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BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's Review of)
Chapters 4901:5-17, 4901:5-18, 4901:5-21,) Case No. 06-1201-AU-ORD
4901:5-23, 4901:5-25, 4901:5-29, 4901:5-33,)
4901:5-35, and 4901:5-37 of the)
Ohio Administrative Code.)

COMMENTS OF
DUKE ENERGY OHIO

INTRODUCTION:

Pursuant to Ohio Revised Code (R.C.) § 119.032, the Public Utilities Commission of Ohio (Commission) conducted a review of the current rules contained in Ohio Administrative Code (O.A.C.) Chapters 4901:5-17 through 4901:5-37. In its Entry dated October 11, 2006, the Commission proposed revisions and amendments to Chapters 4901:5-17 through 4901:5-37 and now seeks comments from interested parties concerning its recommendations. Accordingly, Duke Energy Ohio (DE-Ohio) respectfully submits the following comments regarding the Commission's proposed Rule changes.

I. General Comments:

a. Scope of Authority:

The Commission's proposed changes to O.A.C. Chapters 4901:5-17 through 4901:5-37 significantly modify the existing rules regarding energy emergencies. The Commission's authority to adopt, amend, or rescind the energy emergency rules is clearly

provided under R.C. 4935.03.¹ However, unlike other Rule review provisions, R.C. 4935.03 also provides that the Commission's ability to amend these specific emergency rules is subject to the approval of the governor of the state of Ohio.² DE-Ohio raises this point because, although the Commission's October 11, 2006 Entry setting forth the proposed rule changes refers to R.C. 4935.03, there is no procedural discussion regarding the governor's approval. To ensure consistency between the Revised and Administrative Codes, DE-Ohio suggests that the Commission include language referencing the statutorily-required approval from the Governor of Ohio where amendments to specific emergency rules are concerned.

In addition, R.C. 4935.03 expressly sets forth the parameters for the contents of the Energy Emergency Rules; and in turn, establishes the scope of the Commission's rule designing authority. Specifically, the Commission's authority to design rules is limited to:

... defining various foreseen types and levels of emergency conditions for critical shortages or interruptions in the supply of electric power, natural gas, coal, or individual petroleum fuels and specifying appropriate measures to be taken at each level or for each type of energy emergency as necessary to protect the public health or safety or to prevent unnecessary or unavoidable damage to property. The rules

¹ Ohio Rev. Code. § 4935.03 (Anderson 2006).

² *Id.*

may prescribe different measures for each different type or
level of declared energy emergency...³

The implication of the above-cited language is that the Commission has the ability to promulgate rules that define levels of energy emergencies and the rules and procedures *following the declaration* of such an emergency. In other words, any emergency rules authored by the Commission pursuant to R.C. 4935.03 may only be effective and enforceable during an actual defined and declared energy emergency. Currently, the Commission lacks the authority under R.C. 4935.03 to create new curtailment, reporting, monitoring and notification obligations under the pretense of energy emergency procedures, which are effective and enforceable prior to a gubernatorial declaration of an actual energy emergency. Certainly, after the declaration of such an energy emergency, the Commission may require additional notification and reporting procedures. Therefore, the Commission's proposed rules under sections entitled "Pre-Emergency Actions"⁴ are outside the scope of the Commission's authority under R.C. 4935.03. DE-Ohio suggests that the Commission either remove or revise the proposed rules in the above-referenced sections to comply with the scope afforded the Commission by the Revised Code.

b. Cost Concerns

To the extent the Commission's proposed "Pre-Emergency Actions" require specific curtailment initiatives and place the obligation of monitoring consumer compliance upon the service provider/public utility, the Commission is imposing a hefty financial burden. For example, with respect to electric curtailment initiatives listed under

³ *Id. Emphasis added.*

⁴ See e.g. proposed sections 4901:5-19-04, 4901:5-23-04, 4901:5-25-04, 4901:5-29-04, and 4901:5-33-04, (Case No. 06-1201-AU-ORD) (Entry, Oct. 11, 2006).

