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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's
Review of Chapters 4901:1-9, 4901:1-10,
4901:1-21, 4901:1-22, 4901:1-23, 4901:1-
24, and 4901:1-25 of the Ohio
Administrative Code.

Case No. 06-653-EL-ORD

COMMENTS OF OHIO EDISON COMPANY,
THE CLEVELAND ELECTRIC ILLUMINATING COMPANY, AND
THE TOLEDO EDISON COMPANY

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I. INTRODUCTION

Pursuant to the Commission's Entry of July 23, 2008, Ohio Edison Company ("Ohio Edison"), The Cleveland Electric Illuminating Company ("CEI"), The Toledo Edison Company ("Toledo Edison"), and American Transmission Systems, Incorporated ("ATSI") (collectively, the "Companies"), respectfully file their responses to the questions posed by the Commission in the July 23 Entry, as well as their comments to the Commission Staff's revised proposed changes to Commission rules. The Companies note that to the extent that Staff's revised proposed rules carry forward areas of concern that the Companies previously submitted comments to address, the Companies have attempted to incorporate their previous comments herein. The Companies appreciate the opportunity to comment and acknowledge the hard work of the Staff in reconsidering its previously issued proposed rules, taking into consideration Am. Sub. S.B. 221 and various comments submitted by interested parties, and presenting revised proposed rules.

II. RESPONSES TO THE QUESTIONS POSED BY THE COMMISSION

- A. Although staff has proposed to eliminate the requirement in Rule 4901:1-10-11, O.A.C., to report Momentary Average Interruption Frequency Index (MAIFI), should the service reliability indices and minimum performance standards set forth in Rule 4901:1-10-10(B)(1), O.A.C., include MAIFI and power quality indices as minimum standards?**

No. Due to changes in technology in the design of customer equipment and good MAIFI performance by the utilities, there are currently few complaints about momentary operations. Moreover, current industry practice favors measuring reliability through other indexes, such as SAIDI. Staff's proposal to eliminate the requirement to report the momentary average interruption frequency index is a step in the right direction. The inclusion of MAIFI and power quality indices as minimum standards would defeat the purpose of eliminating MAIFI as a reporting requirement.

As for "power quality indices" there are a variety of indices proposed in the industry and not one generally accepted and used throughout the industry. The Companies recommend that Staff provide additional information on what power quality index is being proposed and allow interested parties an opportunity to comment.

- B. If minimum performance standards for MAIFI and power quality indices are established, should the minimum standards reflect the momentary interruptions experienced by all customers, what would be the expected cost of implementing these minimum standards, and who should bear the cost of implementation?**

The Companies oppose the adoption of a minimum standard for MAIFI as explained above. If a reporting requirement for MAIFI is retained, it should not be any more burdensome than what is in place today. Without knowing what a minimum standard would be, it is impossible to even estimate the cost of compliance. The

customers who benefit from the improvement to the MAIFI should bear the cost of implementation.

As for “power quality indices”, as stated above, there are a variety of indices and absent knowledge of what the standard would be the Companies cannot comment at this time as to the cost of implementation. However, again the customers who benefit from the improvement should bear the cost of implementation.

- C. To the extent staff discovers other redundancies or inconsistencies among the chapters of the Administrative Code currently under review in this proceeding or in Case No. 08-723-AU-ORD, is there any reason not to adopt staff’s proposal of consolidating rules regarding residential and non-residential disconnection, reconnection, establishment of service, and bill payment into one chapter?**

Yes. Staff should not consolidate rules regarding residential and non-residential disconnection, reconnection, establishment of service, and bill payment without the Companies or any other interested parties being provided an opportunity to review the mechanics of Staff’s proposed consolidation and the opportunity to opine on whether the consolidation as proposed is appropriate. The Companies do not oppose the concept of consolidating rules to avoid redundancies or inconsistencies; however, absent knowing the details of any proposed consolidation the Companies cannot at this time support such a proposal in the abstract. The Companies recommend that Staff provide the details of its proposed consolidation and that interested parties be given an opportunity to comment.

III. COMMENTS TO STAFF’S PROPOSED RULES

With respect to the Companies, changing the use of electric distribution utility (“EDU”) to the term “electric utility” has the effect of including ATSI every time the term “electric utility” is used. ATSI is an electric utility, but is not an electric distribution utility. The individual rules as proposed already make clear when they are intended to

apply to transmission owners. This change could introduce unintended ambiguity or results and should not be adopted. The rules should use the term “electric distribution utility” when the reference is intended to only apply to Ohio Edison, The Cleveland Electric Illuminating Company, and The Toledo Edison Company and similar companies in Ohio that provide retail distribution service.

Rules 4901:1-9-01 to -09, “Electric Companies”

A. Rule 4901:1-9-01—Definitions.

1. Rule 4901:1-9-01(C)-(E)

The Companies recommend using the defined term “electric distribution utility” as the reference instead of using three separate defined terms. The definition of electric distribution utility seems to fit best with these rules and in O.A.C. 4901:1-10. It is confusing to use multiple terms if all the terms are meant to apply to Ohio Edison, CEI, Toledo Edison and other similar companies in Ohio that provide electric distribution service.

B. 4901:1-9-03—Demand or load meter option for residential customers.

1. Rule 4901:1-9-03(A)

This section requires the Companies to provide certain customers the option of metering usage by a demand meter. However, the Companies are seeking to replace the older demand meters with more energy efficient Time-of-Day Meters. The Companies request that this provision include language that would allow for Time-of-Day Meters in place of demand meters.

C. 4901:1-9-07—Rules, regulations, and practices for the construction of electric line extensions.

1. Rule 4901:1-9-07(A)(1)

A line extension should not be limited to "new" customers. The Companies request that the term "new" be deleted.

