LARGE FILING SEPERATOR SHEET

CASE NUMBER: 06-653-EL-ORD

FILE DATE: NOV 05 2008

SECTION: 1 OF 2

NUMBER OF PAGES: 130

DESCRIPTION OF DOCUMENT:

FINDING & ORDER

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

FINDING AND ORDER

The Commission finds:

BACKGROUND:

(1) Section 119.032, Revised Code, requires all state agencies to conduct a review, every five years, of their rules and to determine whether to continue their rules without change, amend their rules, or rescind their rules. The rules in Chapter 4901:1-9, Ohio Administrative Code (O.A.C.), address a variety of matters, including demand metering; uniform systems of accounts for electric companies; retention of records by electric, sewage disposal, water, and gas companies; and nuclear decommissioning. The rules in Chapter 4901:1-10, O.A.C., govern the minimum service and safety standards for service provided by electric utilities. The rules in Chapter 4901:1-21, O.A.C., govern the rules for operations by competitive retail electric service (CRES) providers. The rules in Chapter 4901:1-22, O.A.C., set forth electric interconnection standards. The rules in Chapter 4901:1-23, O.A.C., cover electric service provider enforcement provisions. The rules in Chapter 4901:1-24, O.A.C., govern applications for certification to operate as a CRES provider. The rules in Chapter 4901:1-25, O.A.C., comprise regulations relating to electric market monitoring.

(2) By entry dated April 4, 2007, the Commission presented its staff's proposed modifications to the rules in those chapters of the Ohio Administrative Code captioned above and requested comments from interested persons. The comment schedule was subsequently modified by an attorney examiner entry issued on April 23, 2007, and a technical conference was held on May 3, 2007. Numerous parties filed comments and reply comments on June 8, 2007 and July 24, 2007, respectively.

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(3) On May 1, 2008, the governor of the state of Ohio signed into law Amended Substitute Senate Bill No. 221 (SB 221) amending various provisions of Amended Substitute Senate Bill No. 3 (SB 3). Among those amendments are various revisions to Section 4905.31 of the Revised Code and Chapter 4928. of the Revised Code, which necessitate corresponding modifications to many rules currently under review in the above-captioned proceeding.

(4) Upon consideration of SB 221 and the various comments that were previously received pursuant to the pending five-year rule review, the Commission Staff reconsidered its proposed rules contained in Chapters 4901:1-9, 4901:1-10, 4901:1-21, 4901:1-22, 4901:1-23, 4901:1-24, and 4901:1-25, O.A.C., and recommended revisions to its previously issued proposed rules, a well as additional modifications consistent with SB 221.

(5) On July 23, 2008, the Commission issued an entry requesting comments from interested persons to assist in the review of Staff's proposed modifications to Chapters 4901:1-9, 4901:1-10, 4901:1-21, 4901:1-22, 4901:1-23, 4901:1-24, and 4901:1-25, O.A.C., which included Staff's recommended revisions to its previously issued proposed rules as well as additional modifications. In light of the Commission's decision to seek additional comments in this proceeding, the Office of the Ohio Consumers' Counsel's motion to reopen the record filed on March 25, 2008 is moot.

(6) Comments and/or reply comments have been filed in this docket by the following parties:

American Municipal Power-Ohio, Inc. (AMP-Ohio)
City of Dublin, Ohio (Dublin)
Columbus Southern Power Company and Ohio Power Company (AEP)
Constellation NewEnergy, Inc., Direct Energy, Strategic Energy, LLC, and Integrys Energy Services, Inc., and Retail Energy Suppliers Association (Competitive Suppliers)
COSE
Dayton Power and Light Company (DP&L)
Dominion Retail, Inc.
Duke Energy Ohio, Inc. (Duke)
FirstEnergy Solutions Corp. (FES)
Greater Cincinnati Health Council (GCHC)
Industrial Energy Users-Ohio (IEU)

Interstate Renewable Energy Council
Kroger Company, Inc.
National Assoc. of Industrial and Office Properties, Central Ohio Chapter (NAIOP-Ohio)
Northeast Ohio Public Energy Council (NOPEC)
Ohio Advanced Energy (OAE)
Ohio Consumer and Environmental Advocates (OCEA)
Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company (FirstEnergy)
Ohio Environmental Council
Ohio Farm Bureau Federation (OFBF)
Ohio Home Builders Association, Inc. (OHBA)
Ohio Hospital Association (OHA)

DISCUSSION:

(7) After reviewing Staff's proposals, initial comments, and reply comments, the Commission will adopt amended Chapters 4901:1-9, 4901:1-10, 4901:1-21, 4901:1-23, 4901:1-24, 4901:1-25, and Rules 4901:1-22-01, 4901:1-22-02, and 4901:1-22-03, O.A.C., as attached hereto. Additionally, due to significant modifications to some rules, we are required to rescind the rules and reenact them as new rules. The Commission, therefore, rescinds Rules 4901:1-9-01, 4901:1-9-07, 4901:1-10-08, 4901:1-10-10, 4901:1-10-11, and 4901:1-21-09 and reenacts them as new rules.

(8) In this Finding and Order, we will address only the most salient comments. In some respects, we agree with certain comments and have incorporated them into our rules without specifically addressing such changes herein. To the extent that a comment was raised and is not addressed in this Finding and Order or incorporated into our adopted rules, it has been rejected.

Chapter 4901:1-9: Electric Utilities

(9) All definitions contained within the chapter have been relocated to the beginning of the chapter in Rule 4901:1-9-01 for ease and consistency.

(10) Based on the comments received, as well as the Commission's own review of Staff's proposed rules, the Commission has clarified and/or simplified several rules contained in this chapter, particularly in Rule 07 regarding line extensions.

Rule 4901:1-9-01 Definitions

(11) The definition for line extension (now Rule 01(F)) has been modified to clarify that line extensions do not include facilities (or associated costs) necessary to maintain, upgrade, or improve an electric utility's general distribution system. OCEA, IEU, and OHBA correctly recognize that line extension costs should be limited to costs associated with facilities necessary to provide service to new or expanded customer loads.

(12) Similarly, the Commission modified the definition for contribution in aid of construction (now Rule 01(A)) to recognize that line extensions could be for expanded customer loads, in addition to new customers.

Rule 4901:1-9-03 Demand, load, or time-differentiated pricing meter option for residential customers.

(13) The Commission has modified this rule to recognize the existence of technological advances in metering equipment.

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

(14) IEU argued that Staff's proposed rules that require the electric utilities to fund one hundred percent of the upfront cost of non-premium line extension costs will have a negative impact on existing businesses, creating intra-class subsidies. IEU stated that such subsidies will cause new businesses to receive a competitive advantage over existing businesses, requiring current customers to contribute to new competitors' line extension costs. The electric utilities agreed that some contribution should be provided by nonresidential customers, reducing the electric utility's risk and providing incentives for

customers to minimize the line extension costs. FirstEnergy also cited to statutory provisions to support its position that customers should share in the costs of line extensions via upfront payments. The Commission agrees that a portion of the upfront line extension costs should be borne by nonresidential customers. Accordingly, we have modified the rule to establish a uniform upfront contribution of forty percent of the total cost of the line extension requested by a nonresidential customer, plus the incremental costs of premium services.

Chapter 4901:1-10: Electric Service and Safety Standards

Rule 4901:1-10-02 Purpose and scope.

(15) The electric utilities generally opposed Staff's proposal in Rule 02(F) to limit the rebuttable presumption afforded to electric utilities related to complaints regarding adequacy of service to individual customers or segments of the system, arguing that the limitation interferes with the operations of its system and precludes the use of system-wide data as a valuable component of establishing service and performance standards. Duke further argued that this, in conjunction with what it calls steadily increased oversight, has the overall effect of lessening an electric utility's discretion in managing its system to meet the Commission's mandated requirements. The Commission finds that these arguments lack merit, noting that the language is designed to prevent the electric utilities from defending against individual claims of inadequate service in cases where its defense is that their system, overall, provides adequate service.

(16) Several commenters, including the electric utilities, also discussed Staff's proposal to remove exculpatory clauses from the electric utilities' tariffs that purport to limit or eliminate an electric utility's liability for customer losses as a result of the electric utility's own negligence when providing a regulated service. The electric utilities oppose the inclusion of Rule 02(G), stating that the removal of such provisions from their tariffs will significantly increase the electric utility's exposure to liability, and consequently, its cost of service. The electric

utilities' arguments are misplaced. As IEU and OCEA recognize, the proposed language simply codifies the Commission's longstanding policy and previous Supreme Court decisions that have held that a public utility cannot, through the use of an exculpatory clause, limit its liability for damages resulting from its own negligence when providing a required service. See *Berjian, D.O., Inc. v. Ohio Bell Tel. Co.* (1978), 54 Ohio St.2d 147. The modification proposed by Staff also furthers the practice of the Commission in determining that exculpatory clauses included in tariffs for regulated services are neither binding nor relevant in Commission proceedings. Accordingly, the Commission adopts Staff's proposal, finding that the language does not increase the electric utility's liability or cost of service.

Rule 4901:1-10-03 Records.

(17) AEP claims that the revision to Rule 4901:1-10-03(A)[1] is unfair and unwarranted because the revision makes it a presumption of noncompliance for recordkeeping omissions. The Commission is not persuaded by AEP's argument and notes that a similar requirement exists in the Commission's minimum telephone service standards (see Rule 4901:1-5-11, O.A.C.).

(18) AEP objected to including the phrase "in a manner agreed to by staff" in Rule 03(B)(3) regarding Staff's ability to monitor the electric utility's call center interactions with its Ohio customers. The Commission believes AEP's concern is misguided. The intent of the rule is to afford Staff the flexibility to arrange for alternative methods of monitoring calls between the electric utility and its Ohio customers if onsite monitoring is not possible. This is particularly important for those electric utilities that may have customer service representatives located outside of Ohio who interact with Ohio customers.

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

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[1] Hereafter, the Commission will refer to specific rules by their last two numbers instead of the full code section being discussed in each subsection of the Finding and Order.

(19) OCEA, GCHC, and OHA recommended that the Commission establish uniform voltage performance standards for all electric utilities including nominal service voltage, number of phases, service configurations, and voltage variations. The Commission does not believe that a uniform, standard, and specific voltage range is practical at this time. As indicated by FirstEnergy, electric utilities are required currently to file their voltage ranges in their tariffs.

Rule 4901:1-10-07 Outage reports.

(20) A number of commenters, including GCHC, OCEA, AEP, and FirstEnergy, discussed a variety of recommendations to modify the outage reporting process or lower the threshold for declaring outages. However, the commenters proposing new thresholds do not offer substantive evidence demonstrating that change is warranted. Any modification to the current system must be considered in terms of a cost/benefit analysis to determine whether the costs required to effectively improve the process will produce benefits that are superior to the baseline performance. As adopted, the rule triggers notification to the Commission's outage coordinator when an outage affects or could affect the general community or a number of customers in a specified area. It is not the intent of the rule to require notice to the Commission's outage coordinator each time there is an outage that does not affect numerous customers or an important facility that may impact the general community. Without such analysis or support for the various proposals, the Commission finds it unnecessary to modify the thresholds for declaring outages that have been operational for some time.

(21) The Commission has also considered other commenters' suggestions such as adding to the list of people contacted about outages and posting information about outages on electric utility websites. What the commenters fail to recognize is that many of the electric utilities already post outage information on their websites and provide telephonic systems for customers to report outages as well as to receive updates on the status of restoral activities. Other outage related information is also reported at large through other public forums in the areas affected by outages. Further, the Commission's outage

coordinator is the appropriate contact, fulfilling the Commission's role as a "responder" in the Ohio Emergency Management Agency's emergency response system, which is a system coordinated and managed by the Ohio Emergency Management Agency, and to apprise the Commission's call center of the situation in order to adequately respond to customers. The Ohio Consumers' Counsel, or others, may contact the Commission for general outage information or questions. Accordingly, the Commission finds it unnecessary to add additional reporting requirements when an outage occurs. Nonetheless, the Commission notes that it is our expectation that the electric utilities will, on a going forward basis, generate monthly outage data and make such data available to Staff upon request.

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

(22) OHA and GCHC recommended additional requirements that would require all electric utilities to coordinate and conduct emergency exercises with community emergency agencies and organizations, which will then be assessed and the results reported annually. OCEA agreed with many of those recommendations, while the electric utilities opposed OHA's and GCHC's recommendations and argued for less stringent requirements and flexibility in the implementation and reporting of their emergency plans. The rules require the electric utilities to develop, plan, coordinate, exercise, and continually improve an emergency response plan for outages. Rule 08(J) also requires the electric utilities to exercise their emergency plan for outages every three years and invite local officials, local and regional emergency management directors, fire and police departments, and community organizations, such as the Red Cross, to the exercise. Additionally, the Commission is not aware of any rule or law that would prohibit local and regional safety officials from inviting the electric utilities to participate in local emergency exercises to test emergency response plans of local and regional emergency management organizations; however, such emergency exercises are appropriately organized under protocols

developed by local emergency management organizations, and, as appropriate, the Ohio Emergency Management Agency. While the Commission finds that it is unnecessary to incorporate all of OHA's and GCHA's recommendations into the electric utilities' emergency plans, the Commission modifies Staff's proposed rule to include a new provision, Rule 08(M), which requires the electric utilities to coordinate with local, state, and regional emergency management organizations in the implementation of its emergency plan.

(23) The Commission has determined that a reorganization of the first two paragraphs (A and B) of Rule 08 is necessary. The majority of former Rule 08(A) (the items that may be deemed confidential) will be moved to new Rule 08(B), and the specific requirements of the emergency plan will be included in new Rule 08(A). With this change, the Commission clarifies that paragraph (A) contains the minimum elements that must be included in an emergency plan, while paragraph (B) requires that the plan be made available to the Commission's outage coordinator and designates certain items as confidential, which may be redacted from the version of the emergency plan provided to the Commission's outage coordinator.

(24) The Commission agrees with AEP that the list of specific facilities and personnel associated with "critical facilities information" should be included in the list of confidential information under former Rule 08(A), new Rule 08(B), that may be redacted when provided to the Commission's outage coordinator (all electric utility personnel and phone numbers are already deemed confidential pursuant to new Rules 08(B)(1) and (3)).

(25) The Commission agrees that an after-action assessment should be performed after the electric utility activates the emergency plan. When developing the policies and procedures in accordance with new Rule 08(A)(17), the Commission urges the electric utilities to identify specific criteria that will be utilized in tailoring the after-action assessment of the emergency plan that will be conducted to the appropriate scale of the triggering event. The electric utilities shall also identify specific criteria that will be utilized by the electric utilities when implementing their plans. The Commission emphasizes that emergency plans are meant to be implemented, practiced, and improved upon

from lessons learned through its practical use. Nonetheless, the Commission recognizes that the electric utility must consider cost effective policies when considering the level of after-action assessment that will be conducted following an emergency plan activation.

