILMENT - STAGE ONE. DURING AN ENERGY EMERGENCY AND WHEN THE STATEWIDE NORMAL BURN DAYS REACH THIRTY DAYS, OR WHEN IT IS OTHERWISE DETERMINED BY THE GOVERNOR OR THE COMMISSION THAT SUCH ACTION IS APPROPRIATE, THE FOLLOWING PROVISIONS SHALL BE APPLICABLE, IN ADDITION TO THOSE ALREADY IN EFFECT:

 - (1) CONSUMER USE OF ELECTRICITY SHALL BE CURTAILED AS FOLLOWS:

 - (A) ALL PREVIOUS MEASURES SHALL BE CONTINUED EXCEPT AS AMENDED BY PARAGRAPH (B) OF THIS RULE.
 - (B) ALL NONPRIORITY USE OF OUTDOOR LIGHTING IS PROHIBITED.
 - (C) ALL PUBLIC, COMMERCIAL, AND INDUSTRIAL BUILDINGS SHALL MINIMIZE ELECTRICITY USE BY MAINTAINING A BUILDING TEMPERATURE OF NO LESS THAN EIGHTY-FIVE DEGREES FAHRENHEIT BY COOLING EQUIPMENT AND NO MORE THAN SIXTY DEGREES FAHRENHEIT BY THE OPERATION OF HEATING EQUIPMENT, EXCEPT WHERE HEALTH REQUIREMENTS OR EQUIPMENT PROTECTION CAUSE SUCH MEASURES TO BE INAPPROPRIATE.
 - (D) ALL PUBLIC, COMMERCIAL, AND INDUSTRIAL BUILDINGS SHALL REDUCE INTERIOR LIGHTING TO THE MINIMUM LEVELS ESSENTIAL FOR CONTINUED WORK AND OPERATIONS, TO THE EXTENT THIS CONTRIBUTES TO DECREASED USE OF ELECTRIC ENERGY.
 - (2) EACH ELECTRIC POWER PRODUCER SHALL:

- (A) WHEREVER POSSIBLE, SWITCH TO A FUEL OTHER THAN COAL, PROVIDED THAT BOTH OF THE FOLLOWING ARE MET:
 - (1) THE ELECTRIC POWER PRODUCER HAS INFORMED THE COMMISSION THAT IT WILL BE SWITCHING FUELS.
 - (2) THE COMMISSION HAS CONFIRMED TO THE ELECTRIC POWER PRODUCER THAT THE SPECIFIC ALTERNATE FUELS ARE NOT THEMSELVES IN SHORT SUPPLY.
 - (B) REPORT TO THE COMMISSION, AS PART OF ITS REPORT OF ELECTRIC SUPPLY ADEQUACY, ITS DAILY FUEL USAGE BURN, ENERGY PURCHASES BY SOURCE, FUEL DELIVERIES, ITS UTILITY NORMAL BURN DAYS, AND ESTIMATED FUEL SAVINGS RESULTING FROM LOAD REDUCTION OR OTHER MEASURES.
- (3) EACH ELECTRIC PROVIDER SHALL REPORT TO THE COMMISSION ITS ANTICIPATED AND ACTUAL LOAD IN KILOWATT-HOURS CONSUMED IN THE FORM PRESCRIBED BY THE COMMISSION. THIS REPORT SHALL BE FILED DAILY OR WEEKLY, AS INSTRUCTED BY THE COMMISSION.
- (4) THE COMMISSION MAY:
- (A) MONITOR AND VERIFY EACH OHIO ELECTRIC POWER PRODUCER'S FUEL SUPPLY, BURN DAY LEVEL, AND ENERGY PURCHASES ON A DAILY BASIS.
 - (B) ASSURE THAT EACH ELECTRIC POWER PRODUCER CONSIDERS ALL POSSIBLE FUELS FOR GENERATION.
 - (C) TAKE OTHER ACTIONS IT CONSIDERS TO BE REASONABLE AND APPROPRIATE.
- (5) THE OHIO EMERGENCY MANAGEMENT AGENCY MAY BE REQUESTED TO:
- (A) ESTABLISH AND MAINTAIN A CENTRAL EMERGENCY OPERATIONS CENTER STAFFED WITH APPROPRIATE PERSONS FROM STATE, LOCAL, AND OTHER AGENCIES FOR THE PURPOSE OF PROVIDING COORDINATED RESPONSES TO THREATS TO LIFE, PROPERTY, PUBLIC HEALTH, OR SAFETY.
 - (B) PLAN THE NECESSARY ADMINISTRATIVE AND LOGISTICAL CAPABILITY TO SUPPORT DELIVERY OF, AND TO PROVIDE SECURITY FOR THE

MOVEMENT OF, FUEL FOR ELECTRIC GENERATION, WHERE LIFE, PROPERTY, HEALTH, OR SAFETY ARE THREATENED.