2. Rule 4901:1-9-07(A)(4)

Staff proposes to add the defined term "line extension". The Companies request a more complete definition which clarifies that the term "line extension" includes rights of way, and may include upgrades associated with existing facilities. The Companies also request that a term broader than "meter" be used in the rule to cover other possible scenarios including providing for delivery to the customer's substation or other equipment which would not fall within the term "meter".

3. Rule 4901:1-9-07(A)(6)

Staff proposes to add the defined term "Point of Origin". The Companies recommend that the definition clarify that the "nearest practical point to the customer" relates to the voltage level at which the Companies are connecting the customer. The point of origin should be based on engineering, system integrity and reliability, and cost; not simply physical proximity. In addition, the Companies request that the language is clarified to reference existing transmission or distribution *equipment*. The revised proposed definition would be as follows:

"Point of origin" means the point where a line extension under this rule connects with and receives energy from any existing transmission or distribution equipment. The point of origin shall be the nearest practical point to the customers to be served by the line extension at which the appropriate voltage level is available.

4. Rule 4901:1-9-07(A)(7)

The following language should be added to the end of this rule section to make sure all requests for premium service are covered: ", or any customer request that is in

excess of standard construction and requirements necessary to provide electric service to the customer.”

5. Rule 4901:1-9-07(C)(1)

If this proposed rule is adopted, then electric distribution utilities should be given a reasonable amount of time to comply. They can't be expected to have a tariff in effect on the same day the rules go into effect. Electric distribution utilities should be given at least 30 days after the effective date of the rule to have filed a proposed tariff.

6. Rule 4901:1-9-07(D)(1)

Staff proposes that the electric utility provide an itemized list of all costs incurred for a line extension. The Companies oppose this proposed provision on three grounds. First, such a level of detail may breach the contractual agreements utilities have with their suppliers not to share pricing information. The Companies are not opposed, upon customer request, to provide an all-in cost estimate and a separate all-in cost estimate for the incremental cost increase for any premium service. However, providing an itemized list of costs does not recognize that the Companies may have negotiated favorable pricing terms in supplier agreements that are confidential and that the price to the customer would most likely increase if the Companies were forced to acquire materials and services without the benefit of such negotiated contracts. Second, customers do not pay the full costs for line extensions and should not be entitled to an itemized list of expenses the electric distribution utility incurs. Finally, the proposed provision assumes that all customers will want a detailed cost estimate. In addition, to the changes the Companies reference above, the Companies also request that any duty to provide a cost estimate

pursuant to this section be preceded by a customer request, and only be associated with costs that customers are actually directly paying to the electric distribution utility.

7. Rule 4901:1-9-07(D)(2)

The Companies request that the language "working days" follow each of the timeframes. Currently, the language "working days" appears with respect to the non-binding estimate, but not the binding estimate or the ten day timeframe after receipt of any required information. In addition, the Companies request that the ten additional working days from receipt of relevant information be applicable to both the non-firm and firm estimates. The Companies also request clarification of what constitutes the "request" of a customer that starts the clock. Ideally, this request would be in writing so as to avoid future disputes and misunderstandings that may occur if the "request" is based only on a conversation.

8. Rule 4901:1-9-07(D)(4)

Staff proposes that electric distribution utilities may allow third parties to install line extension facilities (which would include, but not be limited to, poles, fixtures, wires, and appurtenances) to the electric distribution utilities' system, subject to utility specifications and inspection. This proposed addition raises great concern. First, the reassignment of such work may violate existing labor contracts. Second, the Companies are responsible for the safety and reliability of their system at all times, including while third party contractors are working on their system and thereafter, when such contractors would have moved on to their next job. A third party contractor under Staff's proposal has no incentive to maintain the safe operation of the Companies' system in the long run, but rather is only incented to bid the lowest price possible. It is unreasonable to allow randomly selected contractors to work on areas of the Companies' system but place

ultimate responsibility for the safe operation and maintenance of the system on the Companies. The Companies strongly oppose Staff's proposed change and recommend that it be rejected.

9. Rule 4901:1-9-07(E)(1)(c)

Staff has proposed that electric distribution utilities loan customers the funds necessary to complete customer requested line extensions. The Companies do not believe they should be forced to devote the resources to be in the business of providing unsecured loans to fund customer obligations associated with line extension projects. Customers have traditionally borne the responsibility for such payments and no basis has been provided to deviate from that practice. Further, electric distribution utilities would need a recovery mechanism to recover the cost of the loan, as the electric distribution utility would incur carrying costs, and if such costs are not paid by the customer causing the cost, then it would need to be paid by all other customers. It would be wholly unfair to require the Companies to finance the costs of a customer's line extension project with only the hope of future recovery of principal and no recovery of associated carrying costs. The electric distribution utility should not be in a position to absorb this risk.

10. Rule 4901:1-9-07(E)(1)(2) and (3)

The proposed rule on line extensions would relieve the customer, both residential and nonresidential, from paying anything toward the cost of a line extension project being undertaken specifically for that customer, other than for premium service or if the cost of a residential line extension exceeded \$5,000. Experience has taught that this type of line extension policy causes inefficiencies and is not well-conceived. While it appears to be a benefit to nonresidential and residential customers alike, because they don't have any upfront costs, what it really does is relieves the customer from any responsible decision

making and shifts the costs of poor decisions upon the other customers. Some up front payment is necessary to cause the customer to prudently decide that they need that new line or new substation or underground service throughout that theoretical new development. As has occurred in the past, when there is no downside or cost to the customer, they simply say go ahead and build it, go ahead and oversize that substation, etc. And when the allotment is not completed, and the new business load is much smaller than promised, it is the other customers that must bear the costs. Nothing is free, and line extensions fit into that category. It is in the public interest to have some up front charge to better ensure prudent decision making on the part of customers, and the Companies strongly recommend that such an upfront charge be implemented by the Commission as part of the proposed rule.