proposed 4901:5-19-04(A)(3), monitoring consumer compliance with curtailment is impossible absent an advanced metering infrastructure (AMI) program and round the clock consumer surveillance. Currently, DE-Ohio does not have such an AMI program and does not have resources to dedicate to monitoring consumer curtailment compliance either prior to or during an energy emergency. Such a requirement seems onerous and unreasonable. DE-Ohio examined the feasibility of an AMI approximately 2-5 years ago. At that time, the estimated cost of instituting such an infrastructure in DE-Ohio's service territory was nearly \$150,000,000. Absent a cost recovery mechanism or rate proceeding, DE-Ohio is simply unable to justify the expenses involved in being able to monitor consumer curtailment compliance during and outside of a declared energy emergency.

c. Restructured Electricity Markets

In its Entry proposing amendments to O.A.C. Chapters 4901:1-19 this Commission stated that its intention is to "conform it to the restructuring of the electric industry that was accomplished by the enactment of Chapter 4928 Revised Code." While DE-Ohio agrees that this is a necessary outcome of the above captioned proceeding, DE-Ohio respectfully submits that the Commission should further expand its scope to examine the state of the electric industry in a broader sense, such as the recognition of the existence of today's Independent System Operators (ISO) or Regional Transmission Organizations (RTO). Many of the proposed section amendments (e.g. fuel emergency) fail to recognize or reconcile the role these organizations play in managing electric system reliability. The revised procedures fail to acknowledge that Ohio is part of very

large regional power markets and that state-specific procedures to deal with fuel or power emergencies must co-exist and be co-managed with existing regional level procedures.

The state of Ohio is very unique in that its intra-state electric providers could be members of either the PJM RTO or the Midwest ISO (MISO). Both PJM and MISO have specific emergency operating procedures and are responsible for determining, declaring, and communicating pre-emergency and emergency conditions to ensure system reliability. At present, ISO/RTOs make their assessments through open communication and input directly from electric providers, which includes information regarding unit availability based on, among other things, fuel inventories. Depending on the emergency level declared by the ISO/RTO, electric providers communicate the status level with the appropriate state agencies. The ISO/RTO must be able to optimize all available resources during emergency conditions to ensure overall system reliability. State level restrictions, such as rationing of fuel resources, may have a larger impact on the overall system integrity beyond Ohio's borders. Consistency and open communication are imperative in maintaining system integrity. DE-Ohio suggests that Staff include an in-depth review of the relevant ISO/RTO emergency procedures, prior to formulating its own statewide procedures.

Given the breadth of changes to the emergency rules and the potential for impacting system reliability, both within and outside of Ohio's borders, DE-Ohio respectfully suggests the present process of submitting of comments and reply comments in this proceeding is inadequate to address all of the potential impacts. DE-Ohio suggests that instead, the Commission hold a collaborative workshop with all affected parties, including RTOs and ISOs, to discuss Ohio's emergency protocols. Emergency rules

requiring comprehensive action and coordination between so many stakeholders should be authored in conjunction with all parties.

II. Specific Comments:

a. Chapter 4901:5-19 Fuel Emergency

Staff is proposing extensive revisions to section 4901:5-19-01, with the addition of several new terms. To conform these provisions with the restructured energy market, DE-Ohio suggests that the Commission also consider amending its revisions to reflect the present condition of the industry with respect to the active markets of fuel, capacity, and emission allowances, as well as the day-ahead and real-time energy markets affected by the introduction of ISOs and RTOs. The Commission's proposed rule changes tend to focus more on fuel shortages within the state of Ohio and do not recognize the regional nature of today's market or its rules that encompass multiple states and hundreds of market participants.

For example, the concept of a "Normal Burn Day," in today's market seems illusory. With respect to electric power producers, a Normal Burn Day is defined as, "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 load plus firm sales." DE-Ohio understands the Commission's desire to establish a gauge measuring a power producer's ability to meet load obligations. However, conceptually, a "Normal Burn Day" is both confusing and misleading given the advent of the deregulation of generation, the active markets of fuel, energy and emission allowances, and the creation of RTOs/ ISOs such as the MISO and PJM. DE-Ohio, as a MISO market participant, offers its generation into

the MISO Day 2 market and purchases all power to satisfy its load requirements from MISO on a day ahead/real-time basis.

The markets for generating fuel such as coal and natural gas are active and prices change daily. The same is true with the market for emission allowances. On a daily basis, DE-Ohio must decide how to meet its estimated load obligations based upon available capacity, cost of generation, and market conditions. Since the market pricing factors change daily, the formula used by DE-Ohio to meet load obligations economically must be flexible. Power purchase transactions can extend beyond Ohio's borders. Additionally, consumer choice and competition in Ohio's retail market place means that DE-Ohio's actual load is not 100% certain. Given the integrated nature of the energy markets, which extend outside the borders of Ohio, the value and accuracy of measuring a power producer's burn day seems debatable.