- (c) ESTABLISH AND MAINTAIN COMMUNICATIONS WITH EMERGENCY MANAGERS WITHIN EACH COUNTY IN THE GEOGRAPHIC AREA FOR WHICH THE GOVERNOR DECLARED AN ENERGY EMERGENCY, FOR THE PURPOSE OF PROVIDING COORDINATED LOCAL RESPONSES TO THREATS TO LIFE, PROPERTY, PUBLIC HEALTH, OR SAFETY.

- (C) MANDATORY CURTAILMENT - STAGE TWO. DURING AN ENERGY EMERGENCY AND WHEN THE STATEWIDE NORMAL BURN DAYS REACH TWENTY-FIVE DAYS, OR WHEN IT IS OTHERWISE DETERMINED BY THE GOVERNOR OR THE COMMISSION THAT SUCH ACTION IS APPROPRIATE, THE FOLLOWING PROVISIONS WILL BE APPLICABLE, IN ADDITION TO THOSE ALREADY IN EFFECT:

- (1) ALL PREVIOUS MEASURES SHALL BE CONTINUED EXCEPT AS AMENDED BY PARAGRAPH (C) OF THIS RULE.
- (2) ALL CONSUMERS SHALL DISCONTINUE NONPRIORITY USE OF ELECTRICITY ON TWO DAYS OF EACH WEEK. CONSUMERS SHALL NOT INCREASE NONPRIORITY USES ABOVE MANDATORY STAGE ONE LEVELS DURING OTHER DAYS OF THE WEEK. CONSUMERS MAY, IN THE ALTERNATIVE, ELECT TO REDUCE TOTAL ELECTRICITY CONSUMPTION BY TWENTY-FIVE PER CENT BELOW NORMAL USAGE. CONSUMERS CHOOSING THE ALTERNATE OPTION MUST KEEP RECORDS SUFFICIENT TO DOCUMENT THE REDUCTION.
- (3) EACH ELECTRIC PROVIDER SHALL INFORM CONSUMERS OF THE DAYS THAT NONPRIORITY USE SHALL BE DISCONTINUED.

- (D) MANDATORY CURTAILMENT - STAGE THREE. DURING AN ENERGY EMERGENCY AND WHEN THE STATEWIDE NORMAL BURN DAYS REACH TWENTY DAYS, OR WHEN IT IS OTHERWISE DETERMINED BY THE GOVERNOR OR THE COMMISSION THAT SUCH ACTION IS APPROPRIATE, THE FOLLOWING PROVISIONS SHALL BE APPLICABLE, IN ADDITION TO THOSE ALREADY IN EFFECT:

- (1) ALL PREVIOUS MEASURES SHALL BE CONTINUED EXCEPT AS AMENDED BY PARAGRAPH (D) OF THIS RULE.
- (2) CONSUMERS SHALL DISCONTINUE NONPRIORITY USE OF ELECTRICITY ON THREE DAYS OF EACH WEEK. CONSUMERS SHALL NOT INCREASE NONPRIORITY USE ABOVE MANDATORY STAGE TWO LEVELS DURING OTHER DAYS OF THE WEEK. CONSUMERS MAY, IN THE ALTERNATIVE, ELECT TO REDUCE TOTAL ELECTRICITY CONSUMPTION BY FIFTY PER CENT BELOW

NORMAL USAGE. CONSUMERS CHOOSING THE ALTERNATE OPTION MUST KEEP RECORDS SUFFICIENT TO DOCUMENT THE REDUCTION.

(3) EACH ELECTRIC PROVIDER SHALL INFORM CONSUMERS OF THE DAYS WHEN NONPRIORITY USE SHALL BE DISCONTINUED.