11. Rule 4901:1-9-07(F)(2)

If electric distribution utilities are going to be required to foot the bill for all line extensions with little or no upfront contribution from customers, then they should not be doubly penalized by having to wait to recover those costs until the next rate case. This proposed rule should permit timely recovery through a rider mechanism for all costs collectible in that fashion, including without limitation administration costs, operation and maintenance costs, depreciation, property tax obligations, and post in service carrying charges.

12. Rule 4901:1-9-07(G)(1)(b)

Staff proposes a fifty month reach back period whereby a party that has paid an electric utility a CIAC may seek a refund if any new additional residential customer utilizes all or part of the facilities for which the CIAC was paid. The Companies request that the rule be clarified to state that an electric utility would only be required to refund

up to the amount that the electric utility recovered twice from the same facility (from both the initial customer and the additional customer(s)). In addition, the Companies believe fifty months is an unreasonable length of time to administer the reimbursement. The Companies request that the time be reduced to twenty-four months.

Rules 4901:1-10-01 to -33, "Electric Service and Safety Standards"

A. 4901:1-10-01—Definitions.

1. Rule 4901:1-10-01(Q)

The Companies commend Staff's proposed adoption of the IEEE 2.5 Beta Method as defined in the IEEE's Standard 1366. However, the Companies disagree with Staff's proposed exclusion of transmission outages. The IEEE 2.5 Beta method described in the IEEE standard 1366 was developed with the inclusion of all outages, including transmission. Excluding transmission outages (an integral part of the model) invalidates the model. Currently the Companies' storm exclusion is closely modeled to the IEEE 2.5 Beta method. Exclusion of unplanned transmission outages reduces the measurement of the outages the customers actually experience without warning.

The Companies believe that it is appropriate to exclude planned outages. The justification of excluding a planned outage is that these outages typically occur after customers are notified and are used to make repairs or to upgrade the system, and such efforts should not adversely affect a company's overall performance which may cause an electric distribution utility to be penalized or fined. If planned outages are not excluded, this rule will act as a disincentive to performing system upgrade work, which would be wholly inconsistent with the efforts to maintain and improve reliability. As electric utilities continue to make improvements to their systems, exclusion of planned outages should be permissible.

In addition, the reference to “paragraph (C)(3)(e)(ii) of rule 4901:1-10-11” should be changed to “paragraph (C)(3)(e)(iii) of rule 4901:1-10-11”.

2. Rule 4901:1-10-01(R)

The definition of “Mercantile customer” should reference back to 4928.01(A)(19).

3. Rule 4901:1-10-01(T)

The definition of “Person” should reference back to section 1.59 of the Revised Code.

4. Rule 4901:1-10-01(U)

Staff has proposed to add the term “Postmark”. However, due to the large volume of customer bills, the Companies use a bulk mail process, in which a postmark date does not appear on the invoice envelope. The Companies do, however, include the mailing date on the customer bill invoice. The Companies recommend the definition be deleted.

5. Rule 4901:1-10-01(V)

The definition of “Renewable energy credit” should reflect how such credits are obtained. The Companies recommend the new proposed definition to read as follows:

A renewable energy credit, whether self generated, purchased along with the commodity or purchased separately through a tradeable instrument, represents the fully aggregated attributes associated with one megawatt hour of electricity generated by a renewable energy resource as defined in division (A)(35) of section 4928.01 of the Revised Code.

6. Rule 4901:1-10-01(Z)

The definition of “Transmission outage” is too narrow and should include facilities designed exclusively for power delivery to customer substations or company owned distribution substations. The Companies recommend the new proposed definition to read as follows:

"Transmission outage" means an outage: 1) involving facilities that would be included in rate setting by the Federal Energy Regulatory Commission or 2) involving other facilities designed exclusively for power delivery to customer-owned substations or company-owned distribution substations.

7. Rule 4901:1-10-01(BB)

Staff's revised definition of "Voltage excursions" deletes text that provides practical examples of voltage excursions that may be helpful to the reader. Such examples should be retained. The Companies also request that "reasonable response time of automated voltage control equipment" be added to this definition, recognizing that such automated devices do not operate instantaneously, and those time delays may result in voltage excursions.

The revised definition also deletes causes of voltage excursions that may be within the Companies' control but are necessary to maintain the proper operation of the Companies' system. Such factors include "the electric utility's system operations (e.g. switching operations) and emergency operations. The recommended proposed definition is as follows:

"Voltage excursions" are those voltage conditions that occur outside of the voltage limits as defined in the electric utility's tariffs that may result from: 1) the operations of customer equipment (e.g. spot welders or motor starting), lightning, storms, winds, accidents, or other factors beyond the control of the electric utility, 2) the electric utility's system operations (e.g., switching operations), 3) reasonable response time of automated voltage control equipment, or 4) emergency operations.

B. 4901:1-10-02—Purpose and scope.

1. Rule 4901:1-10-02(F)

Staff proposes to add a sentence which would discourage a company from using system-wide data to establish service and performance standards. Such a proposal exceeds the scope and intent of this provision. The provision as written provides a

rebuttable presumption when an electric utility demonstrates compliance with service and performance standards accepted by Staff. All companies are not alike and system-wide data may be a valuable component of establishing service and performance standards. Staff has input and final approval of the companies' system and performance standard, and once approved companies should be entitled to a rebuttable presumption, if the company is in compliance with the relevant service or performance standard, that the company is providing adequate service regarding that standard. Moreover, Staff's proposed rule 4901:1-10-10(B)(4)(a) contemplates that performance standards should reflect historical system performance.

2. Rule 4901:1-10-02(G)

Staff has proposed eliminating commonly used exculpatory clauses that limit an electric utility's liability. These clauses currently in effect for electric as well as other types of utilities, have been a standard part of tariffs approved by the Commission, and are widely used in the tariffs of utilities approved in other states. Limitation of liability for electric utilities tends to reduce the overall cost of service and, in turn, rates for all customers.