(26) AEP argued that the ability to request a waiver should not be limited to a full-blown implementation of the emergency plan, and the language "implementing any part of the emergency plan" should be inserted in Rule 08(K). The Commission disagrees with AEP's interpretation of the proposed rules. Rule 08(J) requires each electric utility to conduct a comprehensive emergency exercise to test and evaluate major components of its emergency plan every three years. Rule 08(K) allows the electric utility to request a waiver of the testing and evaluation requirement in Rule 08(J) if the electric utility implemented its emergency plan during the three-year period. Rule 08(K) also delineates how a waiver may be requested. Rule 08(K) does not contain the limiting language inferred by AEP. The rule merely states that if the emergency plan has been implemented, the electric utility may request a waiver of the requirements set forth in Rule 08(J). As recognized by AEP, the Commission has the discretion to grant or deny a waiver request. If an electric utility believes that it has implemented its emergency plan in such a fashion that would satisfy the three-year requirement to conduct a comprehensive test of its emergency plan (or satisfy the intent of the rule), then the electric utility should seek a waiver of the requirement from the Commission.

(27) OCEA recommended that the electric utilities update their critical customers lists quarterly instead of annually and that the electric utilities attempt to provide priority service restoration to those critical customers. FirstEnergy responded that updating the list would be overly burdensome and impractical to the company and the critical customers. Under OCEA's proposal, critical customers would be required to submit doctor verification three additional times per year. While likely not the intent of OCEA's suggestion, the Commission agrees that the effect of OCEA's proposal on critical customers, which would require production of three additional doctor verifications, is overly burdensome to the critical customers. Furthermore, it is the Commission's

understanding that although the electric utilities do not guarantee priority restoral of service to critical customers, the electric utilities already consider and plan for the restoration of service to those customers during an outage. Additionally, the electric utilities inform such customers of the need for being prepared for outages and to plan for alternatives in the event of sustained outages. As such, OCEA's request to modify Rule 08(I) is denied.

Rule 4901:1-10-09 Minimum customer service levels.

(28) OCEA recommended modifying the minimum customer service levels to require the electric utility to complete ninety-nine percent of new service installations on a calendar month basis on the next business day after the customer's request. The electric utilities oppose such a requirement, claiming that it is unreasonable and unduly burdensome. The Commission agrees that shortening the installation time to the next business day would be unreasonable, unduly burdensome, and could be costly. Just as customers schedule movers in advance, it is reasonable to expect that they would (or could) also schedule to establish utility services in advance. Therefore, the Commission finds that the existing requirements are reasonable and should be maintained.

(29) OCEA further recommended that the electric utilities conduct an annual customer satisfaction survey. To the extent that the customer satisfaction survey is conducted within the context of Rule 10, the Commission agrees that including a set of questions in the customer perception/expectation surveys about customer satisfaction, if practical and feasible, would be beneficial. Thus, the Commission encourages each electric utility to explore the possibility with Staff of including the customer satisfaction survey proposed by OCEA in the customer perception/expectation survey required by Rule 10(B)(4)(b). The Commission also finds it necessary to expand Rule 10(B)(4)(b) to include in the customer perception survey the issue of economic impacts to customers associated with electric service disruptions.

Rule 4901:1-10-10 Distribution system reliability.

(30) The Commission sought comments on issues surrounding the value of lost load. There was little response in this area, and from comments that were made, there appeared to be a misunderstanding of the Commission's intent for asking this question. The Commission remains highly interested in discussing with small and large businesses the economic impact of outages upon them and issues surrounding what if anything can reasonably be done to address economic development concerns. Therefore, the Commission will continue these discussions with the business community on a more pointed, informal basis.

(31) While several commenters agreed with many of Staff's proposed modifications to Rule 10, some offered various suggestions regarding increased reporting of performance figures, submittal or filing of additional action plans, and employing state-wide vs. electric utility-specific standards. The Commission has carefully considered the comments and replies submitted by the numerous commenters and we believe that the amended distribution system reliability rules as attached hereto provide a balance of oversight and reporting and public visibility with the need for holding the electric utilities accountable for providing reliable and safe electric service. It is not the intent of the Commission to burden the electric utilities with additional administrative oversight and more prescriptive performance requirements, as some commenters urge us to do.

(32) GCHC recommended modifying Rule 10(B)(4)(C) to include major events and transmission outages in the calculation of the reliability performance indices; however, OCEA, AEP, and FirstEnergy seem to all disagree, stating that it is not necessary to include these items in the calculation of the reliability performance indices because the purpose of the performance measurements and standards is to measure the reliability of the distribution system. The Commission concurs with OCEA, AEP, FirstEnergy, and Staff that transmission outages and major events are reported separately and any inclusion of performance data during these events could unreasonably distort distribution performance. Therefore, performance data during transmission outages or major events should not be

included in the calculation of the indices, standards, or revised performance requirements.

(33) OCEA recommended that the Commission adopt six service interruption standards and that the electric utilities provide customer credits when they fail to meet them. However, the standards are unclear as proposed (contain double negatives), and were introduced without any support, justification, or analysis. Additionally, OCEA has not offered any support, justification, or analysis for the proposed customer credits if the electric utilities fail to meet the standards. Without a demonstrated need or identified problem to justify the additional standards imposed on the electric utilities, the Commission denies OCEA's request.

(34) OCEA proposed to eliminate Rule 11 (distribution circuit performance) and consolidate it with a new circuit reliability rule in this rule, Rule 10. We reject the proposal because it is unnecessary to combine these established rules that measure distinct performance criteria. Additionally, amended Rule 11 achieves the requisite regulatory balance between oversight and accountability without adopting overly burdensome prescriptive rules and processes.

Rule 4901:1-10-11 Distribution circuit performance

(35) Several parties responded to the questions the Commission included in its entry issuing the rules for comment regarding this Chapter. The Commission asked whether Momentary Average Interruption Frequency Index (MAIFI) should be included as a power quality index to be set forth in Rule 10(B)(1) as a minimum standard if the Commission accepts Staff's proposal to eliminate the MAIFI reporting requirement in Rule 11. The Commission also asked that if minimum performance standards for MAIFI are established, should the standards reflect the momentary interruptions of all customers, what would be the cost, and who should bear the cost of implementing the standards. OCEA and other commenters favored requiring the electric utilities to measure and report their MAIFI performance arguing that MAIFI is an important quality of power index and momentary interruptions are important to customers, as well as for holding the electric

utilities accountable for power quality. A MAIFI standard would be especially important, OCEA asserted, as an indicator of the quality of the electric utilities' vegetation management programs. The electric utilities generally agreed with eliminating MAIFI as a reporting requirement because of the lack of uniformly adopted standards, the potentially high cost of implementation, as well as the concern about recovering such costs. Some electric utilities noted that it was impossible to determine the cost given the lack of a specific standard to evaluate. The Commission agrees that there is no basis for determining the cost effectiveness of implementing a specific standard for MAIFI, in the absence of a specific measure and standard. While the Commission believes that MAIFI is an important and useful tool, the Commission is concerned that all of the electric utilities currently do not produce complete, uniform, or reliable measurements of momentary interruptions. Given the lack of a method to establish a MAIFI standard and the lack of information to formulate a basis for an appropriate standard, the Commission believes that the time is not ripe for requiring the implementation of a specific minimum service quality requirement for MAIFI.

(36) Although the Commission declines, at this time, to require the companies to take steps necessary to manually gather MAIFI information throughout its system and report it, the Commission is aware that as technology is deployed throughout the electric distribution systems, this information will become more accurate and widely available. Therefore, the Commission directs the Staff to continue monitoring the ability of the electric utilities to accurately measure and report MAIFI and to review that data to make recommendations with respect to momentary interruptions and its impact upon customers. To this end, the Commission has added the requirement to report data for the total number of momentary interruptions on the electric utility's system, where practicable, in Rule 10(C)(4), recognizing the varying abilities of the electric utilities to capture the information at this time.

(37) In Rule 11(C)(3)(k), OFBF proposed that the electric utility be required to deliver notice of a circuit's status to the affected county, township, or municipal government leaders if the circuit is reported as one of the worst performing circuits and brief the government leaders on the electric utility's action

plans. FirstEnergy opposes OFBF's reporting proposal as duplicative. The action plans are detailed, technical, and voluminous compilations that often exceed a hundred pages in length and do not necessarily indicate the communities or geographical areas served by a circuit, which may, in some cases, be up to one hundred miles long. Rather than creating the burden for electric utilities to distribute these action plans automatically to hundreds of local officials, the Commission believes that it would be more reasonable to allow local officials to request such information if necessary. Therefore, the Commission finds that although the action plans may be of interest to local leaders of affected areas, the numerous governmental subdivisions involved would create an undue burden on the electric utilities that outweighs any potential benefit, and thus, OFBF's request is denied.

(38) The majority of the electric utilities objected to the inclusion of Rule 11(F), which makes it a violation of the rule if a given circuit appears in the worst performing circuits report for three consecutive years. The electric utilities assert that the rule circumvents due process and could interfere with statutory provisions that would otherwise apply. The electric utilities further argue that the automatic mechanism removes discretion or flexibility, fails to recognize extenuating circumstances, and would hinder cooperative efforts on behalf of Staff and the electric utilities. The Commission modifies Staff's inclusion of the rule as proposed. Although a violation of the rule does not result in automatic fines or penalties, and does not remove Staff's discretion in pursuing a violation (as recognized by OCEA), the Commission believes that the establishment of a rebuttable presumption is more appropriate. As such, the electric utilities will be afforded the right to due process to refute or defend the rebuttable presumption that a violation has occurred. Contrary to AEP's assertion, the Commission also has no intention of interfering with any statutory determinations as to the nature, extent, and gravity of a violation that may otherwise apply.

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

(39) OCEA proposed to include a provision in Rule 12 for credits to customers if an electric utility fails to initiate service on time or has experienced a nonscheduled sustained outage, or a customer has three momentary outages per month. The Commission agrees with AEP and FirstEnergy that implementing such a scheme would be based on subjective triggers and would be impractical and difficult to interpret, apply, and administer. Therefore, the Commission rejects OCEA's proposal.

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

(40) It is the Commission's understanding that Staff's proposed Rule 14(A) and proposed deletion of Rule 19 were intended to consolidate the requirements for disconnection, reconnection, establishment of service, and bill payment of all residential utility services in Chapters 4901:1-17 and 4901:1-18, O.A.C., to eliminate redundancies and promote consistency across the industries. While the Commission supports Staff's initiative, the Commission recognizes that those Chapters are currently under review in a proceeding before the Commission and the timing of any revised rules in that proceeding will not coincide with the effective date of revised rules in this proceeding. Accordingly, the Commission rejects Staff's proposed modifications in Rules 14 and 19. However, the Commission encourages Staff to continue its pursuit of consistency in the rules, and to present the necessary proposals to achieve its goal when it is practically feasible.

(41) FirstEnergy recommended increasing the amount of a deposit in Rule 14(F) to two hundred percent of the estimated annual average monthly bill. The Commission rejects FirstEnergy's recommendation, noting that the provision not to exceed 130 percent is a specific statutory requirement set forth in Section 4933.17 of the Revised Code.

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

(42) With respect to comments by OCEA about electric utilities providing billing and informational and educational materials in alternative languages and larger formats, the Commission notes that some utilities do offer alternative bill formats such as large print, and other alternatives for addressing customer specific problems of language or sight also currently exist. While the Commission does not believe that a rule change is necessary at this time, the Commission encourages all utilities to continue to explore cost effective ways to offer billing and other related utility and industry information to those customers with specific needs.

(43) The Commission rejects Staff's proposed inclusion of Rule 22(D) in the rules. While we agree with the concerns behind the added rule, the issues and underlying definitions and statutory provisions are evolving in other forums, and thus, the conceptual framework of the rule will be addressed by the Commission in a subsequent rulemaking.

(44) In Rule 22(I), OCEA suggested that the electric utilities offer customers the option of adjusting their billing due dates to meet their needs, up to twenty-one days, without resulting in late payment penalties. OCEA did not provide any supporting evidence as to why consumers require such option or whether a rule change would even achieve the expected results articulated by OCEA. As such, the Commission declines to add this requirement to the rules at this time. As some commenters recognized, depending on the specific requirement, an undue burden could potentially be imposed on the electric utilities and cause modifications to billing systems that could be costly. Nonetheless, the Commission recognizes that this issue is currently being explored in the pending rulemaking for Chapters 4901:1-17 and 4901:1-18 (Case No. 08-723-AU-ORD). Additionally, the Commission encourages all the electric utilities to investigate the possibility of accommodating certain customers when a specific need arises (including the continuation of cooperating with customers to offer special payment arrangements as appropriate).

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

(45) AEP questioned whether the information requested in Rule 26(B)(1)(a) is that which is already reported in FERC Form 1. We respond in the affirmative; the identified information should be included in the annual report filed with the Commission pursuant to Rule 26.

(46) FirstEnergy sought clarification of the phrase "any other notable characteristics" required in Rule 26(B)(1)(a)(v). The Commission explains that the intent of the requirement is to provide the electric utility the opportunity to include in its plan any characteristics of its service territory that it believes are worthy of consideration in the evaluation of its system improvement plan.

(47) OCEA opposed Staff's proposed reduction to the time period covered by the system improvement plan, arguing the need to capture longer term investment plans. It is our understanding that Staff proposed the shorter two-year plan in response to some electric utilities who stated that they do not budget capital expenditures more than two years in advance. We believe, however, that a two-year planning horizon could represent a deficiency in an electric utility's planning process, and that the electric utility should have at least a preliminary estimate of capital expenditures over the next three years. We have therefore decided to retain the three-year requirement in the current rule as recommended by OCEA.

(48) AEP and FirstEnergy stated that they consider the top ten congestion facilities to be confidential market information, and therefore, opposed the inclusion of such information in the system improvement plan as required by Rule 26(B)(1)(e). Instead, AEP recommended that Staff issue a data request to obtain the information. DP&L added that it considers transmission load and the top ten congested facilities to be critical infrastructure information, which should not be available to the public. The Commission recognizes that both the PJM and MISO market monitors report similar information in their annual market reports and in several reports throughout the year. As such, the Commission finds that including this information in the electric utility's annual Rule 26 report for the prior year should not be considered sensitive

to the operation of day-ahead and real-time markets. This information can assist the Commission in determining whether the operation of the transmission owner's system and transmission outages (either planned or unscheduled) are causing problems for the other interconnected transmission owners. Therefore, the Commission adopts Staff's proposed Rule 26(B)(1)(e).

(49) FirstEnergy requested that the rule further define the term "regional organizations" and clarify which "standards" are being used as the measure of violations. FirstEnergy also requested that congested facilities for a distribution system be defined. We clarify that the term "regional organization" means Reliability First Corporation, one of the eight North American Electric Reliability Corporation (NERC) reliability regions, which is responsible for monitoring and enforcing compliance with national and regional transmission system reliability standards and includes transmission systems operating in Ohio. A violation is defined by the reliability standards imposed by NERC and the Federal Energy Regulatory Commission (FERC) and by the regional reliability organization that is responsible for standards enforcement. The transmission system operator is responsible for specifically defining and identifying congestion, but congestion generally means the re-dispatch of generating resources to prevent transmission circuit loading limits from being exceeded. The Commission also recognizes that congestion does not apply to distribution. To clarify this provision, we are deleting the term "regional transmission operator operating violations" and adding "for transmission facilities within the commission's jurisdiction" to the beginning of the sentence in Rule 26(B)(1)(e).