The Commission's proposed additions to the General Provisions contained in O.A.C. 4901:5-19-02 also do not take into consideration the regional nature of the generation market. DE-Ohio agrees that the Commission should be kept apprised of fuel inventory during an emergency, however, DE-Ohio suggests that such communication should be received in coordination with the appropriate ISO/RTO emergency provision. Additionally, during a fuel emergency, any gubernatorial edict requiring fuel management or increases in sales of generation must be coordinated in accordance with the appropriate ISO/RTO emergency procedures. Therefore, deference should be given to the ISO/RTO's ability to re-dispatch and manage the transmission system to alleviate problems caused by the fuel constraints prior to the Governor stepping in and ordering in-state generators to increase output.

Similarly, the Commission's requirements for notification contained in 4901:5-19-04, should also take into consideration the ISO/RTOs responsibility and ability to manage electrical shortages and curtailments including fuel shortages. For example, the ISO/RTOs emergency operating procedures outline the emergency level status and appropriate notification protocols, including public appeals.

The Commission's revisions to O.A.C. 4901:5-19-05 set forth the specific actions to be taken upon the declaration of a fuel emergency. As a general observation, DE-Ohio suggests that any energy emergency declaration or order should be based on the ISO/RTOs emergency operating procedures. This is especially true with respect to the various levels of curtailment contained in O.A.C. 4901:5-19-05. In particular, 4901:5-19-05(E) requires all consumers to discontinue all non-priority use of electricity on each day of the week when statewide burn days reach fifteen days. During such an event, Commission, state, and electric provider interaction with the ISO/RTOs is imperative to maintaining the reliability and operation of the transmission system.

O.A.C. 4901:5-19-05 highlights the ambiguous value of the burn-day measurement tool and more specifically, the current benchmarks set forth therein. O.A.C. 4901:5-19-05(A) would have voluntary curtailment begin when the statewide normal burn days/ inventory levels reach forty days, or when the governor determines otherwise. A Level One emergency under O.A.C. 4901:5-19-05(B) would occur when statewide normal burn days reach thirty days, or when determined by the Governor or Commission. Level Two, Three and Four emergencies would occur when the statewide burn day benchmarks approach twenty-five, twenty and fifteen days, respectively, or as otherwise determined by the Commission or Governor.

DE-Ohio questions the usefulness of these inventory levels given the character of operating a generating facility in the region and under the present condition of deregulation in the State of Ohio. Power suppliers and in particular electric utilities are no longer an island, and they have access to broad internal and external resources for power. Moreover, they are vulnerable to market fluctuations in terms of pricing of generation fuel, emission allowances, and power. All three of these factors are interrelated and must be properly balanced to manage costs and react to swings in market pricing.

Since January 1, 2001, DE-Ohio has sold, and continues to sell, competitive retail electric generation service to consumers located in DE-Ohio's certified territory that choose to purchase that service from DE-Ohio. Electric utilities no longer have the option to seek a cost-based rate increase and a reasonable rate of return through the regulatory process for retail generation business. For example, DE-Ohio's fuel component of its market price is fully avoidable by all customers who purchase generation from a competitive retail electric service provider (CRES). As such, DE-Ohio and all electric utilities are fully responsible for their respective financial positions in the competitive retail electric market and must actively manage costs, risks, assets, and market opportunities, including coal inventory. For instance, it may no longer be prudent for an electric utility to maintain a large inventory pile of coal as was common practice in a fully regulated environment. Maintaining a larger coal inventory could result in increased costs and an inefficient management of market risks, which would ultimately harm consumers. The benchmarks for burn days contained in 4901:5-19-05, could limit

the ability of an electric utility to manage its costs in the market by forcing it to maintain an inefficient and excess supply of coal, ultimately increasing costs to consumers.

Under the proposed revision to O.A.C. 4901:5-19-05(A)(1), the Commission would require electric providers to file emergency curtailment plans. At present, electric providers are not required to do so. As noted above, both MISO and PJM already have emergency operating procedures in place that outline curtailment plans. In fact, at least with MISO, these curtailment plans are being continually revised and updated. DE-Ohio suggests that any statewide curtailment plan should be adaptable and tailored to be consistent with the ISO/RTO plans.