In the absence of such clauses, it would be necessary to recognize an increased level of expense in ratemaking, thus tending to increase customer rates. Moreover, existing rates are premised on the existence of such clauses. If the Commission were to require their elimination (thus tending to increase the cost of service) but, in the absence of a rate case, provide no mechanism for recovery of such increased costs, such an action would be confiscatory.

The current tariffs contain a bright-line provision that describes the scope of the utilities' liability for damages and, proscribes utility liability for common unavoidable

events like outages, weather-related damages, and equipment defects. Staff's proposal represents a drastic departure from past practices without a compelling justification. The Companies recommend that the proposal be rejected. In the alternative, the Companies request that any consideration of eliminating such language only be performed in conjunction with a proper adjustment to the utility's cost of service.

C. 4901:1-10-03—Records.

1. Rule 4901:1-10-03(A)(2)

Staff proposes to add a sentence to this section to create a rebuttable presumption that if the electric distribution utility cannot "demonstrate compliance" with the rules of this chapter with records, the electric distribution utility will be presumed to be in violation of the rule. This is an improper procedure for at least the following reasons. First, there is no standard for what showing is necessary to demonstrate compliance. Second, the rule does not state who will make such a determination, how such determination will be made, or what process follows the making of such a determination. The Companies recommend that this sentence be deleted from the proposed rule as it is unnecessary and will only lead to additional disputes and confusion due to its vagueness.

2. Rule 4901:1-10-03(A)(3)

This proposed rule is difficult to understand, particularly the last phrase. It is unclear what the requirement of the rule are intended to be or to what other rules it is intended to apply to. A better approach may be to include language as a part of each rule to which this rule is supposed to apply. Otherwise, electric utilities will be left guessing as to which rule this rule applies as well as the required length of the record retention period.

3. Rule 4901:1-10-03(B)(3)

Staff proposes that electric utilities provide access for Staff to monitor customer calls without the customer service representative's knowledge of the monitoring. The purpose and intent of this new provision, as well as, the ultimate benefit to customers is unclear. The Companies propose that this language be clarified to demonstrate a benefit to customers or otherwise deleted.

D. 4901:1-10-04—Equipment for voltage measurements and system voltage and frequency requirements.

The proposed insertion of the phrase "transmission owner" in this subsection is confusing and contrary to law; it should be deleted. Since the transmission owner sells only at wholesale, it has no retail customers over which transactions the Commission has jurisdiction. Moreover, there are no detailed procedures to put many of these provisions in place on the transmission side. Staff's proposed addition of "transmission owners" would require changes in procedures and systems which may come into conflict with FERC/NERC procedures. Similarly, to the extent the FERC has jurisdiction over certain service issues; the Commission's jurisdiction is preempted. Terminology used in this rule should exclude "transmission owner".

E. 4901:1-10-05—Metering.

1. Rule 4901:1-10-05(C)

The language of this subpart should be expanded to make clear that the electric utility has a right of access to metering equipment for safety reasons and to remove the metering equipment, in addition to the "reading, replacing, repairing, . . ." language already included in the rule. This right of access is already contemplated by the language of subpart (E) of this rule.

2. Rule 4901:1-10-05(F)(5)(c)

Subpart (c) should be amended to include after the word “overpayment” the following language: “, or charge any underpayment,” for the situation where the meter inaccuracy resulted in the customer being under billed for the service rendered. Conforming changes should then be made to subpart (F)(5)(c)(i) and (ii) by inserting the words “or undercharge” after the word “overcharge” in each subsection.

3. Rule 4901:1-10-05(G)

The Companies request that “(or parent trademark name)” be added to this provision to read:

Each electric utility shall identify, by company name (and/or parent trademark name) and serial or assigned meter numbers and/or letters, placed in a conspicuous position on the meter, each customer meter that it owns, operates, or maintains.

F. 4901:1-10-08—Emergency plan; annual emergency contact report and annual review of emergency plan; critical customers; emergency exercise; and coordination.

1. Rule 4901:1-10-08(B)(17)

The Companies’ emergency plan is designed to be activated in stages based on the size and/or impact of the event. Even minor events can trigger the activation of portions of the plan. It would be overly burdensome to require and perform a formalized after-action assessment following all such minor event activations. The Companies believe after-action assessments can be valuable, but believe such assessments should be limited to significant and/or major events.

2. Rule 4901:1-10-08(G)(1)(a)

The word "3-mail" should be changed to "e-mail".

G. 4901:1-10-10—Distribution system reliability.

1. Rule 4901:1-10-10(B)

The Companies request the word "minimum" be removed from this section. The provision should set forth performance standards--not minimum or maximum standards.

2. Rule 4901:1-10-10(B)(1)

This section includes the reliability indices CAIDI and SAIFI. However, Staff has proposed a major event exclusion criteria based on the IEEE 2.5 Beta Method based on the measurement of daily SAIDI values. Since SAIDI is equal to the product of SAIFI times CAIDI, the Companies believe it is unnecessary to provide SAIFI and CAIDI values. The Companies recommend that SAIDI be the only service reliability index. SAIDI provides a good indication on overall performance of an electrical system while greatly simplifying reporting requirements.

3. Rule 4901:1-10-10(B)(4)(a)

Staff has proposed that performance standards should reflect results of the customer perception survey. The integration of customer perception survey results into the generation of performance standards is new to the industry and this rule does not clearly define a mechanism to achieve this goal.

4. Rule 4901:1-10-10(B)(4)(c)

Staff proposes that transmission outages shall be excluded from performance data. The Companies request that transmission outages be included in performance statistics, since this is the outage performance that the customer experiences. When evaluating distribution performance, the supply to the substation and circuit must be included, as

distribution performance can be influenced by choice of supply alternatives.