(50) AEP, DP&L, and FirstEnergy objected to providing transmission and distribution budget variance data. AEP asserted that the data is highly sensitive and can be affected by the timing of the filing; DP&L claimed that it is burdensome and unnecessary; and FirstEnergy stated that it is difficult or impossible to explain budget variances exceeding ten percent. OECA disagreed, arguing that there is nothing competitive about these expenditures, which relate to expenditures funded by ratepayers. The Commission believes that it is important to know why budget variances over ten percent are occurring in

order to quickly identify and respond to potentially adverse trends. Nonetheless, if an electric utility deems specific information to be confidential, the electric utility should seek confidential treatment of the information.

(51) OCEA proposed to reorganize the annual report for a number of reasons, including distinguishing between transmission and distribution, requiring reliability data that reflects the new standards that OCEA proposed, requiring budget and actual expenditure data for reliability programs, and the reporting of a long list of specific detailed information (i.e., extensive information about reliability, major events, historic reliability data, solutions to outage causes, financial data, remedial actions, complaint data, etc.). The Commission believes that the report proposed by OCEA would total hundreds of pages for each electric utility. The Commission, therefore, finds that the volume and range of information requested by OCEA in its proposed report would be impractical and costly to produce, and would place an unreasonable burden on the electric utilities without a corresponding benefit.

Rule 4901:1-10-27 Inspection, maintenance, repair, and replacement, of transmission, and distribution facilities

(52) At the request of FirstEnergy, the Commission clarifies the following terms: (1) "ERO" means the Electric Reliability Organization, or NERC, which was certified by FERC to establish and enforce reliability standards for the transmission system, subject to FERC's jurisdiction; and (2) "RRO" means Regional Reliability Organization, which, as stated previously, for the Ohio area it means the Reliability First Corporation, which is one of eight NERC reliability regions that is responsible for monitoring and enforcing compliance with the national and regional transmission system standards and includes transmission operated in Ohio.

(53) In response to Duke's request to adopt the format of FERC's Transmission Availability Data System (TADS), the Commission notes that the NERC TADS began January 2008, collecting data on AC circuits 200kV or higher. The public information included in the TADS report is an aggregate of the NERC region data, while confidential TADS data is provided

by individual transmission owners. Although the data required by Rule 27(C)(2) may be similar to TADS data, we do not believe that the information will be identical. Nonetheless, in the event that the information is identical, the electric utility may provide the NERC TADS report to satisfy the requirements of Rule 27(C)(2).

(54) AEP expressed concern over Rule 27(E)(1), which makes it a rule violation for failing to comply with the electric utility's own programs, policies, procedures, and schedules, and AEP seeks clarification as to whether such rule violation is intended to affect or circumvent any hearing or curtail a statutory determination as to the nature, extent, and gravity of a violation. AEP is also concerned about the "automatic" mechanism, which appears, to AEP, to remove discretion or flexibility or recognize extenuating circumstances. AEP added that it violates due process and makes it more difficult for Staff and the electric utilities to work cooperatively. Again, the Commission states that there is no intention to circumvent due process or to limit Staff's discretion in consider extenuating factors as AEP discussed in its comments. We believe this rule is necessary to require electric utilities to actually implement the programs, policies, and procedures that they put in place. Creating and designing programs is futile if the electric utility has no intention of implementing said programs. The provision is particularly important to address instances where an electric utility repeatedly violates one of its own policies and where such violations can be expected to adversely affect safety and/or reliability.

(55) OCEA recommended an extensive set of prescriptive vegetation management rules for both distribution and transmission facilities. Some of the electric utilities objected extensively, detailing various aspects of OCEA's proposal and commenting that the proposed rules are inaccurate and were uncritically copied from New Jersey's standards. DP&L emphasized that electric utilities' infrastructure and systems have already been established based on the existing rules, and a change of this magnitude would be "cost prohibitive, unnecessary and provide very little benefit." The Commission does not believe such detailed and prescriptive rules are necessary at this time. Rule 27(E)(1)(f) already requires electric utilities to establish and maintain a right-of-way vegetation

control program. The revised rules include a requirement for electric utilities to comply with their maintenance policies and programs, and to file their maintenance programs with the Commission for approval. We believe that the requirements adopted in the attached rules will be sufficient to ensure that electric utilities establish and maintain adequate vegetation management programs and practices.

Rule 4901:1-10-28 Net metering

(56) Several commenters suggested expanding the list of qualifying generating facilities to include items such as cogeneration technology and/or combined heat and power systems. The Commission notes that the list of qualifying facilities is specified in Section 4928.01(A)(31), Revised Code, and the list does not include "any new technology." The Commission does not have the authority to expand that list in the net metering rules.

(57) Others recommended that the Commission specify a definition of microturbine to assist customers in understanding what technologies are available to qualify for an electric utility's net metering tariff. Although we do not believe that including a definition of "microturbine" is necessary at this time, we find that OAE's proposed definition is too limiting.

(58) IREC recommends allowing third-party ownership of generating facilities and OCEA recommends adding a clarification to Rule 28(A)(1) as a new paragraph (c), which states that the customer-generator is not required to be the owner or the lessee of the generating facility located on the customer-generator's premises and that power purchase agreements with third-party owners of a generating facility are permitted. Although SB 221 does not explicitly prohibit third-party ownership of the generating facilities that are used by the customer-generator in a net metering arrangement, the law does require that the qualifying generating facility be located on the customer-generator's premises. SB 221 also defines a customer-generator as a user of the net metering system. Accordingly, we read SB 221 to mean that it is permissible for a customer to rent or lease the generating equipment, but that equipment must be installed behind the customer's electric

meter and any reduced usage or excess-generation credit from the electric utility shall be reflected on the customer-generator's electric bill. Additionally, in a net metering arrangement, all excess generation must flow back to the electric utility and be reflected on the customer-generator's electric bill. As drafted, Staff's proposed rule memorializes our understanding of the pertinent statutory provisions, and thus, we will adopt it without modification.

(59) Several commenters discussed various aspects of meters such as Advanced Meter Infrastructure (AMI), the capability of standard meters to measure power flow in two directions, and who pays for meters. It is important to clarify that two-way communication capability that AMI technology possesses is different than measuring the power-flow in two directions as required by Rule 28(A)(4). Additionally, no correlation exists between paying for a special meter now and sharing in the cost of AMI in the future.

(60) OCEA recommended, and GCHC agreed, that all generation rate components (including riders) be included in the credit for excess generation contained in Rule 28(A)(6)(c), and recommended extra credit when a customer-generator can demonstrate that its generation reduces line losses or enhances black-start capability for utility's generation. IREC also concurred and argued that all rate components should be included in the credit for excess generation. Some commenters also discussed and recommended that any generator that reduced its monthly billing demand or minimum demand component should not be penalized and that those demand charges should be adjusted to reflect the reduction in demand. FirstEnergy opposed the inclusion of all riders related to generation, as well as any credits or adjustments. FirstEnergy argued that some generation-related riders are for achieving gradualism of rate impacts and would not be appropriate for the excess generation credits. The Commission agrees in principle that generation rate components should be included in the credit for excess generation, but we believe that generation components should be subject to two requirements: they must be based on kilowatt hour usage and they must be bypassable. Furthermore, the Commission finds that an adjustment to the demand charges or allowing credits for reducing line losses, enhancing black start capability, or any

other rate components would constitute a change in rate structure, which is prohibited by Section 4928.67(A)(1), Revised Code.

(61) Similarly, IREC recommended that the Commission add that there be no standby charges applicable to intermittent resources, such as generation facilities powered by solar or wind energy. However, Section 4928.67(A)(1), Revised Code, also prohibits standby charges to the extent that they were not already part of the rate structure applicable to a particular customer.

(62) IREC also proposed that Rule 28(A)(6)(c) be revised to provide indefinite rollover on a per kilowatt hour basis of excess generation without a cash refund. Under IREC's proposal, if a customer feeds more electricity back to the system than the electric utility supplies to the customer-generator, the electric utility would be required to credit the customer for the excess generation component and for any other charges associated with that kilowatt hour usage. Others agreed with IREC that refunds could constitute a FERC jurisdictional sale of power to the electric utility, which would be deemed a sale for resale. The Commission is not persuaded by the FERC jurisdictional arguments raised concerning refunds. Section 4928.01(A)(31)(d), Revised Code, neither prohibits nor mandates the issuance of refunds for net metering. Additionally, this argument has been unsuccessfully raised in prior proceedings. Moreover, IREC's request to receive net metering credits on a "one-for-one kilowatt hour basis" attempts to overturn or distinguish prior precedent in which the Ohio Supreme Court prohibited the full credit for excess generation advocated for by IREC. *FirstEnergy Corp. v. Public Util. Comm.* (2002), 95 Ohio St.3d 401. The Commission also finds that it is unnecessary to create an automatic refund provision as proposed by Staff. For all of the foregoing reasons, the Commission retains the Rule 28(A)(6)(c) currently in effect with one minor modification to recognize a change in terminology. The Commission also notes that in the context of a unique arrangement filed pursuant to newly adopted Rule 4901:1-38-05, it will consider net metering arrangements when the operational value exceeds that of energy alone.

(63) There were considerable comments about the term market-value and the market-value credit for hospital generators set forth in Rule 28(B). The Commission finds it necessary to include a definition of the term "market value" the first time it is used in Rule 28(B). As such, the Commission adds the following sentence to Rule 28(B)(3): "For purposes of this rule, market value means the locational marginal price of energy determined by a regional transmission organization's operational market at the time the customer-generated electricity is generated."

(64) In Rule 28(B)(6)(b), FirstEnergy suggested, which was echoed by Duke, that the market value credit should only apply to electricity that the hospital feeds back into the electric utility's system. Section 4928.67(A)(2)(b), Revised Code, states that the hospital net metering tariff shall be based "upon the market value of the customer-generated electricity at the time it is generated." The statute does not distinguish between the electricity generated by the hospital that is consumed versus the electricity generated by the hospital that is in excess of the hospital's load that is fed back to the electric utility's system. Therefore, the Commission adopts Staff's proposed rule, which is based on the market value of all electricity generated by the hospital customer-generator. OCEA also recommended that any subsidy that is caused by the market value credit should be recovered from customers in the same rate class. The Commission disagrees with OCEA and finds that any decision on rate subsidies should be made in the context of a rate proceeding instead of a rulemaking.

Rule 4901:1-10-29 Coordination with competitive retail electric service (CRES) providers.

(65) The Competitive Suppliers suggest an addition to Rule 29(A) which would permit the electric utilities and CRES providers to develop programs that facilitate customers' understanding of electric supply options and enable customers to choose a CRES provider when contacting the electric utility. AEP views this suggestion as a requirement to develop varied referral programs with each CRES provider, and Duke expresses concern about possible liability issues associated with making referrals. While the Commission would encourage the electric

utilities and CRES providers to work on a nondiscriminating basis to develop programs to assist customers in understanding the various supply options, we see no need to include this requirement in a rule.

Rule 4901:1-10-30 Failure to comply with the rules or commission orders.

(66) OCEA proposed to replace Rule 30(A) and add new sections, which would result in a violation of the rule whenever an electric utility fails to meet any annual performance standard requiring the electric utility to prepare a detailed, publicly available, compliance plan, with enforceable milestones and objectives, in order for the electric utility to become compliant within a reasonable time. In addition, OCEA proposed that if an electric utility's annual report reflects a failure to meet one or more of the reliability performance targets, the electric utility should be required to simultaneously submit a compliance plan that demonstrates prompt compliance with the performance standard. OCEA continued that if such plan is filed as part of an annual report, OCEA believes that the Staff should notify the Commission and state the Staff's opinion of the reasonableness of the compliance plan, and provide an opportunity for public notice and comment. Similar to OCEA's proposal in Rule 10, OCEA also proposed that the electric utilities be required to provide various customer credits, based on the type and length of the outage, if a customer calls the electric utility to report an outage.

(67) The Commission believes that the proposed rules, as modified herein, provide for regulations, standards, and enforcement of those regulations and standards that will provide for a transparent and public process, which should result in more accountability as well as greater reliability of the electric utilities' distribution systems. The adopted rules provide a balance among public transparency and legal processes, the electric utility's responsibility for meeting the standards and corrective plans, and the consequences to the electric utility if it fails to meet the standards. Accordingly, the Commission declines to adopt the modification proposed by OCEA, and finds that the adopted rules appropriately balance the Commission's objectives in a reasonable and flexible manner

that provide openness, fairness, and accountability in the Commission's expectations for reliable electric service in Ohio.

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

(68) NOPEC argued that Rule 32(A)(1) should require the electric utility to provide load data for both customers individually and for the aggregation's load as a whole to the governmental aggregator. NOPEC also argued that all load data and other information should be provided to the governmental aggregator in spreadsheet, word processing, or non-image-based format compatible with personal computers. FirstEnergy responded that the electric utilities do not have the necessary tools to provide the type of detailed load data that NOPEC requests. Further, FirstEnergy noted that the electric utilities are not required to provide this level of load detail to other CRES providers. The Commission agrees with FirstEnergy that the electric utility should not be required to provide governmental aggregators with load data beyond that which is provided to all CRES providers. Nonetheless, we agree with NOPEC that the customer information that is required to be provided should be in a format that is easily manipulated and compatible with personal computers.

Chapter 4901:1-21: Rules for competitive retail electric service (CRES)

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

(69) The Competitive Suppliers, OCEA, and NOPEC proposed that Rule 17(E) and corresponding Rule 4901:1-10-32(A), O.A.C., should be revised to make the electric utilities responsible for scrubbing customer lists for governmental aggregation programs to identify mercantile customers, customers located outside the governmental aggregator's boundaries, or otherwise ineligible customers. Duke, DP&L, and AEP responded that requiring the electric utilities to be responsible for scrubbing the customer lists incorrectly shifts the responsibility of the governmental aggregation to the electric utilities. The Commission agrees with the electric utilities that governmental aggregators have the ultimate responsibility to

ensure only eligible customers are enrolled in the governmental aggregation.

Chapter 4901:1-22: Interconnection

(70) The Commission has adopted Staff's minimal changes to Chapter 4901:1-22, O.A.C., that were required by the passage of SB 221. Given that the current rules became effective October 22, 2007, Staff proposed limited modifications to three rules contained in this chapter, and the Commission only sought comments on those three rules. To ensure that all of the rules in the chapter are consistent and to maintain the continuity of the chapter, the Commission did not attempt to modify definitions or terms in these three rules to reflect modifications that may have been made to other chapters in this rulemaking. Any modification to terms that are reflected in these three rules will raise confusion with the remaining rules in the chapter that were not similarly modified. Accordingly, the Commission rejects any proposals that purport to make such modifications. Nonetheless, it is the Commission's intent to address this issue in the next rule review of the chapter.