(E) MANDATORY CURTAILMENT - STAGE FOUR. DURING AN ENERGY EMERGENCY AND WHEN THE STATEWIDE NORMAL BURN DAYS REACH FIFTEEN DAYS, OR WHEN IT IS OTHERWISE DETERMINED BY THE GOVERNOR OR THE COMMISSION THAT SUCH ACTIONS ARE APPROPRIATE, ALL CONSUMERS SHALL DISCONTINUE ALL NONPRIORITY USE OF ELECTRICITY ON ALL DAYS OF EACH WEEK. ALL PREVIOUS MEASURES SHALL BE CONTINUED EXCEPT AS AMENDED BY THIS PARAGRAPH.

4901:5-37-01 DEFINITIONS.

- (A) "COMMISSION" MEANS THE PUBLIC UTILITIES COMMISSION OF OHIO.
- (B) "ELECTRIC COOPERATIVE" HAS THE MEANING SET FORTH IN DIVISION (A)(5) OF SECTION 4928.01 OF THE REVISED CODE
- (C) "ELECTRIC DISTRIBUTION UTILITY" HAS THE MEANING SET FORTH IN DIVISION (A)(6) OF SECTION 4928.01 OF THE REVISED CODE.
- (CD) "ELECTRIC ENTITY" MEANS ANY ELECTRIC LIGHT COMPANY, SUPPLIER SUBJECT TO CERTIFICATION UNDER SECTION 4928.08 OF THE REVISED CODE, ELECTRIC POWER UTILITY THAT IS OWNED BY A MUNICIPAL CORPORATION OR NOT FOR PROFIT, OR ELECTRIC POWER PRODUCER OR MARKETER, AS ENUMERATED IN DIVISION (A)(3) OF SECTION 4935.03 OF THE REVISED CODE.
- (DE) "EMERGENCY" MEANS AN ANTICIPATED OR EXISTING SHORTAGE IN THE SUPPLY OF ELECTRIC ENERGY, OR CONSTRAINT IN THE TRANSMISSION, DISTRIBUTION, OR GENERATION OF ELECTRICAL ENERGY, WHICH HAS OR MAY ADVERSELY AFFECT THE OPERATION OR RELIABILITY OF TRANSMISSION, DISTRIBUTION, OR GENERATION FACILITIES.
- (EF) "ESSENTIAL CONSUMERS" MEANS THE FOLLOWING CONSUMERS OF AN ELECTRIC SUPPLIER:
- (1) HOSPITALS AND EMERGENCY CARE FACILITIES, EACH OF WHICH PROVIDES MEDICAL CARE AND PERFORMS IN-PATIENT PROCEDURES.
 - (2) PRISONS AND GOVERNMENTAL DETENTION INSTITUTIONS.
 - (3) FIRE AND POLICE STATIONS, OHIO NATIONAL GUARD FACILITIES, MILITARY BASES, AND FEDERAL FACILITIES ESSENTIAL TO THE NATIONAL DEFENSE.
 - (4) ANY CONSUMER ON A MEDICAL OR LIFE-SUPPORT SYSTEM WHO HAS PROVIDED APPROPRIATE DOCUMENTATION TO THE ELECTRIC SUPPLIER THAT AN INTERRUPTION OF SERVICE WOULD BE IMMEDIATELY LIFE-THREATENING.
 - (5) RADIO AND TELEVISION STATIONS USED TO TRANSMIT EMERGENCY MESSAGES AND PUBLIC INFORMATION BROADCASTS RELATING TO EMERGENCIES.
 - (6) WATER PUMPING PLANTS ESSENTIAL TO THE SUPPLY OF POTABLE WATER TO A COMMUNITY.

- (7) SEWAGE PLANTS ESSENTIAL TO THE COLLECTION, TREATMENT AND DISPOSAL OF A COMMUNITY'S SEWAGE, EXCEPT LIFT STATIONS.
- (8) EMERGENCY MANAGEMENT AND RESPONSE FACILITIES AND THE COUNTYWIDE "911" SYSTEM.
- (9) BLOOD BANKS.
- (~~FG~~) "NONCOMPETITIVE RETAIL ELECTRIC SERVICE" HAS THE MEANING SET FORTH IN DIVISION (B) OF SECTION 4928.01 OF THE REVISED CODE.
- (~~GH~~) "RELIABILITY COUNCIL" MEANS "RELIABILITYFIRST CORPORATION," A REGIONAL RELIABILITY COUNCIL OF THE "NORTH AMERICAN ELECTRIC RELIABILITY COUNCIL", OR THE CURRENT ELECTRIC RELIABILITY ORGANIZATION ESTABLISHED TO AUGMENT RELIABILITY OF ITS MEMBERS' ELECTRIC SUPPLY SYSTEMS THROUGH COORDINATION OF PLANNING AND OPERATIONS OF ITS MEMBERS' GENERATION AND TRANSMISSION FACILITIES.