5. Rule 4901:1-10-10(B)(6)(a)

Staff's proposed process for filing an application to change performance standards would require the Companies to file all work papers and methodologies as well as hold open meetings in the Commission offices. The filing process and procedure is unclear. The Companies request more clarity as to the procedure and rationale for process steps that may be required.

6. Rule 4901:1-10-10(C)(2)

The Companies request the words "transmission outages" be removed from this provision since the Companies are proposing to include transmission outages in their performance data.

7. Rule 4901:1-10-10(C)(3)(c)

Staff recommends the following data be provided for transmission outages only: "Data for the total number of service interruptions, customers interrupted, and customer minutes interrupted for each outage cause code". The Companies request that this language be removed from the rules for transmission outages in the event that the Companies recommendation to include transmission outages from the outage data is accepted.

8. Rule 4901:1-10-10(C)(4)

Staff proposes that each electric utility shall file the annual report in an electronic form prescribed by the commission or its staff. The Companies recommend that data should be submitted in a method accepted industry-wide such as Microsoft Excel. The electronic form recommended by Staff has proven not to contain the necessary safeguards

to protect draft versions from premature review before management approval for completeness and accuracy. Further, using a more “off the shelf” product should significantly reduce the time and resources devoted by both the Companies and the Staff attempting to make the electronic form accurately reflect the data.

9. Rule 4901:1-10-10(E)

Staff proposes that failure to meet a performance standard for two consecutive years shall constitute a violation of this rule. The Companies believe this rule to be unreasonable since there are many causes outside the control of the utility which could result in not meeting the performance standards. The Companies recommend that if the performance improvement action plans have been completed and a company still fails to meet the performance standard, this should not constitute a violation of this rule.

H. 4901:1-10-11—Distribution circuit performance.

1. Rule 4901:1-10-11(B)(1)

Staff proposes circuit performance data shall exclude transmission outages from the calculation of circuit performance. Transmission data should not be excluded from circuit performance data. As stated above, the customer does not know the difference between an outage caused by the transmission supply or a problem on the distribution system. In addition, reliability complaints on a distribution system can influence the repair of a poor performing transmission line. The Companies recommend that transmission outages be included in the calculation of circuit performance data.

In addition, the Companies recommend that the term “major storm event” be changed to “major event” data as defined in rule 4901:1-10-01(Q).

2. Rule 4901:1-10-11(B)(2)

Staff proposes circuit performance to be calculated on the service reliability indices defined in 4901:1-10-10(B)(1). The Companies note that SAIDI is not a defined reliability index within this rule section and recommend that it be added.

3. Rule 4901:1-10-11(C)(2)

Staff proposes that the reporting period for the eight percent of the worst performing circuits begin on September first of each year and end on August thirty-first of the subsequent year. There is no justification as to why this rule has been changed from a calendar year basis. Since rule 10 is reported on a yearly basis, it is reasonable that rule 11 cover the same time period. Therefore, the Companies request that the current time period based on the calendar year be retained.

4. Rule 4901:1-10-11(C)(3)(e)

This section provides definitions for CAIDI and SAIFI reliability indices, and sets forth SAIDI as the product of multiplying CAIDI times SAIFI. The new proposed major event exclusion criteria proposed by Staff adopts the IEEE 2.5 Beta Method, which is based on the measurement of daily SAIDI values. Since SAIDI is equal to the product of SAIFI times CAIDI the Companies do not see a need to provide SAIFI and CAIDI values.

The Companies recommend that SAIDI be the only service reliability index. As previously stated, SAIDI provides a good indication of overall performance of an electrical system while greatly simplifying reporting requirements.

5. Rule 4901:1-10-11(C)(3)(f)

Staff proposes that the number of safety and reliability complaints be provided on a circuit basis. The Companies currently do not track complaints with a circuit reference

and to do so would require the Companies to modify their reporting systems. The Companies recommend Staff's proposed change not be adopted.

6. Rule 4901:1-10-11(E)

This rule requires each electric utility to submit the reports required by this rule in an electronic form prescribed by the commission or its staff. As referenced above, and for the rationale previously stated, the Companies recommend that data should be submitted in a method accepted industry-wide such as Microsoft Excel. Further, the use of widely accepted products increases the efficiency of the process.

7. Rule 4901:1-10-11(F)

Staff proposes that the inclusion of a given circuit for three reporting periods shall constitute a violation of this rule. The Companies believe this rule to be unreasonable since there are many causes outside the control of the utility which could result a circuit being on the worst performing list. For example, a circuit may experience an outage due to a car/pole accident for several years in a row.

In addition, the Companies worst performing ranking system does not normalize circuits with large numbers of customers served or large amounts of distribution line exposure. As a result, there will be large circuits that serve many customers that cannot be removed from the reporting list under this ranking system. The Companies recommend that a circuit remaining on the list for three consecutive reporting reports should not constitute a violation of this rule.

I. 4901:1-10-12—Provision of customer rights and obligations.

1. Rule 4901:1-10-12(B)(3)(b)

Staff has proposed that information concerning deferred payment plans and low-income plans be included in the customer rights and obligations pamphlet. The

Companies are not opposed to adding language that would inform customers that deferred payment plans and low-income plans are available, but to outline each plan would subsume the informational pamphlet and would be contrary to its primary purpose. The pamphlet is designed to provide a quick guide that enables customers to follow up and request more information pertaining to any program that may be applicable to them at the time.

2. Rule 4901:1-10-12(F)(3)

Staff proposes to add language that enables customers the right to request up to twenty-four months of usage history, meter data, and payment history. It is not clear what is meant by “meter data”. The Companies request that the term “meter data” be replaced with the more common term “meter readings”—if that is the intent of the proposed addition.