Chapter 4901:1-23: Electric Reliability, Customer Service and Safety

(71) OCEA urged the Commission to include language throughout Chapter 23 that would provide for public input, including public hearings and comments, regarding an investigation of an electric utility's or CRES provider's compliance with Chapters 4901:1-21 and/or 4901:1-10, O.A.C. OCEA also proposed the establishment of a public process for any notices of probable noncompliance issued by Staff or any settlements filed. OCEA rationalized that to do otherwise causes public mistrust, provides incomplete enforcement, and prevents those harmed from expressing their experiences with services of the electric utilities. While OCEA's purpose may be well intended, the result of OCEA's modifications would be counter-productive. Staff routinely monitors all of the public utilities and entities within the Commission's jurisdiction to ensure compliance with the Commission's numerous rules and regulations. As part of its routine duties, Staff also conducts numerous investigations to determine if said public utilities

and/or other jurisdictional entities are compliant with the Commission's rules and regulations, which include ongoing review of the Commission's customer complaint data contained in the Commission's customer management system or direct contact by customers or local government officials. If the daily activities of Staff required public input, or if each investigation required a hearing, Staff's performance would be hindered, limiting the monitoring and investigatory work that Staff could accomplish. As stated previously, the adopted rules appropriately balance the Commission's objectives of providing transparency, fairness, and accountability.

(72) Lastly, the Commission explains that the forfeiture amount was increased in Rule 05(E)(2), as well as Rule 4901:1-24-13(A), O.A.C., to reflect the corresponding statutory change. See Section 4905.54, Revised Code.

CONCLUSION:

The Commission finds that the rules proposed by Staff should be approved as modified by this Finding and Order. Attached is a copy of the rules adopted.

The Commission notes that the rules being adopted by this order are over 200 pages. While the Commission finds that a hard copy of this entry should be served upon all stakeholders, we believe that, rather than mail hard copies of the rules to the stakeholders, it would be prudent and more efficient to provide a web address where the attachment can be accessed. Accordingly, interested entities can access the attachment by going to the Commission's web site at www.puco.ohio.gov/PUCO/Rules, and clicking on the link to Amended Chapters 4901:1-9, 4901:1-10, 4901:1-21, 4901:1-22, 4901:1-23, 4901:1-24, and 4901:1-25. If an entity has questions regarding how to access the attachment or does not have access to the internet, it may contact the Commission's Docketing Division at (614) 466-4095, Monday through Friday between the hours of 7:30 a.m. and 5:30 p.m.

ORDER:

It is, therefore,

ORDERED, That the attached rule amendments are hereby adopted. It is, further,

ORDERED, That Rules 4901:1-9-01, 4901:1-9-07, 4901:1-10-08, 4901:1-10-10, 4901:1-10-11, and 4901:1-21-09 are hereby rescinded and reenacted as new rules.

ORDERED, That copies of the adopted amended Chapters 4901:1-9, 4901:1-10, 4901:1-21, 4901:1-23, 4901:1-24, 4901:1-25, and Rules 4901:1-22-01, 4901:1-22-02, and 4901:1-22-03, O.A.C., be filed with the Joint Committee on Agency Rule Review, the Secretary of State, and the Legislative Service Commission in accordance with divisions (D) and (E) of Section 111.15, Revised Code. It is, further,

ORDERED, That the final rules be effective on the earliest day permitted by law. Unless otherwise ordered by the Commission, the review date for Chapters 4901:1-9, 4901:1-10, 4901:1-21, 4901:1-22, 4901:1-23, 4901:1-24, and 4901:1-25, O.A.C., shall be September 30, 2012. It is, further,

ORDERED, That a copy of this entry, without the attachments, be served upon all parties who filed comments in this docket and all interested parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Alan R. Schriber, Chairman

Paul A. Centolella

Ronda Hartman Fergus

Valerie A. Lemmie

Cheryl L. Roberto

KWB:ct

Entered in the Journal
NOV 0 5 2008

Reneé J. Jenkins
Secretary

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

CONCURRING OPINION OF COMMISSIONER PAUL A. CENTOLELLA

I concur and provide additional comments on two portions of the Order the Commission adopts today.

First, in section 4901:1-10-10(B)(4)(b) of the Rules, addressing surveys to be conducted regarding customer perceptions of electric service, the Commission includes in the objective for such surveys measuring the economic impact of disruptions in electric service. There are established survey methodologies for assessing the cost of service interruptions and the value to consumers of load lost due to interruptions of service. I note that these methodologies are more fully described in Lawton, L., M. Sullivan, K. Van Liere, A. Katz, and J. Eto, (2003). *A Framework Review of Customer Outage Costs: Integration and Analysis of Electric Utility Outage Cost Surveys*, Lawrence Berkeley National Laboratory, Report No. LBNL-54365.[1] And, I would encourage parties to consider and utilize appropriate approaches for measuring the economic cost of service interruptions to consumers.

Second, as stated in this Order, the Commission remains highly interested in discussing with small and large businesses the economic impact of outages and issues surrounding what can reasonably be done to address economic development concerns related to those impacts. I wish to underscore this interest and note that national studies have indicated that service interruptions and power quality problems can represent a significant additional cost of electric service for commercial and industrial customers.[2] I would encourage utilities to consider smart, innovative approaches to improving reliability and reducing such consumer costs.

Paul A. Centolella
Commissioner

[1] See also: Sullivan, M. and D. Keane, (1995). *Outage Cost Estimation Guidebook*, EPRI, TR-106082, Research Project 2878-04.

[2] LaCommare & Eto, "Cost of Power Interruptions to Electricity Consumers in the United States," 31 *Energy* 1844 (2006); Primen, (2001); *The Cost of Power Disturbances to Industrial and Digital Economy Companies*, Electric Power Research Institute.

*** DRAFT – NOT FOR FILING ***

4901:1-5-10 **Service termination.**

(A) Telecommunications providers shall disconnect customer service(s) only in accordance with this rule. Subject to the provisions of this rule, customers may be disconnected from a telecommunication provider's service(s) for the nonpayment of past due charges.

(B) ~~Basic local exchange service (BLES), when offered to residential and small business customers as a stand-alone service not part of a service package, cannot be disconnected for the nonpayment of past due charges if a customer's payment is sufficient to cover the local exchange carrier's (LEC) tariffed rate for stand-alone BLES service and all associated taxes and government mandated surcharges (i.e., universal service fund and 9-1-1 service charges). BLES, when offered to residential and small business customers as part of a service package of bundled regulated services and/or bundled regulated and unregulated services, cannot be disconnected for nonpayment of past due charges when the LEC also offers BLES as a stand-alone option and the customer's payment is sufficient to cover the LEC's tariffed rate for stand-alone BLES and all associated taxes and government mandated surcharges. In cases in which payment is only sufficient to cover the tariffed rate of stand-alone BLES and all associated taxes and government mandated surcharges, the LEC may disconnect any regulated and/or unregulated service(s) other than BLES, not covered by the customer's payment. If the LEC does not offer BLES on a stand-alone basis, then insufficient payment of the package price may result in disconnection of all services included in the package~~Where two or more regulated services and/or regulated and unregulated services are offered together under a package price, a failure to timely pay the entire package price may render as past due the charges for all services included in the package and, as such, may result in disconnection of all services included in the package.

(C) If a customer is disconnected for nonpayment of charges for a package including basic local exchange service (BLES), the incumbent local exchange carrier (ILEC) shall, upon request, reconnect the customer to stand-alone BLES upon the customer's payment of an amount sufficient to cover the ILEC's tariffed rate for stand-alone BLES service, all associated taxes and government mandated surcharges (i.e., universal service fund and 9-1-1 service charges), and any applicable deposit and reconnection fee, and upon the customer entering into a payment arrangement for all unpaid regulated charges. If the customer is disconnected for nonpayment of ~~BLES~~ past due charges, the local exchange carrier (LEC) may require the customer to pay the entire amount of all unpaid regulated charges, along with any applicable deposit and reconnection charges, prior to reconnecting service of any kind to the customer other than stand-alone BLES.

(D) Telecommunications providers shall not disconnect any customer's service for the nonpayment of a past due bill under any of the following conditions:

(1) Earlier than fourteen days after the customer's account is past due.

(2) Without mailing a written notice of disconnection postmarked at least seven days prior to the date of disconnection. Such notice may be included on the customer's next bill, provided the bill is postmarked at least seven days prior to the date of disconnection of service reflected on the bill, and provided that the disconnection language is clearly highlighted such that it stands apart from the customer's regular bill language. Notice may be by e-mail if the customer agrees to electronic bills.

(3) After twelve-thirty p.m., if the possibility of service reconnection on the day following the disconnection is not made available to the customer by the telecommunications provider.

(4) Where a customer pays the company the total amount due, (or an amount agreed upon between the company and the customer) by the close of business on the disconnection date listed on the disconnection notice.

(E) A LEC may restrict long distance service to a customer who owes past due long distance charges to the LEC or to a provider on whose behalf the LEC is billing. The LEC shall not restrict a customer from establishing toll service with a different toll provider for whom it does not bill.

(F) A notice of disconnection for nonpayment shall include all of the following information:

(1) The earliest date disconnection may occur.

(2) Information sufficient for the customer to identify what services will be disconnected.

(3) The total dollar amount due to avoid disconnection which shall not exceed the past due amount for the service(s) subject to disconnection.

(4) The minimum dollar amount necessary to maintain basic local exchange service, if applicable.

(5) The address and toll-free telephone number of the office of the telecommunications provider that the customer may contact for more information on how and where to pay the customer's account.

(6) A statement that payments to an unauthorized payment agent may result in the untimely or improper crediting of the customer's account.

(7) A statement identifying if a reconnection fee and/or deposit may apply.

(8) The following statement:

"If you have a complaint in regard to this disconnection notice that cannot be resolved after you have called (name of utility), or for general utility information, residential and business customers may contact the Public Utilities Commission of Ohio for assistance at 1-800-686-7826 (toll free) or for TTY at 1-800-686-1570 (toll free) from 8:00 a.m. to 5:00 p.m. weekdays, or at www.puco.ohio.gov."

(9) If the account is residential, the following statement:

"Residential customers may also contact the Ohio Consumers' Counsel for assistance with complaints and utility issues at 1-877-742-5622 (toll free) from 8:00 a.m. to 5:00 p.m. weekdays, or at www.pickocc.org.

(G) A telecommunications provider must notify, or attempt to notify through reasonable means, a customer before service is refused or disconnected when any of the following conditions exist:

(1) When the customer violates or fails to comply with their contract with the telecommunications provider or telecommunications provider's tariff(s).

(2) When telephone service to a customer violates any law of this state or any political subdivision thereof, or any federal law or regulation.

(3) When the landlord of a customer, the tenant/customer, or a consumer refuses to allow the telecommunications provider access to its facilities or equipment on the customer's property or property leased by the customer.

(4) When the customer is suspected of engaging in any fraudulent action to obtain or maintain telephone service.

(H) No notice is required prior to disconnection and a telecommunications provider may disconnect the customer for any of the following reasons:

(1) Tampering with a telecommunications provider's property.

(2) A use or misuse of telephone service or equipment which adversely affects telephone service to other customers.

(3) In order to eliminate, mitigate or avoid a safety hazard to customers or their premises, to the public, or to the telecommunications provider's personnel or facilities.

(I) Regulated telecommunications services may not be refused or disconnected to any service applicant or customer for any of the following reasons:

(1) Failure to pay for residential service furnished to a former customer unless the former customer and the new applicant for service continue to be members of the same household.

(2) Failure to pay for a different class of service. Residential service may not be denied or disconnected for nonpayment of a nonresidential account.

(3) Failure to pay any amount which is in bona fide dispute. The telecommunications provider may not disconnect service if the customer pays either the undisputed portion of the bill or where the disputed amount is in question, the customer pays the amount paid for the same billing period in the previous year.

(J) Unless prevented by circumstances beyond the telecommunications provider's control or unless a customer requests otherwise, each telecommunications provider shall reconnect previously disconnected service by five p.m. on the next business day upon any of the following:

(1) Receipt by the telecommunications provider or its authorized payment agent of the full amount in arrears for which service was disconnected including any applicable deposit and reconnection fee.

(2) Verification by the telecommunications provider that the conditions which warranted disconnection of service have been eliminated.

(3) Agreement by the telecommunications provider and the customer on a deferred payment plan and a payment, if required, under the plan.

(K) A telecommunications provider may not insist upon payment of any amount that has not been included on a notice of disconnection as a prerequisite to restoring service under this rule. The telecommunications provider shall inform the customer of the amount to avoid disconnection and/or, if applicable, the amount to retain basic local exchange service, whenever discussing a pending disconnection with a customer.

(L) Each facilities-based LEC shall maintain access to 9-1-1 emergency services on a residential customer's line for a minimum of fourteen days if a customer's service is disconnected for nonpayment of a past due charge(s).

(M) Any customer reconnecting service in the period of time used by the facilities-based LEC to comply with paragraph (K) of this rule shall be treated as a reconnection and not as a new customer establishing new service.

(N) If a customer or member of the customer's household demonstrates that disconnection of service would be especially dangerous to his/her health, the LEC must consider this circumstance when offering extended payment arrangements to

avoid disconnection. Payment arrangements shall be offered regardless of the credit class of the customer.

*** DRAFT – NOT FOR FILING ***

4901:1-9-01 **Definitions.**

As used in this chapter:

(A) "Contribution in aid of construction" means any amount of money or property contributed to an electric utility to the extent that the purpose of the contribution is to provide for line extensions for new or expanded customer loads.

(B) "Commission" means the public utilities commission of Ohio.

(C) "Cost estimate" means the detailed projected expenditure, including material costs and overhead, equipment costs and overhead, labor costs and overhead, and all taxes associated with each major material and service component, required for a line extension. It shall also separately identify any incremental costs associated with providing premium services.

(D) "Customer" means any individual, corporation, company, co-partnership, association, joint venture, or government entity who has requested the construction of an electric line extension from the electric utility.

(E) "Electric utility" shall have the meaning set forth in division (A)(11) of section 4928.01 of the Revised Code.

(F) "Line extension" means the provision of facilities (including, but not limited to, poles, fixtures, wires, and appurtenances) necessary for delivering electrical energy from the point of origin to one or more of the customer's points of delivery. Facilities provided by the electric utility to maintain, protect, upgrade, or improve its overall distribution system (even if necessary due to a customer's load addition) are not considered part of a line extension.

(G) "Multifamily installation" means any line extension to a new residential dwelling that will have two or more dwelling units, where each unit has a separate account for electric service.

(H) "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.

(I) "Premium service" includes, but is not limited to, customer-requested oversizing of facilities, underground construction, three-phase residential service, and any customer request that is in excess of standard construction and requirements necessary to provide electric service to the customer.

*** DRAFT – NOT FOR FILING ***

4901:1-9-03 **Demand~~-or~~, load, or time differentiated pricing meter option for residential customers.**

Each electric~~-light company~~ utility shall maintain on file with the ~~public utilities~~ commission a tariff, in which the~~-company~~ electric utility:

(A) Offers residential customers, whose residences are primarily heated by electricity, the option of metering usage by a demand~~-or~~, load, or time differentiated pricing meter~~;~~.

(B) May require customers to pay for any ~~demand/load~~ demand, load, or time differentiated pricing meter they select and its installation, if no such meter is already installed~~;~~ or the technology deployed.

(C) Shall bill customers with ~~demand/load~~demand, load, or time differentiated pricing meters for kilowatt hours in excess of a prescribed number of kilowatt hours per kilowatt of billing demand, at a rate per kilowatt hour that reflects the lower cost of providing service during off-peak periods.