4901:5-37-02 GENERAL PROVISIONS.

- (A) THE RULES IN THIS CHAPTER ARE INTENDED TO RESULT IN ELECTRIC ENTITIES:
 - (1) PREVENTING EMERGENCIES.
 - (2) INITIATING AND PERFORMING SYSTEM RESTORATION FOR ANY ELECTRIC SERVICE WHICH SUFFERED AN OUTAGE DUE TO AN EMERGENCY.
 - (3) PRESERVING AND PROTECTING ELECTRIC SERVICES WHOSE OPERATIONS CONTINUED OR WERE RESTORED DURING AN EMERGENCY.
- (B) EACH ELECTRIC ENTITY SHALL COMPLY WITH THE APPLICABLE RULES OF THIS CHAPTER AND ORDERS OF THE COMMISSION DURING AN EMERGENCY THAT HAS ADVERSELY AFFECTED, OR MAY ADVERSELY AFFECT, THE OPERATION OR RELIABILITY OF ELECTRIC SERVICE.
- (~~C~~) NONE OF THE RULES OF THIS CHAPTER SHALL APPLY TO ELECTRIC COOPERATIVES UNLESS THERE IS A DECLARED ENERGY EMERGENCY (AS SUCH TERM IS DEFINED IN OHIO ADMINISTRATIVE CODE SECTION 4901:5-19-01(G)).
- (~~D~~) EACH ELECTRIC DISTRIBUTION UTILITY SHALL FILE, FOR THE COMMISSION'S APPROVAL, ITS EMERGENCY PLAN AND AMENDMENTS ON ENERGY SHORTAGES OR DELIVERY CONSTRAINTS. THE EMERGENCY PLAN SHALL INCLUDE THE REQUIREMENTS AND PROCEDURES OF THIS CHAPTER.

~~(DE)~~ THE COMMISSION MAY, IN ADDITION TO THE RULES OF THIS CHAPTER, ADOPT ORDERS TO REQUIRE ANY ELECTRIC ENTITY ~~TO~~ (1) TAKE, OTHER THAN AN ELECTRIC COOPERATIVE, TO TAKE PRESCRIBED ACTIONS BEFORE AN EMERGENCY.

~~(2)~~ ~~INITIATE~~ F) THE COMMISSION MAY, IN ADDITION TO THE RULES OF THIS CHAPTER, ADOPT ORDERS TO REQUIRE ANY ELECTRIC ENTITY TO INITIATE OR TERMINATE ANY ACTION DURING AN EMERGENCY.

4901:5-37-03 EMERGENCY REPORTING TO THE COMMISSION; EMERGENCY ACTIONS.

(A) EACH ELECTRIC ENTITY SHALL PROMPTLY REPORT TO THE COMMISSION:

- (1) ANY LOSS IN SERVICE FOR FIFTEEN MINUTES OR MORE OF ELECTRIC POWER SUPPLY TO A FIRM LOAD OF ONE HUNDRED MEGAWATTS OR MORE.
- (2) ANY ACTION TO REDUCE FIRM CUSTOMER LOADS IN ORDER TO MAINTAIN RELIABILITY OF THE POWER SUPPLY SYSTEM.
- (3) ANY APPEAL FOR THE PUBLIC TO CONSERVE ELECTRICITY.
- (4) ANY ACTION TO REDUCE FIRM CUSTOMER LOADS BY MANUAL SWITCHING, AUTOMATIC LOAD SHEDDING, OR OTHER MEANS USED TO MAINTAIN RELIABILITY OF THE POWER SUPPLY SYSTEM.
- (5) ANY EMERGENCY ALERT, NOTICE, OR STATEMENT ISSUED BY A RELIABILITY COUNCIL WHICH RELATES TO A UTILITY COMPANY'S OVERALL GENERATION OUTPUT.
- (6) ANY OUTAGE OR INCIDENT WHICH DAMAGES OR RENDERS INOPERABLE SYSTEM EQUIPMENT LOCATED IN OHIO.
- (7) WHEN A TRANSMISSION COMPANY DETERMINES THAT A NET OPERATING RESERVE DEFICIENCY WILL EXIST FOR THE NEXT CALENDAR DAY AND POWER SUPPLY AND/OR OPERATING RESERVE CANNOT BE OBTAINED OR PURCHASED.
- (8) ANY ACTION TAKEN PURSUANT TO THE RULES OF THIS CHAPTER.