J. 4901:1-10-14-- Establishment of credit for nonresidential applicants and customers.

1. Rule 4901:1-10-14(A)

The reference to O.A.C. 4901:1-17 is confusing since that chapter does not apply to electric utilities. O.A.C. 4901:1-17-01(C) specifically states: “Rules for the establishment of credit for electric distribution utilities are included in Chapter 4901:1-10 of the Administrative Code.”

2. Rule 4901:1-10-14(D)(1)

The Companies request that the demonstration that the applicant is a creditworthy property owner be deleted. It is not clear what is meant by a “creditworthy property owner” and in any event, the recent increase in foreclosures in Ohio clearly demonstrates that owning property alone is not sufficient to demonstrate creditworthiness. This

provision places the Companies in the unusual position of requesting and evaluating an applicant's mortgage invoices. The Companies are not in that line of business and such evaluation would be invasive to the customer. The Companies currently work with an outside vendor that is able to verify an applicant's credit in a manner that does not reveal unnecessary personal information about the applicant but at the same time enables the Companies to quickly determine whether additional security is necessary.

3. Rule 4901:1-10-14(D)(3)

The Companies request that the guarantor option for non-residential customers be deleted. The guarantor option is more appropriate means for a *residential* customer to obtain electric service. Nonresidential customers should have the financial wherewithal to meet the financial obligations of their business. If the business concern lacks minimally adequate financial standing, an electric utility should be permitted to require a security deposit.

4. Rule 4901:1-10-14(F)

This rule provides that the security deposit shall not exceed one hundred thirty per cent of the estimated annual average monthly bill. However, due to the lag between when service is rendered and when service may be ultimately disconnected for lack of any payment (2 months), the Companies request an adjustment to the minimum security amount that may be assessed. The Companies request that the security deposit shall not exceed two hundred per cent of the estimated annual average monthly bill. This amount is more in line with an electric utilities actual exposure, and, everything else being equal, should result in the reduction of an electric utility's uncollectible expense, thereby reducing the burden on other customers.

5. Rule 4901:1-10-14(H)(2)(a)

The Companies request that the term “consecutive” be deleted. The Companies believe it is both reasonable and appropriate to assess a security deposit anytime a *customer has not made payment in full for two or more bills or made payment arrangements by the due date during the preceding twelve month period.* Moreover, Rule 4901:1-10-14(J)(2)(b) is consistent with the Companies request in that it references a customer not having more than two past due bills.

K. 4901:1-10-18—Reconnection of nonresidential service.

1. Rule 4901:1-10-18(A)

A change in the structure of this rule has been proposed that completely undermines the purpose of the rule. Under the existing rule, in order to get reconnected, a customer must pay in full the amount in arrears for which the service was disconnected and either provide a security deposit or remove the conditions that warranted the disconnection. The proposed rule inappropriately reorganizes the structure of the rule such that a customer can get reconnected if they do one of the following: 1) pay the arrears and a security deposit or 2) remove the conditions that warranted the disconnection. Under this scenario, a customer could have tampered with the meter, and upon discovery if they corrected the tampering, could get reconnected, even if they hadn’t paid anything for electric service for the entire period of the tampering. A customer shouldn’t be allowed to effectively get free electric service if they tamper with the meter. This rule should not be amended.

If amended, the only change that should be made is that the “or” at the end of subpart (A)(2) should be changed to an “and” so that in the scenario described above the customer that tampered with the meter would have to pay the amount of the arrears, any

required security deposit, and remove the condition that warranted the disconnection. With the rule, even as currently in effect, it almost suggests that if the customer pays the arrearage and the security deposit, they can keep the tampered condition intact. This clearly cannot be the intent of the rule. This change is also needed to make this rule consistent with 4901:1-10-20(B)(2)(d), which requires that a customer that has tampered, resolve the tampering condition, pay the arrears owed or enter into a payment arrangement and make a security deposit. The Companies strongly encourage the Commission to change this rule as recommended in this paragraph, and reject the changes made by the proposed rules.

2. Rule 4901:1-10-18(A)(1)(a)

Staff's proposed language uses the term "in arrears" which covers an extended time period. The Companies request that the term "in arrears" be replaced with "past due".

L. 4901:1-10-20 Fraudulent act, tampering, and theft of service.

1. Rule 4901:1-10-20(B)(2)(c), (C)(2)(c), (C)(2)(d)(i), (C)(3)(A), and (C)(3)(b).

These sections provide that customers may request a meeting when contesting service disconnection under these sections. However, most utilities, including the Companies, do not have walk-in offices to accommodate these types of meetings. The Companies request that the language be changed to allow utilities to provide a contact number to the appropriate department in lieu of an in-person meeting. The words in 4901:1-10-20 (B)(2)(c) and (C)(2)(c) "requesting a meeting with" should be deleted and the word "contacting" inserted in its place, and at the end the words "at the telephone number provided" should be added. In (C)(2)(d)(i), the words "schedule a meeting and" should be deleted. In (C)(3)(A), the words "request a meeting" should be deleted and

“contact” should be inserted in its place, and the words “at the telephone number provided” should be added to the end. In (C)(3)(b), delete the word “meeting” and insert “discussion”, and delete “meeting” and insert “discussion”.

M. 4901:1-10-21—Customer complaints and complaint-handling procedures.

1. Rule 4901:1-10-21(H)(1)

The proposed change to this rule severely limits the scenarios to which the rule applies. By changing the term “electric supplier” to “CRES provider”, the rule no longer applies to a scenario where the customer was switched without authorization from generation service of the electric utility to that of a CRES provider. The proposed change also appears to be inconsistent with (H)(6) and (7), which contemplates switching the customer back to the electric utility. The Companies recommend against this rule change.

2. Rule 4901:1-10-21(H)(8)(e)

The following sentence should be added to the end of this section: “The CRES provider shall provide the electric utility an itemized list of any such incremental costs.” This addition will make this subsection consistent with (H)(4).