*** DRAFT – NOT FOR FILING ***

4901:1-9-05 **Uniform system of accounts for electric ~~companies~~ utilities.**

(A) Electric ~~light companies subject to the jurisdiction of the public utilities commission of Ohio~~ utilities shall keep their books of accounts and records in accordance with the uniform system of accounts ~~from time to time~~ prescribed by the federal energy regulatory commission ~~(FERC)~~ except to the extent that the provisions of said uniform system of accounts are inconsistent in any way with the outstanding accounting orders of the ~~public utilities~~ commission ~~of Ohio~~.

(B) The ~~public utilities~~ commission ~~of Ohio~~ reserves ~~to itself~~ the right to require the creation and maintenance of such additional accounts as may hereafter be prescribed to cover the accounting procedures of electric ~~light companies operating within the state of Ohio~~ utilities.

*** DRAFT – NOT FOR FILING ***

4901:1-9-06 **Retention of records.**

Unless otherwise specified in Chapter 4901:1-10 of the Administrative Code, the regulations governing the retention and preservation of records of electric utilities are set forth in the appendix ~~A~~ to this rule.

*** DRAFT – NOT FOR FILING ***

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

(A) Applicability

This rule is applicable to all electric utilities to facilitate the policy of the state as set forth in section 4928.02 of the Revised Code by requiring all of the state's electric utilities to apply the same policies and charges on a nondiscriminatory and comparable basis in fulfilling the obligation to construct line extensions when necessary to provide adequate distribution service to new or expanded customer loads, both residential and nonresidential.

(B) Tariff requirements

(1) Each electric utility shall have on file with the commission an approved tariff schedule for the provision of line extensions consistent with the requirements of this rule.

(2) In the event that provisions are required to implement circumstances not addressed in this rule, the electric utility shall address those circumstances in its application, but shall make its best efforts to maintain consistency with the rules herein.

(3) Upon the filing of an application to establish or modify line extension tariffs, the commission may fix a time and place for hearing if the application appears to be unjust or unreasonable. The burden of proof to show that the proposals in the application are just and reasonable shall be upon the electric utility.

(C) Cost estimates

(1) Within ten business days of a request, the electric utility shall provide a nonbinding good faith cost estimate for the line extension project.

(2) Within forty-five calendar days of a request, the electric utility shall provide a binding firm cost estimate for the line extension project. Under the circumstance where the electric utility requires further relevant information, the electric utility shall contact the customer and shall provide a binding firm cost estimate no more than ten calendar days from the receipt of the required information.

(3) All firm cost estimates shall be valid for ninety calendar days, subject to obtaining necessary rights of way and to conditions beyond the reasonable control of the electric utility.

(4) The electric utility may allow third-party installation of line extension facilities subject to utility specifications and inspection. If a customer completes any of the work, a detailed cost estimate will be developed by the electric utility for the purpose of calculating the amount to be paid by the customer, as well as the amount that is the responsibility of the electric utility.

(5) Costs attributed to land clearance activity, trenching, and backfilling required for the installation of line extension facilities on the customer's property are the responsibility of the customer.

(D) Line extension charges

(1) For line extensions to residential single family homes, both individual homes and homes in a development, the following shall apply:

(a) The electric utility shall be responsible for all costs, excluding the incremental costs of premium services, up to five thousand dollars.

(b) The customer shall be responsible for the incremental costs of premium services (the sum of the electric utility's cost to provide the premium installation minus the electric utility's cost of a standard, single-phase installation) prior to the start of construction.

(c) The customer shall make arrangements with the electric utility for the payment of the non-premium line extension costs that exceed five thousand dollars. The electric utility shall afford the customer the option of paying those costs, plus carrying costs, on a prorated monthly basis for up to fifty months.

(2) For line extensions to residential, non-master-metered, multifamily installations (two or more units) the following shall apply:

(a) The electric utility shall be responsible for all costs, excluding the incremental costs of premium services, up to twenty-five hundred dollars per unit.

(b) The customer shall be responsible for the incremental costs of premium services (the sum of the electric utility's cost to provide the premium installation minus the electric utility's cost of a standard, single-phase installation) prior to the start of construction.

(c) The customer shall make arrangements with the electric utility for the payment of the non-premium line extension costs that exceed twenty-five hundred dollars per unit. The electric utility shall afford the customer the option of paying those costs, plus carrying costs, on a prorated monthly basis for up to fifty months.

(3) For line extensions to nonresidential customers the following shall apply:

(a) The electric utility shall be responsible for sixty per cent of the total cost of the line extension, excluding the incremental costs of premium services.

(b) The customer shall be responsible for forty per cent of the total cost of the line extension plus the incremental costs of premium services (the sum of the electric utility's cost to provide the premium installation minus the electric utility's cost to install, in accordance with good utility practice, a standard line extension to the project) prior to the start of construction.

(c) If a substation is required as part of the line extension project to a customer, the customer shall be given the option of building (pursuant to all applicable electrical standards), owning, and maintaining such substation.

(E) Electric utility cost recovery for line extensions

(1) The payment for premium services and for the cost of residential construction in excess of the limits of five thousand dollars for single-family residences and twenty-five hundred dollars per unit for multifamily residences shall be considered as contribution in aid of construction (CIAC) and shall be grossed-up by the effect of applicable taxes. The total CIAC payment (including the tax gross-up) shall be accounted for according to applicable accounting standards.

(2) All other costs associated with line extensions, including, but not limited to, the costs of necessary technical studies, operation and maintenance costs, and capital costs shall be eligible for recovery in the next distribution rate proceeding, in accordance with traditional ratemaking standards.

(3) Line extension costs and the recovery of such costs shall not be included in the recovery of any costs associated with infrastructure and modernization of the electric utility's distribution system for which the electric utility may seek recovery under division (B)(2)(h) of section 4928.143 of the Revised Code.

(F) Future customers

(1) Any customer who paid to the electric utility a CIAC, other than for premium services, may be entitled to a refund of a portion of the CIAC paid in accordance with the following:

(a) If any new customer, within fifty months of the completion of a line extension project for which a party has paid to the electric utility a CIAC, utilizes all or part of the facilities for which the CIAC has been paid, the party who paid the CIAC may be entitled to a refund which represents a pro rata portion of the original CIAC calculated to equitably share the CIAC

responsibility for those facilities used in service by both the new and original customer.

(b) If any new additional customer, within fifty months of the completion of the line extension project for which a party has paid to the electric utility a CIAC, utilizes all or part of the facilities for which a CIAC has been paid, the party who paid the CIAC may also be entitled to a refund.

(2) Such refunds shall be reflected as a reduction to CIAC for ratemaking purposes.

*** DRAFT – NOT FOR FILING ***

4901:1-9-09 **Nuclear decommissioning reports.**

(A) Pursuant to section 4928.13 of the Revised Code, each electric utility that owns nuclear generation facilities located in the state of Ohio shall demonstrate compliance with decommissioning requirements of the nuclear regulatory commission ~~(NRC)~~ and the ~~public utilities~~ commission ~~of Ohio (commission)~~ and shall demonstrate adequate financing mechanisms to fund facility decommissioning.

(B) Each electric utility or affiliate that owns nuclear generation facilities located in Ohio shall submit to the commission, on or before January 31, 2001, a copy of the study used to estimate decommissioning costs for each nuclear generating facility, as used for internal modeling purposes, as of December 31, 1998. If a later estimate of decommissioning costs has been prepared, this study also shall be provided by the above date.

(C) On a biennial basis, commencing March 31, 2001, an electric utility or affiliate owning nuclear generation facilities shall cause the entity responsible for managing the external trust fund (fund) created to hold funds for the decommissioning of each nuclear facility located in Ohio, as described in case no. 87-1183-EL-COI, to report to the commission on the status of that fund. This reporting may be coordinated so as to coincide with the reporting requirements of the ~~NRC~~ nuclear regulatory commission. The annual reports shall include:

(1) Information on the receipts of the fund~~;~~.

(2) The investment income of the fund~~;~~.

(3) The costs incurred by the fund~~;~~.

(4) The balance of the fund~~; and~~.

(5) A description of the current fund investments, as to return and investment grade reported by applicable reporting services.

(D) In addition, an electric utility or affiliate owning nuclear generation facilities shall cause the entity responsible for managing the ~~external trust~~ fund to file copies of all documents required to be filed with other state or federal agencies, including tax returns, with the commission within thirty calendar days following their submittal to the requiring agency. This requirement includes updated estimates of nuclear decommissioning cost estimates as and when required by the ~~NRC~~ nuclear regulatory commission.

(E) The above referenced documents shall be filed with the commission's docketing division as notice filings.

*** DRAFT – NOT FOR FILING ***

4901:1-10-01 **Definitions.**

As used in this chapter:

(A) "Applicant" means a person who requests or makes application for service.

~~(B) "Chief of the public interest center" means the chief of the public interest center of the commission's consumer services department.~~

~~(C)~~(B) "Commission" means the public utilities commission of Ohio.

(C) "Competitive retail electric service provider" means a provider of competitive retail electric service, subject to certification under section 4928.08 of the Revised Code.

(D) "Consolidated billing" means that a customer receives a single bill for electric services provided during a billing period for services from both ~~EDU~~ an electric utility and ~~CRES~~ a competitive retail electric service provider ~~services~~.

(E) "Consumer" means any person who receives service from an electric ~~distribution company~~ utility or ~~electric service company~~ a competitive retail electric service provider.

~~(F) "CRES provider" means a provider of competitive retail electric service.~~

~~(G)~~(F) "Critical customer" means any customer or consumer on a medical or life-support system who has provided appropriate documentation to the ~~EDU~~ electric utility that an interruption of service would be immediately life-threatening.

~~(H)~~(G) "Customer" means any person who has an agreement, by contract and/or tariff with an ~~EDU~~ electric utility or by contract with ~~an~~ a competitive retail electric service ~~company~~ provider, to receive service.

~~(I)~~(H) "Customer premises" means the residence(s), building(s), or office(s) of a customer.

~~(J)~~(I) "Director of the ~~consumer services~~ service monitoring and enforcement department" means the ~~commission's~~ director of ~~consumer services~~ the service monitoring and enforcement department of the commission or the director's designee.

~~(K)~~(J) "~~EDU" means an electric~~Electric distribution utility" shall have the meaning ~~as defined~~ set forth in division (A)(6) of section 4928.01 of the Revised Code.

(K) "Electric light company" shall have the meaning set forth in division (A)(4) of section 4905.03 of the Revised Code.

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(L) "Electric services company" shall have the meaning set forth in division (A)(9) of section 4928.01 of the Revised Code.

~~(L)~~(M) "Electric utility" as used in this chapter ~~includes EDUs and electric transmission owners~~ shall have the meaning set forth in division (A)(11) of section 4928.01 of the Revised Code.

(N) "Electric utility call center" means an office or department or any third party contractor of an electric utility designated to receive customer calls.

~~(M)~~(O) "Fraudulent ~~practice~~act" means an intentional misrepresentation or concealment by the customer or consumer of a material fact that the ~~EDU~~ electric utility relies on to its detriment. Fraudulent act does not include tampering.

(P) "Governmental aggregation program" means the aggregation program established by the governmental aggregator with a fixed aggregation term, which shall be a period of not less than one year and no more than three years.

(Q) "Major event" encompasses any calendar day when an electric utility's system average interruption duration index (SAIDI) exceeds the major event day threshold using the methodology outlined in section 4.5 of standard 1366-2003 adopted by the institute of electric and electronics engineers (IEEE) in "IEEE Guide for Electric Power Distribution Reliability Indices." The threshold will be calculated by determining the SAIDI associated with adding 2.5 standard deviations to the average of the natural logarithms of the electric utility's daily SAIDI performance during the most recent five-year period. The computation for a major event requires the exclusion of transmission outages. For purposes of this definition, the SAIDI shall be determined in accordance with paragraph (C)(3)(e)(iii) of rule 4901:1-10-11 of the Administrative Code.

(R) "Mercantile customer" shall have the meaning set forth in division (A)(19) of section 4928.01 of the Revised Code.

~~(N)~~(S) "Outage coordinator" means the commission's emergency-outage coordinator ~~of the commission's consumer services department~~.

~~(O)~~(T) "Person" ~~includes an individual, corporation, company, co-partnership, association, or joint venture~~ shall have the meaning set forth in division (A)(24) of section 4928.01 of the Revised Code.

(U) "Postmark" means a mark, including a date, stamped or imprinted on a piece of mail which services to record the date of its mailing, which in no event shall be earlier than the date on which the item is actually deposited in the mail. For electronic mail, postmark means the date the electronic mail was transmitted.

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(V) "Renewable energy credit" means 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.

~~(P)~~(W) "Slamming" means the transfer of or requesting the transfer of a customer's competitive electric service to another provider without obtaining the customer's consent.

(X) "Staff" means the commission staff or its authorized representative.

(Y) "Sustained outage" means the interruption of service to a customer for more than five minutes.

(Z) "Tampering" means to interfere with, damage, or by-pass a utility meter, conduit, or attachment with the intent to impede the correct registration of a meter or the proper functions of a conduit or attachment so far as to reduce the amount of utility service that is registered on or reported by the meter. Tampering includes the unauthorized reconnection of a utility meter, conduit, or attachment that has been disconnected by the utility.

(AA) "Transmission outage" means an outage involving facilities that would be included in rate setting by the federal energy regulation commission.

~~(Q)~~(BB) "Universal service fund" means a fund established pursuant to section 4928.51 of the Revised Code, for the purpose of providing funding for low-income customer assistance programs, including the percentage of income payment plan program, customer education, and associated administrative costs.

~~(R)~~(CC) "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: the operations of customer equipment (e.g. spot welders or motor starting), lightning, storms, winds, accidents, or other factors~~ and are beyond the control of the electric utility~~; the electric utility's system operations (e.g., switching operations); or by emergency operations~~.

*** DRAFT – NOT FOR FILING ***

4901:1-10-02 **Purpose and scope.**

(A) The rules in this chapter:

(1) Apply to investor-owned ~~EDUs~~ electric utilities, as defined in this chapter, and transmission owners~~, as defined in this chapter;~~.

(2) Are intended to promote safe and reliable service to consumers and the public, and to provide minimum standards for uniform and reasonable practices.

(B) The commission may, in addition to the rules in this chapter, require ~~EDUs~~ electric utilities and/or transmission owners to furnish other or additional service, equipment, and facilities upon ~~any of the following~~:

(1) The commission's own motion~~;~~.

(2) Formal or informal commission resolution of a complaint~~;~~.

(3) The application of any ~~EDU~~ electric utility.

(C) The commission may waive any requirement of Chapter 4901:1-10 of the Administrative Code for good cause shown ~~or upon its own motion~~.

(D) The rules in this chapter shall not relieve the ~~EDUs~~ electric utilities and/or transmission owners from:

(1) Providing adequate service and facilities as prescribed by the commission~~;~~.

(2) Complying with the laws of this state.

(E) Except as set forth below, the rules of this chapter supersede any inconsistent provisions, terms, and conditions of the ~~EDU's~~ electric utility's tariffs. An ~~EDU~~ electric utility may adopt or maintain tariffs providing superior standards of service, reliability or safety, or greater protection for customers or consumers. Further, an ~~EDU~~ electric utility may adopt or maintain tariffs which are not inconsistent with the rules of this chapter.