The proposed revision to O.A.C. 4901:5-19-05(A)(4)(C) requires that an electric power producer operate its generating plant to "optimize fuel usage." DE-Ohio questions the implementation of such a requirement in an ISO/RTO energy market. DE-Ohio stresses that any requirement that a power producer adjust the operation of its generation facilities must be done in coordination with ISO/RTO market operations or emergency procedures.

b. Chapter 4901:5-21-01: Coal Allotment

The Commission is proposing several new definitions regarding Coal Allotment to O.A.C. 4901:1-5-21-01. As a general observation, DE-Ohio respectfully suggests that the Commission include an introductory statement restricting the definitions of the terms in O.A.C. 4901:5-21-01 to the confines of the Chapter. Previously, the Commission has included similar language in its definition sections. For instance, O.A.C. 4901:5-33-01 includes the introductory statement "as used in this Chapter:" prior to setting forth the relevant definitions. This practice would eliminate any confusion or potential conflict

between terms that reappear in different Chapters. One such example is the inclusion of the term "consumer," defined as "a person who consumes coal at a specified location." As this Commission is aware, the word "consumer" appears throughout the O.A.C. and has a specific connotation in the competitive retail electric arena. To avoid inconsistencies and confusion as to how the term is used, the Commission should include an introductory clause to O.A.C. 4901:5-21-01 limiting the definitions to the specific chapter.

The Commission is also proposing to amend the definition of "coal supplier" to broadly encompass "...all prime coal suppliers, wholesale purchaser resellers, and other persons who sell or resell coal to consumers within the geographic or service areas in which an energy emergency has been declared or in which the Commission has determined that there is an actual or threatened shortage of coal." As the Commission is aware, DE-Ohio purchases and re-sells coal as part of its daily generating portfolio management. Under this broad definition, DE-Ohio would be considered a coal supplier. The impact of this particular change is that under this new definition, DE-Ohio would now qualify as both a coal supplier and a consumer.

Under O.A.C. 4901:5-21-02(A), coal suppliers have the obligation to assure, to the extent reasonably possible, the provision of coal to its consumers for priority use. While DE-Ohio does not oppose such a requirement and realizes that it is not part of the proposed changes to the Chapter, the practicality and implementation of this requirement is questionable. How can a supplier make such an assurance, reasonable or otherwise? Suppliers have no way of knowing or verifying whether the consumer is burning coal for priority or non-priority uses. At best, the Supplier can simply make an inquiry and rely

upon the answer of the consumer. Additionally, DE-Ohio proposes that coal suppliers who operate and run mines should be encouraged to reasonably maximize mining capacity through overtime and/or adding shifts in an emergency, subject of course to safety and maintenance constraints.

DE-Ohio agrees with the Commission's proposed changes to 4901:5-21-02(B) with respect to supplier surplus of coal. DE-Ohio recommends that the Commission go one-step further and require that the suppliers be obligated to fulfill the existing contracts with its consumers prior to selling any new or excess inventory in the spot market.

c. Chapter 4901:5-23: Coal Emergency

Chapter 4901:5-23 addresses actions during and prior to a declared coal emergency. Like the definition contained in 4901:5-21-01, the Commission is amending the term Coal Supplier in 4901:5-23 to include "...all prime coal suppliers, wholesale purchaser resellers, and other persons who sell or resell coal to consumers within the geographic or service areas in which an energy emergency has been declared or in which the Commission has determined that there is an actual or threatened shortage of coal." For purposes of O.A.C. 4901:5-23, DE-Ohio could be considered a coal supplier.

Under the newly added O.A.C. 4905:23-04, the Commission has given itself the power to confiscate and reallocate a supplier's coal reserves at any time prior to an energy emergency. While reallocation and transferring supplies to other coal suppliers may be necessary during a declared emergency, such a drastic measure should not be afforded unless as a last resort. A coal supplier may be contractually obligated to deliver to its customers and has a responsibility to fulfill those obligations. R.C. 4935.03 does bestow upon the governor and the Commission extraordinary powers during the

declaration of an emergency. However, R.C. 4935.03 does not vest the Commission with authority to essentially interfere with contractual obligations of coal suppliers and confiscate or transfer coal inventory prior to the declaration of an actual emergency. Additionally, the Commission in 4901:5-23-04(C) requires coal suppliers to monitor individual consumers to ensure they are complying with coal curtailments. Such a requirement is not only unreasonable, it is impossible. As explained above, there is simply no ability for a coal supplier to police or enforce consumer priority uses of coal during an emergency, let alone prior to one.