N. 4901:1-10-22—Electric utility customer billing and payments.

1. Rule 4901:1-10-22(B)

Staff has proposed billing at “monthly intervals” rather than the existing language that provides for “regular intervals”. The existing language reflects the fact that due to holidays, weekends, and severe weather events, billing periods occasionally fall outside the 28-32 day time frame. To ignore the practical realities and require the more rigid monthly interval will only result in more estimated customer bills, the incurrence of more overtime costs and an overall increase in the cost of electric service.

2. Rule 4901:1-10-22(D)

Staff has proposed prohibiting electric utilities from contracting with check-cashing businesses for purposes of accepting utility bill payment. The Companies request that the Commission reject this proposed change. The Companies believe this proposed change was probably only intended to prohibit contracting with payday lenders which are very much different than check-cashing businesses. Adopting the rule as proposed will significantly limit the availability to customers of locations to pay their electric bill. The Companies recommend that Staff's proposed change at least be limited to payday lenders and that interested parties be provided an opportunity to comment upon that proposed change.

O. Rule 4901:1-10-24, Customer safeguards and information.

1. Rule 4901:1-10-24(F)(1)

Staff proposes to add language that enables customers the right to request up to twenty-four months of usage history, meter data, and payment history. It is not clear what is meant by "meter data". The Companies request that the term "meter data" be replaced with "meter readings"

P. Rule 4901:1-10-26, Annual system improvement plan report.

1. Rule 4901:1-10-26(B)(1)(a)(v)

Staff proposes that "any other notable characteristics" describing the electric utility's service territory be reported. The Companies recommend that Staff clarify what they are expecting to see as this statement is vague.

2. Rule 4901:1-10-26(B)(1)(d)

The Companies request the word "shall" be removed from the statement "List any quality, safety, and reliability complaints the electric utility or transmission owner

received during the reporting period from other electric utilities, rural electric cooperatives, municipal electric utilities, and competitive retail electric suppliers, and shall report the specific actions the electric utility took to address these complaints” since the word shall is already included in the requirement to file the report.

3. Rule 4901:1-10-26(B)(1)(e)

Staff proposes the following rule “List any electric reliability organization standards violations, regional reliability organization standards violations, regional transmission operator operating violations, transmission load relief, the top ten congestion facilities by hours of congestion occurring on the electric utility's and/or transmission owner's facilities, and a description of the relationship between the annual system improvement plan and the regional transmission operator's transmission expansion plan.” The Companies are unclear in what Staff means by “regional organization” and recommends that it be further defined. In addition, the Companies are unclear as to which standards are being considered as the measure for violations and recommend that they be further defined. Lastly, Staff provides no definition of congested facilities for a distribution system and the Companies recommend that it be further defined.

The Companies question the need to provide congestion information with regard to transmission systems as this may conflict with rules regarding the release of this type of information to the competitive market. Therefore, the Companies recommend that this requirement of providing the top ten congestion facilities by hours of congestion occurring on the electric utility's transmission owner facilities be removed from this requirement.

4. Rule 4901:1-10-26(3)(c)

Staff proposes that budgeted and actual reliability-specific capital and maintenance expenditures for the past and current fiscal year, by account and subaccount. The Companies are unclear of what Staff means by “account and subaccount” and recommend that they be further defined.

5. Rule 4901:1-10-26(3)(d)

Staff proposes that an explanation be provided for any variance between budgeted and actual expenditures that exceed ten percent. Providing explanations for variances will be difficult if not impossible for the Companies. In order to further comment the Companies need to understand what is meant by “account and subaccount” and request that such terms be clarified.

Q. 4901:1-10-27—Inspection, maintenance, repair, and replacement of transmission and distribution facilities (circuits and equipment).

1. Rule 4901:1-10-27(C)(1)

Staff uses the following terminology in this rule “the electric reliability organization (ERO), the regional reliability organization (RRO)”. The Companies request that such terms be defined.

2. Rule 4901:1-10-27(C)(2)(f)

Staff proposes that “the circuit in-service date” be provided for each transmission circuit. However, this data may not be easily attainable and request this rule be modified to say “the circuit in-service date where available”.

3. Rule 4901:1-10-27(D)

The proposed change of inserting the word “quality” into this rule is confusing. The electric utility, under the existing rule, is already charged with inspecting its facilities to maintain safe and reliable service. Adding the word “quality” suggests a new standard

different from safe and reliable, without any definition of what such new standard is or how it is or can be any different from safe and reliable. By statute, public utilities are required to provide adequate service. By providing safe and reliable service, public utilities are certainly providing adequate service, inserting the undefined word “quality” at this juncture is confusing and vague. Such proposed change should be rejected by the Commission.

4. Rule 4901:1-10-27(D)(4)

This proposed rule requires prompt repair of lines and equipment that could reasonably be expected to endanger life or property. While this establishes a vague standard to be followed, it does make clear that repairs in this category should take priority over other repairs. Therefore, the Companies recommend that the following phrase be added to this rule following the word “isolated”: “, notwithstanding other requirements contained in this Chapter 4901:1-10.” This new language will make clear the Commission’s policy that these repairs take priority over other less immediate repairs that are required to be made by electric utilities within certain established timeframes.

5. Rule 4901:1-10-27(E)(4)

Staff proposes the following: “Each electric utility and transmission owner shall maintain records sufficient to demonstrate compliance with its transmission and distribution facilities inspection, maintenance, repair, and replacement programs as required by this rule. Each electric utility and transmission owner shall record all deficiencies revealed by inspections or tests and all actions taken to correct those deficiencies. Lines and equipment with recorded defects that could reasonably be expected to endanger life or property shall be promptly repaired, disconnected, or isolated. All remaining deficiencies likely to cause an outage shall be corrected within

one year of the completion of the inspection or testing that originally revealed such deficiencies.” However, the following words are part of the NESC: “owner shall record all deficiencies revealed by inspections or tests and all actions taken to correct those deficiencies. Lines and equipment with recorded defects that could reasonably be expected to endanger life or property shall be promptly repaired, disconnected, or isolated.” The Companies feel this is duplicative of requirements already provided in the NESC which is a requirement to be followed by Rule 4901:1-10-06. In addition, Staff has provided no justification why “All remaining deficiencies likely to cause an outage shall be corrected within one year of the completion of the inspection or testing that originally revealed such deficiencies.” Currently there are items on the list which take more than one year to repair. This provision should be removed from the rule, since compliance will place an undue burden on the utility companies.