(F) When an ~~EDU~~ electric utility and/or transmission owner in a complaint proceeding under section 4905.26 of the Revised Code demonstrates compliance with the relevant service or performance standard of this chapter, excluding rule 4901:1-10-27 of the Administrative Code, a rebuttable presumption is created that the electric utility is providing adequate service regarding that standard. Such presumption applies solely to the specific standard addressed by the commission for the time period at issue in the complaint proceeding. No such presumption is created merely by compliance with any reporting requirement of this chapter. In addition, to the

extent the service and performance standards in this chapter are based on system-wide data, no such rebuttable presumption is applicable to complaints regarding the adequacy of service provided either to individual customers or consumers or to any segment of the system of an electric utility and/or transmission owner.

(G) No tariff of an electric utility shall incorporate exculpatory clauses that purport to limit or eliminate liability on the part of the electric utility to its customers or others as a result of its own negligence when providing a regulated service. No electric utility tariff shall incorporate provisions which purport to establish liability on the part of the electric utility's customers for acts or failures to act involving an electric utility's facilities, which are beyond the control of the customer. Any contrary provisions in an electric utility's tariff now on file with the commission shall be eliminated.

*** DRAFT – NOT FOR FILING ***

4901:1-10-03 ~~Retention of records~~ **Records.**

(A) Retention of records

~~(A)~~(1) Unless otherwise specified in this chapter or in paragraph ~~(B)~~ (A)(2) of this rule, the regulations governing the retention and preservation of electric utility records are set forth in the appendix ~~A~~ to rule 4901:1-9-06 of the Administrative Code.

~~(B)~~(2) Unless otherwise specified in this chapter, each electric utility shall maintain ~~records,~~ for three years, records that are sufficient to demonstrate compliance with the rules of this chapter. Failure to retain records, as required by this rule, sufficient to demonstrate compliance with the rules of this chapter shall give rise to a rebuttable presumption to the contrary.

(3) If compliance with any rule in this chapter is determined on the basis of activities (such as inspection, testing, or maintenance) occurring over a period of two years or more, then the three-year record retention requirement shall be increased by the total number of years over which such activities are required to occur and shall apply to the compilation of records comprised of the activities required during the stated period.

(B) Access to records

(1) Each electric utility shall provide access to its records maintained in accordance with paragraph (A) of this rule to the staff upon request of the staff.

(2) Access to records and business activities includes such records and activities as would allow the staff to adequately monitor Ohio-specific customer calls made to the electric utility call center or a third party vendor hired by the electric utility.

(3) Access includes the ability of staff to adequately monitor the electric utility call center interactions with Ohio customers either at a location in Ohio or in a manner agreed to by the staff. Electric utilities shall provide access to monitor customer calls without the customer service representative's knowledge of the monitoring.

*** DRAFT – NOT FOR FILING ***

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

(A) Portable indicating instruments (e.g., electro-mechanical indicating, electronic indicating, and electronic indicating and recording) used to test or record service voltage at the customer's premises in response to a customer inquiry or complaint shall be checked for accuracy against a recognized standard. For transmission facilities within the commission's jurisdiction, the voltage measuring equipment accuracy and testing requirements shall comply with the requirements of the transmission system operator. Accuracy checks shall be conducted as recommended by the manufacturer or annually if no period is specified. The most recent accuracy test record shall be kept with each such instrument, or at a central location for the electric utility and/or transmission owner.

(B) ~~Standard~~ Electric utilities and transmission owners shall comply with the following requirements regarding standard voltage~~.~~:

(1) Each electric utility and transmission owner supplying electrical energy for general use shall adopt nominal service voltages to be supplied to its customers and shall make every reasonable effort, by the use of proper equipment and operation, to maintain the service voltages to its customers within the limits as defined within this rule.

(2) Each electric utility shall file with the commission, as part of its tariffs, the nominal service voltage available to ~~consumers~~ customers, including the number of phases and service configurations~~,~~ and the voltage variations for each available service configuration. ~~These~~ The nominal service ~~voltages~~ voltage shall be based on the 2001 version of the "American National Standards Institute" ~~(ANSI)~~ standard C84.1, electric power systems and equipment voltage ratings, or ~~standard~~ as ~~later~~ subsequently amended.

(3) The limits specified within this rule do not apply to voltage excursions.

(4) Each electric utility and transmission owner shall develop procedures to reasonably ~~assure~~ ensure that the delivered service voltages are within the ranges as specified in paragraph (B)(2) of this rule.

The procedures shall include a description of the electric utility's and transmission owner's practices to assure that service voltages are within acceptable limits and may include the inspections of substation voltage regulation equipment, line voltage regulation equipment (i.e., voltage regulators and capacitors), available substation voltage monitoring equipment and other field investigations and system voltage studies.

*** DRAFT – NOT FOR FILING ***

(C) ~~Corrective action~~ Whenever an electric utility and/or transmission owner knows that voltage levels exist outside of the voltage ranges as specified in paragraph (B)(2) of this rule, the electric utility shall, in a nondiscriminatory manner, promptly take steps to investigate and initiate corrective action, if it is within the electric utility's and/or transmission owner's control to restore the voltage levels to within acceptable limits. The electric utility and/or transmission owner shall document the specifics of the investigation, its findings, and any corrective action that was necessary.

~~Whenever the electric utility knows that voltage levels exist outside of the voltage ranges as specified in paragraph (B)(2) of this rule, the electric utility will, in a nondiscriminatory manner, promptly take steps to investigate and initiate corrective action, if within the electric utility's control to restore the voltage levels to within acceptable limits. The electric utility shall document the specifics of the investigation, its findings, and any corrective action that was necessary.~~

(D) ~~Special contracts or conditions~~ The voltage requirements outlined in this rule may be amended or modified by contractual agreement between the electric utility and/or transmission owner and its customer(s), provided the service rendered does not impact other customers on the system.

~~The voltage requirements outlined in this rule may be amended or modified by contractual agreement between the electric utility and its customer(s) provided the service rendered does not impact other customers on the system.~~

(E) ~~Special applications~~ The electric utility is not responsible for installing regulating apparatus for special equipment requiring voltage regulation other than those prescribed by these rules or as defined in the electric utility's tariffs.

~~The customer is responsible for installing regulating apparatus for special equipment requiring voltage regulation other than those prescribed by these rules or as defined in the electric utility's tariffs~~Each electric utility supplying alternating current shall adopt a standard frequency of sixty hertz, which standard frequency shall be stated in the electric utility's tariff.

~~(F) Each electric utility supplying alternating current shall adopt a standard frequency of 60 hertz and shall be stated in the electric utility's tariff.~~

*** DRAFT – NOT FOR FILING ***

4901:1-10-05 **Metering.**

(A) Electric ~~service provided by an EDU~~ energy delivered to the customer shall be metered, except where it is impractical to meter the electric usage, such as in street lighting and temporary or special installations. The usage in such exceptions may be calculated or billed on a demand or connected load rate as provided in an approved tariff on file with the commission.

(B) A customer's electric usage shall be metered by commercially acceptable measuring devices that comply with "American National Standards Institute" (ANSI) standards. Meter accuracy shall comply with the 2001 ANSI C12.1 standards. No metering device shall be placed in service or knowingly allowed to remain in service if it ~~violates~~ does not comply with these standards.

(C) ~~EDU~~ Electric utility employees or authorized agents of the ~~EDU~~ electric utility shall have the right of access to the ~~EDU's~~ electric utility's metering equipment for the purpose of reading, replacing, repairing, or testing the meter, or determining that the installation of the metering equipment is in compliance with the ~~EDU's~~ electric utility's requirements.

(D) Meters ~~which~~ that are not direct reading meters shall have the multiplier plainly marked on or adjacent to the meter. All charts taken from recording meters shall be marked with the date of the record, the meter number, the customer name, and the chart multiplier. The register ratio shall be marked on all meter registers. The watt-hour constant for the meter shall be placed on all watt-hour meters.

(E) The ~~EDU's~~ electric utility's meters shall be installed and removed by the electric utility's personnel or authorized agent. Before initial service to a ~~customer's~~ service location is energized, the electric utility shall verify that the installation of the ~~customer's~~ meter base and associated equipment: has either been inspected and approved by the local inspection authority or, in any area where there is no local inspection authority, has been inspected by an electrician.

~~(1) Has been inspected and approved by the local inspection authority; or~~

~~(2) In any area where there is no local inspection authority, has been inspected by an electrician.~~

(F) ~~Meter test at customer's request.~~ Metering accuracy shall be the responsibility of the ~~EDU~~ electric utility.

(1) Upon request by a customer, the ~~EDU~~ electric utility shall test its meter to verify its compliance with the ANSI C12.1 standards within thirty business days after the date of the request.

(2) The customer or the customer's representative may be present when the meter test is performed at the customer's request.

(3) A written explanation of the test results shall be provided to the customer within ten business days of the completed test.

(4) If the accuracy of the meter is found to be within the tolerances specified in this rule:

(a) The first test at the customer's request shall be free of charge~~; and~~.

(b) The ~~EDU~~ electric utility may charge the customer an approved tariffed fee for each succeeding test conducted less than thirty-six months after the last test requested by the customer. Each ~~EDU~~ electric utility shall notify the customer of such charge prior to the test.

(5) If the accuracy of the meter is found to be outside the tolerances specified in this rule, the ~~EDU~~ electric utility:

(a) Shall not charge a fee or recover any testing expenses from the customer~~;~~.

(b) Shall recalibrate the meter or provide a properly functioning meter that complies with the ANSI C12.1 standards without charge to the customer~~; and~~.

(c) Shall, within thirty days, pay or credit any overpayment to the customer, in accordance with one of the following billing adjustments:

(i) When the ~~EDU~~ electric utility or customer has established the period of meter inaccuracy, the overcharge shall be computed on the basis of ~~a customer's~~ metered usage prior and/or subsequent to such period, consistent with the rates in effect during that period.

(ii) When the ~~EDU~~ electric utility and customer cannot establish the period of meter inaccuracy, the overcharge period shall be determined to be: the period since the customer's "on" date or the period since the date of most recent meter test performed, whichever is ~~less~~ shorter. The ~~rates~~ applicable rates shall be those in effect during the period of inaccuracy in order to determine the appropriate credit or refund.

Paragraph (F)(5) of this rule shall not apply to meter or metering inaccuracies caused by tampering with or unauthorized reconnection of the meter or metering equipment~~, which causes meter or metering inaccuracies~~.

(G) ~~Identification of meters.~~ Each ~~EDU~~ electric utility shall identify ~~each customer meter, which it owns, operates, or maintains~~, 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.

(H) ~~Meter test and history records.~~ Each ~~EDU~~ electric utility shall maintain the following records regarding each meter that it owns, operates, or maintains, for the life of each such meter plus three years:

(1) ~~Maintain the following meter test records:~~ Serial or assigned meter number.

~~(a) Date of customer's request for each test;~~

~~(b) Date and reason for each test;~~

~~(c) Test results;~~

~~(d) Meter reading(s) before and after each test; and~~

~~(e) Accuracy "as found" and "as left".~~

(2) ~~Keep the following records while the meter is in service:~~ Every location where the meter has been installed and removed, together with the dates of such installations and removals.

~~(a) Identification and location of the meter;~~

~~(b) Date of installation; and~~

~~(c) Serial or assigned meter number.~~

(3) Date of any customer request for a test of the meter.

(4) Date and reason for any test of the meter.

(5) Result of any test of the meter.

(6) Meter readings before and after each test of the meter.

(7) Accuracy of the meter found during each test, "as found" and "as left".

(I) ~~Meter reading.~~ Each electric utility shall comply with the following requirements regarding meter reading:

(1) The ~~EDU~~ electric utility shall obtain actual readings of all its in-service customer meters at least once each calendar year. Every billing period, the ~~EDU~~ electric utility shall make reasonable attempts to obtain accurate, actual readings of ~~its in-service customer meters~~ the energy and demand, if applicable, delivered for

the billing period, except where the customer and the ~~EDU~~ electric utility have agreed to other arrangements. Meter readings taken by electronic means shall be considered actual readings.

(2) In addition to the requirements of paragraph (I)(1) of this rule, the ~~EDU~~ electric utility shall provide, upon the customer's request, two actual meter readings, without charge, per calendar year. The customer may only request an actual meter read if ~~the customer's~~ usage has been estimated for more than two of the immediately preceding billing cycles consecutively or if the customer has reasonable grounds to believe that the meter is malfunctioning.

(3) An actual meter reading is required at the initiation and/or the termination of service, if the meter has not been read within the sixty calendar days - immediately preceding ~~sixty days~~ initiation and/or termination of service and access to the meter is provided.

(4) If the meter has most recently been read within the ~~immediately preceding~~ thirty-three to fifty-nine calendar days ~~of~~ immediately preceding the initiation and/or termination of service, the ~~EDU~~ electric utility shall inform the customer, when the customer contacts the ~~EDU~~ electric utility, of the option to have an actual meter read~~,~~ at no charge to the customer.

(5) If the meter has been read within the thirty-two calendar days immediately preceding ~~thirty-two days of~~ the initiation and/or termination of service, the ~~EDU~~ electric utility may estimate ~~the customer's consumption~~ usage.

*** DRAFT – NOT FOR FILING ***

4901:1-10-06 **"National Electrical Safety Code".**

Each electric utility and transmission owner shall comply with the ~~2002~~ 2007 edition of the "American National Standard Institute's," "National Electrical Safety Code". ~~The provisions in "Session Order No. 285," December 1, 1949, referring to the designation of the medium loading district for a part of Ohio remain in effect. Reference for this exception is to rule 250 "General Loading Requirements and Maps" of the "American National Standard, National Electrical Safety Code."~~ approved by the "American National Standards Institute" and adopted by the "Institute of Electric and Electronics Engineers."

*** DRAFT – NOT FOR FILING ***

4901:1-10-07 **Outage reports.**

(A) As used in this rule, "outage" means an interruption of service to:

(1) Two thousand five hundred or more customers in an area for a projected period of four hours or more~~;~~.

(2) One hundred or more customers in an area for a projected period of twenty-four hours or more~~;~~.

(3) A facility of any telephone company, electric light company, natural gas company, water-works company, or a sewage disposal system company, as defined in section 4905.03 of the Revised Code and including ~~such~~ a company that is operated not-for-profit, or owned or operated by a municipal corporation, when an interruption to that facility for a projected period of four hours or more, affects or will affect public safety~~; or~~.

(4) Any police department, fire department, hospital, or countywide 9-1-1 system, for a projected period of four hours or more.

As used in this paragraph, "area" means~~:~~ the ~~EDU's~~ electric utility's certified territory within a county~~;~~ or all adjoining municipalities and townships in an ~~EDU's~~ electric utility's certified territory.

(B) Each ~~EDU~~ electric utility shall immediately report each outage to the commission's outage coordinator. Each ~~company~~ electric utility shall report to the commission's outage coordinator by voice mail message~~,~~ or e-mail or, during normal business hours, by faxing the outage report on a model form approved by the commission's outage coordinator.

*** DRAFT – NOT FOR FILING ***

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

(A) Each electric utility shall maintain an emergency plan(s) in accordance with this rule. Each emergency plan shall include at least the following elements, or if these elements are contained in another document, each electric utility shall reference such document in the plan:

(1) A table of contents, mission statement, and major objectives for the plan.