DE-Ohio does not object to a requirement to report to the Commission on the availability of coal. However, as described previously, these reports should be coordinated through the appropriate RTOs, ISOs and regional reliability organizations, (RROs) who are in the best position to determine when inventory and reserves have reached emergency levels and curtailment is necessary. The Commission must be mindful of the ISO/RTO's responsibility to optimize all available resources during emergency conditions to ensure overall system reliability. State level restrictions, such as rationing of fuel resources, may have a larger impact on the overall system integrity beyond Ohio's borders.

d. Chapter 4901:5-25 Gas Emergency

Staff is proposing many changes to O.A.C. 4901:5-25. As discussed above, DE-Ohio recommends that the Commission review relevant RTO/ ISO curtailment plans with respect to natural gas as a fuel for electric generation *before* implementing any changes to the natural gas emergency rules contained in O.A.C. 4901:5-25. Under direct orders by the Federal Energy Regulatory Commission (FERC), ISO/ RTO's are required to address

in their curtailment plans, protocols for natural gas shortages during winter months when natural gas used as fuel for electric generation competes with home heating needs. Although electric generating facilities would qualify as a priority use in the event of an emergency under O.A.C. 4901:5-25-01, curtailment or rationing with respect to electric generation under the higher level of emergency, without RTO/ ISO coordination could exacerbate an already critical situation.

DE-Ohio is not opposing the suggested changes to the definitions in O.A.C. 4901:5-25-01. Similarly, the majority of the changes proposed for O.A.C. 4901:5-25-02 are minor and DE-Ohio does not find them objectionable. However, DE-Ohio is concerned about the proposed addition contained in O.A.C. 4901:5-25-02(H), which permits a gas supplier to disconnect nonpriority use consumers who fail to disconnect or curtail consumption immediately upon notification in a declared emergency. Implicit in this requirement is that Gas Suppliers will be forced to police the consumption levels of those nonpriority consumers. Logistically, the policing and monitoring of service levels for every non-priority use consumer, especially during an energy emergency, is an onerous burden. During an emergency, when the gas suppliers are already devoting all necessary resources to maintaining and acquiring natural gas supplies, monitoring consumer consumption would be impossible.

DE-Ohio also takes issue with Staff's proposed change in 4901:5-25-02(J) in that it appears to give the Commission the ability to change and amend its rules at its own discretion. While DE-Ohio sees nothing wrong with allowing waivers from the rules for good cause shown, the ability to sua sponte change the rules midstream is concerning and

conflicts with the authority granted under R.C. 4935.03 with respect to energy emergency procedures.

In 4901:5-25-04(D), the Commission is adding a notice requirement for implementation of the curtailment plan. The proposed modification is overly broad and seems to require Commission notification each time a gas supplier initiates any part of its curtailment plan. Such a requirement would implicitly include any curtailment of interruptible rate consumers. While DE-Ohio is not opposed to keeping the Commission apprised of the condition of its natural gas supply and delivery system, this section should exclude situations where a natural gas supplier is curtailing consumers who take service under an interruptible rate. Those specific consumers have chosen to take service under the terms of the interruptible rate and Commission notification is not necessary. DE-Ohio has implemented operational curtailments for its Rate IT consumers for years without prior Commission notification. To add this as part of the operation of its Rate IT, creates unnecessary delays and expenses to the detriment of all ratepayers. The fact that Rate IT consumers are willing to face curtailment in exchange for the reduced rates and prior Commission notification seems arbitrary and of little or no value.

O.A.C. 4901:5-25-04(E) requires each gas supplier to submit periodic reports to the Commission regarding its gas supply and system condition. Again, DE-Ohio is not opposed to keeping the Commission informed of the condition of its system during an actual declared emergency. However, this provision would become effective upon the issuance of an order by the Commission at any time prior to a declared emergency. Conceivably, the Commission could issue such an order immediately upon the effective date of these rules and introduce a significant operational constraint by requiring weekly

or daily reporting duties. DE-Ohio is not opposed to providing this information upon Commission request; however, DE-Ohio objects to any reporting requirement that imposes new and significant operation processes and costs on the company.