R. 4901:1-10-28, Net Metering

1. Rule 4901:1-10-28(B)(5)

The Companies request that this rule be clarified to apply on a per location basis.

The rule would read as follows:

The tariff shall allow the hospital customer-generator to operate its electric generating facilities individually or collectively on a per-location basis without any wattage limitation on size.

2. Rule 4901:1-10-28(B)(6)(b)

The Companies request that this rule is clarified to make clear that it is to be the energy that is fed back to the electric utility system that will be credited. The rule would read as follows:

All electricity generated by the hospital that is fed back to the electric utility's system shall be credited at the market value as of the time the hospital generated the electricity.

S. 4901:1-10-32, Cooperation with certified governmental aggregators.

1. Rule 4901:1-10-32(D)

A provision is proposed to be added to this rule that prohibits the assessment of a switching fee for customers that switch back and forth between a governmental aggregation program's CRES provider and another supplier. If this change is adopted, the rule should indicate from which customers the electric utility should recover its costs for conducting switches and maintaining a system and personnel to do so.

T. 4901:1-10-33 Consolidated billing requirements.

1. Rule 4901:1-10-33(C)

The term "regular intervals" is being changed to "monthly intervals" relative to the rendering of customer bills. The Companies request to retain the existing language. In some instances, seasonal customers may choose to suspend their billing for a period of time in lieu of receiving their bills monthly.

Rules 4901:1-22-01 to -04, "Interconnection Service"

A. 4901:1-22-01—Definitions.

1. Rule 4901:1-22-01(H)

Staff's proposed definition for "Distributed generation" refers to "equipment installed at a point of common coupling on the EDU's distribution system in close proximity to the customer load." It is unclear as to what customer the definition is referring to—the EDU's customer that is generating power or a customer of the generator that receives the power. This definition needs to be clarified.

2. Rule 4901:1-22-01(R)

The definition of “Reliability” in this rule fails to reflect the contractual relationship that exists and governs the delivery of energy, and the fact that while adverse effects on the adequacy and security of the electric supply can be minimized it cannot be altogether avoided. The Companies recommend additional language to clarify the definition of “Reliability” to read as follows:

“the degree of performance of the elements of the electric system that results in electricity being delivered to and from an applicant in the amount up to the level specified under any agreement with the customer and infrastructure capacity limitations while minimizing adverse effects on the adequacy and security of the electric supply, defined respectively as:”

B. 4901:1-22-04—General provisions.

1. Rule 4901:1-22-04(E)(2)

This would be a wholesale transaction. EDU tariffs and electric standards are not applicable to distributed generators engaging in wholesale transactions. Any distribution costs should be borne by the wholesale generator and not be subsidized by retail customers.

Rules 4901:1-23-01 to -06, “Electric Reliability, Customer Service and Safety”

A. 4901:1-23-05—Commission proceedings.

1. Rule 4901:1-23-05(E)(2)

The proposed change to this rule is to increase by one-thousand percent the amount, proposed to be \$10,000 per day, the Commission may fine electric utilities and CRES providers every day for any violation under any rule in R.C. 4928 and O.A.C. 4901:1-10 and O.A.C. 4901:21. Such a dramatic change, with no basis provided to justify the change, seems excessive. This is particularly true given the numerous changes

that have recently been made and will be made to those referenced statutory and rule provisions. Without a showing that the existing level is inadequate or that there has been an undue rash of violations of rules or Commission orders, the Companies recommend that this change not be adopted by the Commission.

Rules 4901:1-24-01 to -13, "Certification of Competitive Retail Electric Service Providers"

A. 4901:1-24-13—Noncompliance with rules or orders.

1. Rule 4901:1-24-13(A)

The proposed change to this rule is to increase by one-thousand percent the amount, proposed to be \$10,000 per day, the Commission may fine CRES providers every day for any violation under any rule in R.C. 4928 and O.A.C. 4901:21. Such a dramatic change, with no basis provided to justify the change, seems excessive. This is particularly true given the numerous changes that have recently been made and will be made to those referenced statutory and rule provisions. Without a showing that the existing level is inadequate or that there has been an undue rash of violations of rules or Commission orders, the Companies recommend that this change not be adopted by the Commission.

Rules 4901:1-25-01 to -02, "Market Monitoring"

A. 4901:1-25-01—Definitions.

1. Rule 4901:1-25-01(O)

The definition of "interconnection service customer" is not set forth in paragraph (M) of rule 4901:1-22-02 of the Administrative Code as referenced.

2. Rule 4901:1-25-01(W)

The reference to 4909.18 in this section should be deleted and 4928.141 inserted in its place.

B. 4901:1-25-02—Market monitoring- reporting requirements.

1. Rule 4901:1-25-02(A)(2)(c)

This section references “generation resources”. The Companies believe this term is used to mean “distributed generation”. To the extent this term is not used in place of “distributed generation”, the Companies request a definition of the term “generation resources” and an opportunity to further comment.

IV. CONCLUSION

Again, the Companies commend the Staff for its hard work in producing revised proposed rules. For the reasons stated above, the Companies respectfully request the Commission consider their responses and comments and modify the rules accordingly.

Respectfully submitted

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Initial Comments of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company was served by first-class mail, postage prepaid, to the following parties of record this 12th day of August, 2008:

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