(2) A description of procedures the electric utility uses to move from its normal operations to each stage or level of outage response and restoration of services.

(3) A description of the electric utility's requirements for restoring service.

(4) Identification and annual updates of all of the electric utility's critical facilities, as defined by the electric utility, and reasonable measures to protect its personnel and facilities.

(5) Contingency identification, i.e., a plan for training alternative or backup employees, identifying backup power supplies, and identifying alternative means of communicating with the office and field employees.

(6) A list of twenty-four hour phone numbers of fire and police departments and county/regional emergency management directors in its service area.

(7) Procedures for requesting aid, utilizing crews from other electric transmission owners and/or distribution utilities, and utilizing other restoration assistance.

(8) Procedures for prompt identification of outage areas; timely assessment of damage; and, as accurately as conditions allow, provision of an informed estimate of materials, equipment, personnel, and hours required to restore service.

(9) Performance objectives for telephone response time to customer outage calls and procedures to accomplish those objectives.

(10) The policy and procedures for outage response and restoration of service by priority and a list of such priorities, including the following:

(a) "Live wire down" situations.

(b) Restoring service to the facilities designated in paragraph (A)(3) of rule 4901:1-10-07 of the Administrative Code, and the entities specified in paragraph (A)(4) of rule 4901:1-10-07 of the Administrative Code.

(c) Providing information to critical customers who are without service.

(11) The policy and procedures for providing outage response and restoration of service updates to the county/regional emergency management directors, mayors, and other elected officials; the commission's outage coordinator; the commission's media office; the media; and the electric utility's customers.

(12) The policy and procedures to verify that service has been restored in each outage area.

(13) The policy and procedures for providing maximum outage response, seeking outside assistance, and restoring service in a worst case outage scenario, i.e., "a major event."

(14) The policy and procedures to provide supervisors who are responsible for emergency response a copy of the latest edition of the emergency plan.

(15) The policy and procedures to:

(a) Establish and maintain a liaison with appropriate fire and police departments within the electric utility's service territory.

(b) Identify major interruptions of service during which the electric utility will notify appropriate fire departments, police departments, and public officials regarding such interruptions.

(c) Determine appropriate mutual assistance and communication methodologies that will be used during major restoration efforts.

(16) In addition to any North American electric reliability corporation guidelines or standards, a continuity of operations plan to ensure continuance of minimum essential functions during events that cause staffing to be reduced. The continuity of operations plan shall, at a minimum, include:

(a) Plan activation triggers such as the world health organization's pandemic phase alert levels, widespread transmission within the United States, or a case at one or more locations within the state of Ohio.

(b) Identification of a pandemic coordinator and team with defined roles and responsibilities for preparedness and response planning.

(c) Identification of minimal essential functions, minimal staffing required to maintain such essential functions, and personnel resource pools required to ensure continuance of those functions in progressive stages associated with a declining workforce.

(d) Identification of essential employees and critical inputs (e.g., raw materials, equipment, suppliers, subcontractor services/products, and logistics) required to maintain business operations by location and function.

(e) Policies and procedures to address personal protection initiatives.

(f) Policies and procedures to maintain lines of communication with the commission during a declared emergency.

(17) Policies and procedures for conducting an after-action assessment following activation of the emergency plan. An after-action assessment shall be prepared and shall include lessons learned, deficiencies in the response to the emergency, deficiencies in the emergency plan, and actions to be taken to correct said deficiencies.

(B) Each electric utility shall make its emergency plan and amendments available for review by the commission's outage coordinator. In the emergency plan made available to the commission's outage coordinator, the electric utility may redact the following confidential information:

(1) The electric utility's internal phone numbers.

(2) The list of specific critical facilities.

(3) Names, home addresses, and home phone numbers of electric utility employees, other than employee information required for the annual emergency contact report pursuant to paragraph (G)(1)(a) of this rule.

(4) Security and personal information and numbers (e.g., lock combination, computer access codes, cipher locks, and security codes).

(5) Identification of the electric utility's radio and dispatch channels.

(6) Identification of the radio and dispatch channels and telephone numbers of the following:

(a) Fire department.

(b) Police department.

(c) Other emergency/safety organizations.

(d) Government and public officials.

(7) Similar information approved by the commission's outage coordinator.

(C) Each electric utility shall follow and implement the procedures in its emergency plan.

(D) Each electric utility shall review employee activities to determine whether its procedures in the emergency plan, as set forth in paragraph (B) of this rule, were effectively followed.

(E) Each electric utility shall establish and maintain policy and procedures to train its operating and emergency response personnel to assure they know and can implement emergency procedures, as set forth in paragraph (B) of this rule.

(F) Each electric utility shall establish procedures for analyzing failures of equipment and facilities which result in a major interruption of service, for the purpose of determining the causes of the failure and minimizing the possibility of a recurrence.

(G) At the direction of the commission's outage coordinator, each electric utility shall submit:

(1) An emergency contact report which shall contain all of the following information:

(a) The names, position titles, areas of functional responsibility, business addresses, e-mail addresses, business telephone numbers, cellular telephone numbers, and home telephone numbers of at least three individuals who will serve as emergency contacts.

(b) Any available emergency hotline number.

(c) The fax number(s) of its emergency contacts.

(2) A report confirming that the electric utility has reviewed its emergency plan and, if applicable, has revised and/or updated the plan, or has established a new plan. Each electric utility shall also submit all revisions and updates to its plan or the new plan.

(3) Either of the following:

(a) If the electric utility has not implemented its emergency plan within the past year, a written statement attesting to that fact.

(b) If the electric utility has implemented part or all of its emergency plan within the past year, a written summary of both of the following:

(i) Any failures of equipment or facilities that were not the result of a major event and that resulted in a major interruption of service and the electric utility implementing its emergency plan.

(ii) The electric utility's efforts to minimize the possibility of a recurrence of such failures.

(H) Each electric utility shall promptly notify the commission's outage coordinator of any change in its emergency contacts.

(I) Each electric utility shall:

(1) Maintain and annually verify and update its list of critical customers.

(2) Provide critical customers, within ten business days after acceptance of their application, with a written statement of their options and responsibilities during outages, i.e., the need for backup generators, an alternative power source, or evacuation to another location.

(3) Annually notify customers of its critical customer program by bill insert or other notice.

(J) Every three years, each electric utility shall conduct a comprehensive emergency exercise to test and evaluate major components of its emergency plan and shall invite a cross-section of the following, or their representatives, to the exercise:

(1) Mayors and other elected officials.

(2) County/regional emergency management directors.

(3) Fire and police departments.

(4) Community organizations such as the American red cross.

(5) The commission's outage coordinator.

(K) When an electric utility has implemented its emergency plan as set forth in paragraph (A) of this rule in response to a major event, natural disaster, or outage, that electric utility may request that the commission waive the testing and evaluation of the emergency plan for the three-year period during which such implementation occurred. To request a waiver, the electric utility must submit a report to the commission's outage coordinator detailing:

(1) Its actions in implementing its emergency plan.

(2) What part of the emergency exercise the implemented plan replaces.

(3) Why the implementation is an appropriate replacement for an emergency exercise of all or a portion of the plan.

(4) The electric utility's interactions with the persons listed in paragraph (J) of this rule.

(5) Whether the implemented plan indicates that the electric utility's response to the emergency was sufficient. If the commission fails to act upon an electric utility's waiver request within sixty calendar days after such request is submitted to the outage coordinator, the waiver request shall be deemed to have been granted.

(L) Each electric utility shall coordinate the implementation of its emergency plan, to the extent that such electric utility would rely on or require information or assistance during an emergency, with the following:

(1) Any regional or state entities with authority, ownership, or control over electric transmission lines.

(2) Any generation provider connected to the electric utility's system.

(3) Any other electric utility or transmission owner with facilities connected to the electric utility.

(M) Each electric utility shall coordinate the implementation of its emergency plan with local, state, and regional emergency management organizations.

*** DRAFT – NOT FOR FILING ***

4901:1-10-09 **Minimum customer service levels.**

(A) ~~Service turn on and upgrades.~~ On a calendar monthly basis, each ~~EDU~~ electric utility shall complete the installation of new service or upgrade of service as follows:

(1) Ninety-nine per cent of new service installations requiring no construction of electric facilities shall:

(a) Be completed within three business days after the ~~EDU~~ electric utility has been notified that the ~~customer's~~ service location is ready for service and all necessary tariff and regulatory requirements have been met~~;~~.

(b) Be completed by the requested installation date, when an applicant requests an installation date more than three business days after the ~~customer's~~ service location is ready for service and all necessary tariff requirements have been met.

(2) Ninety per cent of service upgrades and new service installations ~~requiring~~ that require construction of electric facilities~~,~~ (including the setting of the meter ~~and ninety per cent of service upgrades,~~) and that are not primary line extensions shall:

(a) Be completed within ten business days after the ~~EDU~~ electric utility has been notified that the ~~customer's~~ service location is ready for service and all necessary tariff and regulatory requirements have been met~~;~~.

(b) Be completed by the requested installation date, when an applicant or customer requests an installation date more than ten business days after the ~~customer's~~ service location is ready for service and all necessary tariff requirements have been met. ~~Paragraph (A)(2) of this rule shall not apply to primary line extensions.~~

(3) If an ~~applicant/customer~~ applicant or customer, complies with all pertinent tariff requirements and the ~~EDU~~ electric utility cannot complete the requested service installation or service upgrade as set forth in paragraph (A)(1)(a) ~~or~~, (A)(1)(b) ~~or paragraph~~, (A)(2)(a), or (A)(2)(b) of this rule, then the ~~EDU~~ electric utility shall promptly notify the ~~applicant/customer~~ applicant or customer of the delay, the reasons for the delay, the steps being taken to complete the work, and the probable completion date. The electric utility shall make a reasonable attempt to provide such notification at least one business day prior to the end of the prescribed time interval. If a rescheduled completion date cannot be met, the applicant or customer shall be promptly notified. If the rescheduled completion date is delayed more than two business days, written notification shall be given ~~to the customer including~~, stating the reason(s) for the delay, the steps being taken to complete the work and the new rescheduled completion date. This

notification process shall be repeated as necessary. Each subsequent missed completion date shall count as a missed service installation or upgrade pursuant to paragraph (A)(1) or (A)(2) of this rule.

(4) If the ~~EDU~~ electric utility fails to complete the requested service installation or upgrade as set forth in paragraph (A)(1) or (A)(2) of this rule, as a result of a military action, war, insurrection, riot or strike ~~or a failure by the customer~~, or ~~customer's agent to gain~~ as a result of a lack of access to the premises when necessary, then such failure shall not be included in the monthly percentage ~~calculation~~ calculations for this rule. Each ~~EDU~~ electric utility must justify and document in its records each instance where it ~~applied~~ relies on any of the exceptions listed in this paragraph.

(B) ~~Telephone response.~~ On a calendar monthly basis, each ~~EDU's~~ electric utility's average (arithmetic mean) answer time for telephonic customer service calls shall not exceed ~~sixty~~ ninety seconds. An ~~EDU~~ electric utility shall set its queue to minimize the number of disconnected calls and busy signals.

(1) As used in this paragraph, "answer" means the service representative or automated system is ready to render assistance and/or to accept the information necessary to process the call.

(2) Answer time shall be measured from the first ring at the ~~EDU~~ electric utility or at the point the ~~customer~~ caller begins to wait in queue, whichever comes first.

(3) When an ~~EDU~~ electric utility utilizes a menu-driven, automated, interactive answering system (referred to as the system), the initial recorded message presented by the system to the ~~customer~~ caller shall only identify the company and the general options available to the ~~customer~~ caller, including the option of being transferred to a live attendant. At any time during the call, the ~~customer~~ caller shall be transferred to a live attendant if the ~~customer~~ caller fails to interact with the system for a period of ten seconds following any prompt.

(4) ~~Customers~~Callers shall not be delayed from reaching the queue by any promotional or merchandising material not selected by the customer.

(C) ~~Reporting~~Electric utilities shall comply with the following reporting requirements~~.~~:

(1) When an ~~EDU does not~~ electric utility fails to meet any minimum service level, as set forth in paragraph (A) or (B) of this rule, for any two months within any twelve-month period, the ~~EDU~~ electric utility shall notify the director of the ~~consumer services~~ service monitoring and enforcement department ~~or the director's designee~~ in writing within thirty calendar days after such failure. The notification shall ~~include~~ identify any factors that contributed to such failure, as well as any remedial action taken or planned to be taken or rationale for not taking any remedial action. Any failure to report the lack of compliance with

the minimum service levels set forth in paragraphs (A) ~~and/or~~ and (B) of this rule constitutes a violation of this rule.

(2) ~~Performance data during a "major storm" or comparable term as such term is used by the EDU in its emergency plan shall be excluded from the calculation of monthly minimum service values pursuant to paragraphs (A) and (B) of this rule. The EDU shall submit to the director of the consumer services department or the director's designee a report that includes any such performance data which is being excluded from the calculations of monthly minimum service values due to a "major storm". If after reviewing this report, the director of the consumer services department or the director's designee disagrees with the exclusion of such "major storm" or comparable information from the performance data calculated pursuant to paragraphs (A) and (B) of this rule, staff and/or the EDU may apply to the commission for a hearing within forty five days after submission of the company's proposal. Staff and the EDU shall file a written report and/or recommendations and submit evidence on such performance data at the hearing~~By March thirty-first of each year, each electric utility shall submit an annual report to the director of the service monitoring and enforcement department, setting forth its actual monthly customer service performance data during the previous calendar year as compared with each of the minimum monthly customer service performance levels set forth in paragraphs (A) and (B) of this rule.

(3) ~~Each electric distribution company shall maintain records sufficient to demonstrate compliance with this rule, for a period of not less than three years and shall provide such records to the commission staff upon request~~Performance data during major events, consistent with that reported in accordance with paragraph (C)(2) of rule 4901:1-10-10 of the Administrative Code, shall be excluded from the calculations of actual monthly customer service performance pursuant to paragraphs (A) and (B) of this rule..

*** DRAFT – NOT FOR FILING ***

4901:1-10-10 **Distribution system reliability.**

(A) General. This rule prescribes the measurement of each electric utility's service reliability, the development of minimum performance standards for such reliability, and the reporting of performance against the established standards.

(B) Service reliability indices and minimum performance standards.

(1) The service reliability indices are as follows:

"CAIDI," or the customer average interruption duration index, represents the average interruption duration or average time to restore service per interrupted customer. CAIDI is expressed by the following formula:

CAIDI = Sum of customer interruption durations ÷ Total number of customer interruptions

"SAIFI," or the system average interruption frequency index, represents the average number of interruptions per customer. SAIFI is expressed by the following formula:

SAIFI = Total number of customer interruptions ÷ Total number of customers served

(2) Each electric utility in this state shall file with the commission an application to establish company-specific minimum reliability performance standards.

(3) Applications for approval of a reliability performance standard shall include:

(a) A proposed methodology for establishing reliability standards.

(b) A proposed company-specific reliability performance standard for each service reliability index based on the proposed methodology.

(c) Supporting justification for the proposed methodology and each resulting performance standard.

(4) Supporting justification for the proposed methodology and each resulting performance standard.

(a) Performance standards should reflect historical system performance, system design, technological advancements, service area geography, customer perception survey results as defined in paragraph (B)(4)(b) of this rule, and other relevant factors.