The Commission is proposing several changes to O.A.C. 4901:5-25-05, "Actions Upon Declaration of Energy Emergency." This chapter specifically defines the various levels of energy emergencies and the steps in curtailing the delivery system at each level. In general, DE-Ohio supports the Commission in its attempt to define the required actions and limitations during an energy emergency. From a logistical perspective, DE-Ohio is concerned with the Commission's curtailment requirements in Stages Two and Three, especially those limiting the heating temperatures in public buildings. DE-Ohio is certainly not opposed to this requirement and agrees that it is a necessity in the event of an actual emergency. However, DE-Ohio questions the ability to enforce and monitor such requirements.

DE-Ohio is not in a position to police consumers and their compliance with curtailment initiatives. At present, DE-Ohio does not have the smart metering capabilities to actively monitor and ensure each consumer's compliance. DE-Ohio has no control over consumer's outdoor lighting, thermostat settings, or hot water heaters. At best, DE-Ohio can provide the necessary notices and public appeals. Realistically, however, DE-Ohio would have no way of knowing whether a consumer has complied with the curtailment requirements. Conceivably, it may be possible for DE-Ohio to verify if a consumer has reduced consumption following a regularly scheduled meter reading date and after making a comparison to historic levels. However, even this

activity would add a significant process to DE-Ohio's business operations, which may already be constrained during an emergency.

e. Chapter 4901:5-37: Emergency Reporting by Electric Utilities

DE-Ohio respectfully suggests that O.A.C. 4901:5-37 be amended and/or revised to recognize and incorporate ISO/RTO involvement throughout. Specifically, the terms defining ISO and RTO should be added to the definition sections contained in O.A.C. 4901:5-37-01. Additionally, the proposed term and definition of "Reliability Council" contained in O.A.C. 4901:5-37-01(G) should be amended. DE-Ohio respectfully suggests that the term "Reliability Council" be changed to "Reliability Organization."

The definitions should be stated as follows:

Reliability Organization means Reliability First Corporation," a regional reliability organization of the "North American Electric Reliability Council" (NERC), a Regional Transmission Organization (RTO), Independent System Operator (ISO), 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/ or transmission facilities.

The proposed changes above reflect the incorporation of the ISO/ RTOs. Like other reliability organizations, ISOs/RTOs can call emergency alerts, issue notices and release statements regarding generation output. The incorporation of ISOs/RTOs into the definition is an efficient way to recognize this, as it would be applicable throughout O.A.C. 4901:5-37. Likewise, O.A.C. 4901:5-37-03(A)(5) and O.A.C. 4901:5-37-03(B)(1) should also be amended to reflect this change. Specifically, O.A.C. 4901:5-37-03(A)(5) should read "any emergency alert, notice or statement issued by a reliability organization, which relates to a utility company's overall generation output or

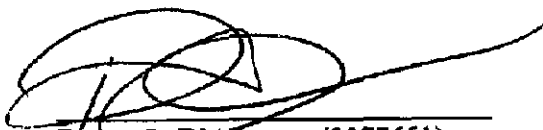
transmission,” and 4901:5-37-03(B)(1) should refer to “the reliability organization’s load shedding procedures.” This change in particular recognizes the RTO/ ISO’s ability to institute load-shedding procedures. DE-Ohio is not aware of any “reliability council” having such ability. Therefore, the change to reliability organization, which by definition, expressly includes RTOs/ ISOs is accurate.

The proposed addition of O.A.C. 4901:5-37-03(C) requires each distribution utility to file its emergency plan and amendments for Commission approval. Currently, there is no such requirement for Commission approval. Rather, distribution utilities are required to file these plans with NERC for approval. DE-Ohio believes that NERC approval is sufficient. It seems redundant and creates a potential conflict if distribution utilities must seek multiple approvals for its plans. DE-Ohio does not oppose sharing the NERC approved plan with the Commission, but believes a second approval process is not necessary.

III. Conclusion

Again, DE-Ohio appreciates this opportunity to provide comments related to the Commission’s proposed modification to Chapters 4901:5-17 through 4901:5-37 of the Ohio Administrative Code. For all the foregoing reasons, DE-Ohio respectfully requests that the Commission revise its Proposed Rules in accordance with DE-Ohio’s suggestions herein and clarify each of the provisions as identified by DE-Ohio.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Rocco D. D'Ascenzo', written over a horizontal line.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served via first class U.S. Mail, postage prepaid, this 15th day of December 2006, upon the following:

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