EACH REPORT SHALL BE MADE BY FAX, VOICE MAIL, PERSONAL CONTACT OR OTHER COMMISSION DETERMINED MEANS WITH A DESIGNATED COMMISSION REPRESENTATIVE AND SHALL INCLUDE A DESCRIPTION OF THE SITUATION.

(B) WHEN AN ELECTRIC ENTITY IS UNABLE TO RELIEVE AN EXISTING OR ANTICIPATED ENERGY SHORTAGE BY OBTAINING OR PURCHASING POWER THROUGH AN INTERCONNECTED SYSTEM, EACH ELECTRIC ENTITY SHALL IMPLEMENT AND FOLLOW:

- (1) THE RELIABILITY COUNCIL'S LOAD SHEDDING PROCEDURES.
- (2) THE PROVISION OF THE ELECTRIC ENTITY'S EMERGENCY PLAN, AS APPROVED BY THE COMMISSION, IF APPLICABLE.

4901:5-37-04 SUDDEN OR UNANTICIPATED EMERGENCY RESULTING IN OVERLOADING TRANSMISSION FACILITIES.

WHEN SUDDEN OR UNANTICIPATED GENERATION OR TRANSMISSION OUTAGES CAUSE AN OVERLOADING OF AN ELECTRIC ENTITY'S FACILITIES OR INTERCONNECTION CIRCUITS THAT OPERATE AT A NOMINAL SIXTY HERTZ, THAT ELECTRIC ENTITY SHALL PERFORM ANY OR ALL OF THE FOLLOWING ACTIONS, AS REQUIRED:

- (A) INTERRUPT SERVICE TO CUSTOMERS SERVED UNDER INTERRUPTIBLE TARIFFS OR CONTRACTS.
- (B) INTERRUPT SERVICE TO FIRM SERVICE CUSTOMERS.
- (C) REDUCE VOLTAGE NOT MORE THAN FIVE PER CENT IF THE TRANSMISSION SYSTEM IS ISOLATED.
- (D) DISCONNECT THE OVERLOADED FACILITY OR CIRCUIT.

4901:5-37-0405 ANTICIPATED EMERGENCY CONDITIONS.

WHEN ANTICIPATED SHORTAGES OF ELECTRICAL ENERGY CANNOT BE RELIEVED BY AUTOMATIC RESERVE SHARING AND EMERGENCY PURCHASES OR OTHER SOURCES WITHIN OR OUTSIDE THE INTERCONNECTED AREA, EACH ELECTRIC ENTITY SHALL PERFORM ANY OR ALL OF THE FOLLOWING ACTIONS, AS REQUIRED AND AS APPLICABLE:

- (A) INTERRUPT SERVICE TO CUSTOMERS SERVED UNDER INTERRUPTIBLE TARIFFS OR CONTRACTS.
- (B) INTERRUPT SERVICE TO CUSTOMERS WITH CONTROLLED SERVICE LOADS.
- (C) REDUCE VOLTAGE NOT MORE THAN FIVE PER CENT ON THE DISTRIBUTION SYSTEM.
- (D) REQUEST VOLUNTARY LOAD REDUCTIONS OF LARGE VOLUME FIRM CUSTOMERS.
- (E) APPEAL TO THE PUBLIC TO CONSERVE ELECTRICITY.
- (F) INITIATE MANUAL LOAD SHEDDING OF FIRM CUSTOMER LOADS.

(G) EACH ELECTRIC DISTRIBUTION UTILITY SHALL:

- (1) MAKE REASONABLE EFFORTS TO MAINTAIN SERVICE TO ESSENTIAL CUSTOMERS.**
- (2) SELECT DISTRIBUTION CIRCUITS AND LINES TO INTERRUPT SERVICE.**