(b) Each electric utility shall periodically (no less than every three years) conduct a customer perception survey. The survey results shall also be used as an input to the methodology for calculating new performance standards. The survey shall be paid for by the electric utility and shall be conducted under staff oversight. The objective of the survey is to measure customer perceptions, including, but not limited to, economic impacts of disruptions in electric service, and expectations of electric service reliability in terms of the service reliability indices defined in paragraph (B)(1) of this rule.

(c) Performance data during major events and transmission outages shall be excluded from the calculation of the indices, proposed standards, and any revised performance standards, as set forth in paragraph (B) of this rule.

(5) A complete set of work papers must be filed with the application. Work papers must include, but are not limited to, any and all documents prepared by the electric utility for the application, a list of assumptions used in establishing its proposed methodology, and a narrative or other justification for its proposed methodology and each resulting performance standard.

(6) Unless otherwise ordered by the commission, legal director, deputy legal director, or attorney examiner, the following procedural schedule shall apply:

(a) Upon the filing of an application, the commission, legal director, deputy legal director, or an attorney examiner will schedule a technical conference. The purpose of the technical conference is to allow interested persons an opportunity to better understand the electric utility's application. The electric utility will have the necessary personnel in attendance at this conference so as to explain, among other things, the filing, the work papers and the manner in which methodologies and resulting performance standards were devised. The conference will be held at the commission offices.

(b) Within twenty calendar days after the technical conference, any person may file comments.

(c) Within thirty calendar days after the technical conference, the commission's staff may file comments.

(d) Within fifty calendar days after the technical conference, any person may file a response to the comments.

(e) If it appears to the commission that the proposals in the application may be unjust or unreasonable, the commission shall set the matter for hearing and shall publish notice of the hearing in accordance with section 4909.10 of the Revised Code. At such hearing, the burden of proof to show that the

proposals in the application are just and reasonable shall be upon the electric utility.

(f) Interested persons wishing to participate in the hearing shall file a motion to intervene no later than thirty calendar days after the issuance of the entry scheduling the hearing, unless ordered otherwise by the commission, legal director, deputy legal director, or attorney examiner. This rule does not prohibit the filing of a motion to intervene and conducting discovery prior to the issuance of an entry scheduling a hearing.

(7) No performance standard shall be effective until approved by the commission. Notwithstanding the foregoing, the existing performance standards and/or targets previously reviewed and accepted by staff shall continue in effect for the purpose of the electric utility's compliance with this rule until performance standards are authorized and become effective pursuant to this rule.

(8) An electric utility may request to revise its authorized performance standards (starting with the next succeeding calendar year) by filing its revisions and supporting justification for such revisions with the commission for approval pursuant to paragraph (B)(6) of this rule, unless otherwise ordered by the commission, legal director, deputy legal director, or attorney examiner.

(C) Annual report. Each electric utility shall file with the commission an annual report by March thirty-first of each year. That annual report shall include the following information regarding the previous calendar year:

(1) Annual performance and supporting data for each service reliability index set forth in paragraph (B) of this rule both with and without exclusions for major events and transmission outages.

(2) Performance on the same indices during major events and transmission outages, reported in separate categories with their respective supporting data.

(3) Data for the total number of sustained outages, customers interrupted, and customer minutes interrupted for each outage cause code, all of which shall be reported in the following versions:

(a) Data excluding major events and transmission outages.

(b) Data for major events only.

(c) Data for transmission outages only.

(4) Data for the total number of momentary interruptions on the electric utility's system where practicable.

(5) Each electric utility shall file the annual report required by paragraph (C) of this rule in an electronic form prescribed by the commission or its staff.

(D) Except as otherwise provided in paragraph (E) of this rule, if the annual performance of an electric utility does not meet the electric utility's performance standard for any index, the electric utility shall submit an action plan to the director of the service monitoring and enforcement department, by March thirty-first of the same year.

(1) The action plan shall include the following:

(a) Factors which contributed to the actual performance level for that index.

(b) A proposal for improving performance to a level that meets or exceeds the performance standards authorized for each missed reliability index, including each action taken or planned to be taken, and the anticipated completion date.

(2) The action plan shall be submitted in an electronic form prescribed by the commission or its staff.

(3) A status report on each action included in the action plan shall be submitted to the director of the service monitoring and enforcement department upon request of the staff.

(E) Failure to meet a performance standard for two consecutive years shall constitute a violation of this rule.

*** DRAFT – NOT FOR FILING ***

4901:1-10-11 **Distribution circuit performance.**

(A) General. This rule sets forth a method for determining the performance of each electric utility's distribution circuits.

(B) Circuit performance methodology. The following provisions apply to the determination of the appropriate method for calculating circuit performance.

(1) Circuit performance data during major events and transmission outages shall be excluded from the calculation of circuit performance.

(2) Each electric utility shall submit, for review and acceptance by the director of the service monitoring and enforcement department, a method to calculate circuit performance, based on the service reliability indices defined in paragraph (B)(1) of rule 4901:1-10-10 of the Administrative Code and other factors proposed by the electric utility, and supporting justification for that method. An electric utility may revise the method it uses for calculating circuit performance (starting with the next succeeding calendar year) by submitting such revisions and supporting justification for such revisions to the director of the service monitoring and enforcement department for review and acceptance.

(3) If the electric utility and the director of the service monitoring and enforcement department cannot agree on the method to calculate circuit performance, then the director of the service monitoring and enforcement department shall issue a letter rejecting the proposal within forty-five calendar days of its submittal. The electric utility or the director may request a hearing to establish the appropriate calculation methodology. At such hearing, the burden of proof to show that the calculation methodology is just and reasonable shall be upon the electric utility.

(4) No proposal shall be effective until it is either accepted by the director or, in the event of a hearing, approved by the commission.

(C) Worst performing circuits. The following provisions apply to the reporting of each electric utility's eight per cent worst performing circuits:

(1) Each electric utility shall submit, no later than ninety calendar days after the end of its reporting period, a report to the director of the service monitoring and enforcement department that identifies the worst performing eight per cent of the electric utility's distribution circuits during the previous twelve-month reporting period.

(2) Unless otherwise approved by the commission, each electric utility's reporting period for purposes of paragraph (C) of this rule shall begin on September first of each year and shall end on August thirty-first of the subsequent year.

(3) The report prescribed by paragraph (C) of this rule shall provide the following information for each reported distribution circuit:

(a) The circuit identification number.

(b) The location of the primary area served by the circuit.

(c) The approximate number of customers on the circuit by customer class.

(d) The circuit ranking value.

(e) The values and supporting data for each circuit's service reliability indices for the reporting period:

(i) System average interruption frequency index (SAIFI) determined according to paragraph (B)(1) of rule 4901:1-10-10 of the Administrative Code.

(ii) Customer average interruption duration index (CAIDI) determined according to paragraph (B)(1) of rule 4901:1-10-10 of the Administrative Code.

(iii) System average interruption duration index calculated by multiplying the SAIFI times the CAIDI.

(f) The number of safety and reliability complaints, based on the definition of complaint pursuant to paragraph (A) of rule 4901:1-10-21 of the Administrative Code.

(g) The number of critical customers on the circuit.

(h) An identification of each circuit lockout that occurred during the reporting period, together with an explanation of the cause and duration of each such circuit lockout.

(i) The total number of outages experienced during the reporting period for each such outage.

(j) The total number of out-of-service minutes experienced during the reporting period for each such outage.

(k) An identification of any major factors or events that specifically caused the circuit to be reported among the worst performing circuits and, if applicable, the analysis performed to determine those major factors.

(l) An action plan, including the start and completion dates of all remedial action taken or planned, to improve circuit performance to a level that removes the circuit from the report submitted pursuant to paragraph (C) of this rule within the next two reporting periods. If the electric utility does not believe remedial action is necessary, then the electric utility must state the rationale for not taking any remedial action.

(D) If the director of the service monitoring and enforcement department believes that an action plan submitted pursuant to paragraph (C)(3)(l) of this rule is insufficient or unreasonable, the director shall provide written notice to the electric utility within forty-five calendar days of the submittal, otherwise the report is deemed approved. Should no agreement be reached between the electric utility and the director of the service monitoring and enforcement department on a modified action plan, within thirty calendar days following the rejection of the action plan, the electric utility shall apply to the commission for a hearing. At such hearing, the burden of proof to show that the modified action plan is just and reasonable shall be upon the electric utility.

(E) Each electric utility shall submit the reports required by this rule, on electronic media, in a format prescribed by the commission or its staff.

(F) The inclusion of a given circuit in the report under paragraph (C) of this rule for three consecutive reporting periods shall create a rebuttable presumption of a violation of this rule.

*** DRAFT – NOT FOR FILING ***

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

Each ~~EDU~~ electric utility shall provide to new customers, upon application for service, and existing customers upon request, a written summary of their rights and obligations under this chapter. This written summary shall also be prominently posted on the electric utility's website. The summary shall be in clear and understandable language ~~and delivered to customers~~. Each ~~EDU~~ electric utility shall submit the summary or amendments thereto to the chief of the ~~commission's call center~~ reliability and service analysis division for review at least sixty calendar days prior to mailing the summary to its customers. For purposes of this rule "new customer" means a customer who opens a new account and has not received such a customer rights summary within the preceding year. The summary shall include, but not be limited to, the following:

(A) ~~Complaint~~ The electric utility and commission procedures ~~available at the EDU and the commission~~ for complaints, which shall include:

(1) How complaints are made to the ~~EDU~~ electric utility, including a local or toll free ~~phone~~ number, an address and a website, if applicable~~; and~~.

(2) A statement that:

"If your complaint is not resolved after you have called (your ~~EDU~~ electric utility), or for general utility information, residential and business customers may contact the Public Utilities Commission of Ohio for assistance at 1-800-686-7826 (toll free) or for TTY at 1-800-686-1570 (toll free) from 8:00 a.m. to 5:00 p.m. weekdays, or at www.PUCO.ohio.gov."

"Residential customers may also contact the Ohio Consumers' Counsel for assistance with complaints and utility issues at 1-877-742-5622 (toll free) from 8:00 a.m. to 5:00 p.m. weekdays, or at www.pickocc.org."

(B) Customer rights and responsibilities, which shall include:

(1) A list of customer rights and obligations ~~to the EDU~~ relating to installation of service, payment of bills, disconnection and reconnection of service, and meter testing~~;~~.

(2) Information detailing the customer's responsibility to notify the ~~EDU~~ electric utility of material changes in the customer's equipment or usage within ~~a reasonable~~ the time reasonably necessary to permit the ~~EDU~~ electric utility to provide necessary facilities and acquire additional power supply, if needed. The summary shall provide examples of such changes in customer equipment and usage~~;~~.

(3) A description of the following customer rights:

*** DRAFT – NOT FOR FILING ***

(a) ~~When~~The circumstances under which the ~~EDU demands~~ electric utility may demand and/or ~~holds~~ hold security deposits~~; and~~.

(b) ~~For~~ The circumstances under which customers may obtain deferred payment plans and low-income assistance plans~~;~~, and information concerning those plans.

(4) The toll-free telephone number(s) for the "one-call" or "call-before-you-dig" protection service(s) to locate underground utility facilities~~;~~.

(5) An explanation of what each applicant must do to receive service from that ~~company; and~~ electric utility.

(6) Information explaining when a customer will be charged for the cost of modifying service, installing a meter, and/or providing facilities necessary to serve that customer.

(C) A statement notifying customers that, when ~~EDU~~ electric utility employee(s) or agent(s) seek access to the customer's and/or landlord's premises, the customer or landlord may request the employee/agent to show photo identification and to state the reason for the visit.

(D) ~~Availability~~ A statement concerning the availability of rate information, which shall include:

(1) A statement that the ~~EDU's~~ electric utility's rates and tariffs are available for review at the ~~company's~~ electric utility's office, on the ~~company's~~ electric utility's website, and on the commission's website~~; and~~.

(2) A statement that, upon inquiry by a customer regarding rates or energy efficiency, the ~~EDU shall~~ electric utility will disclose to the customer the existence and availability of the ~~company's~~ electric utility's alternative rates or any energy efficiency programs.

(E) ~~Customers~~ A statement that customers may review a copy of the electric service and safety standards on the commission's website or obtain a copy from the commission upon request.

(F) Information on privacy rights, which shall include:

(1) A statement that the ~~EDU~~ electric utility is prohibited from disclosing a customer's account number without the customer's written consent~~, except for the EDU's consumer credit evaluation, collection, and credit reporting ; for a CRES provider's credit collections and reporting; for participants in programs funded by the universal service fund, such as the percentage of income payment~~

~~plan programs; for governmental aggregation or pursuant to court order;~~ or electronic authorization or without a court or commission order, except for the following purposes:

(a) The electric utility's collections and/or credit reporting.

(b) Participation in the home energy assistance program, the emergency home energy assistance program, and programs funded by the universal service fund, such as the percentage of income payment plan programs.

(c) Governmental aggregation.

(2) A statement that the ~~EDU~~ electric utility is prohibited from disclosing a customer's social security number without the customer's written consent ~~except for programs funded by the universal service fund; for the EDU's credit evaluation, collection, and credit reporting; for a CRES provider's credit collections and reporting; as ordered by the commission, other governmental agency or pursuant to court order;~~ or without a court order, except for the following purposes:

(a) The electric utility's consumer credit evaluation.

(b) The electric utility's or competitive retail electric service (CRES) provider's collections and/or credit reporting.

(c) Participation in the home energy assistance program, the emergency home energy assistance program, and programs funded by the universal service fund, such as the percentage of income payment plan programs.

(3) A statement that customers have the right to request up to ~~twelve~~ twenty-four months of their usage ~~information and twenty-four months of~~ history, payment history, and detailed consumption data, if available, and time differentiated price data, if applicable, from the ~~EDU~~ electric utility without charge~~; and~~.

(4) A statement that customers have the right to prohibit the ~~EDU~~ electric utility from including their names on mass customer lists made available to CRES providers.

(5) A statement that staff is not prohibited from accessing records or business activities that would allow it to effectively monitor customer calls to the electric utility's call center.

(G) ~~CRES provider lists. Customers~~ A statement that customers have the right to obtain, from their ~~EDU~~ electric utility, a list of available CRES providers, their phone numbers, and the customer class(es) they are actively seeking to serve.

*** DRAFT – NOT FOR FILING ***

(H) ~~Return to standard offer. Customers~~ A statement that customers returning to the ~~EDU's~~ electric utility's standard offer service due to default, abandonment, slamming, or certification rescission of a CRES provider will not be liable for any costs associated with the switch.

(I) ~~Notice~~ Information concerning notice of a change in the customer's supplier of electric service.

(1) ~~If~~ A statement that, if a change in a residential or small commercial customer's ~~CRES provider~~ electric services company is initiated, the ~~EDU shall~~ electric utility is required to send the customer a notice confirming the change.

(2) ~~The~~ A statement that the customer has a right to cancel any change in its supplier of electric service within seven calendar days after the notice has been sent by calling the ~~EDU~~ electric utility at the telephone number on the notice.

(J) ~~Slamming.~~ Information explaining the procedures customers must follow if they believe their generation and/or transmission service has been switched without their consent. This explanation shall include, at a minimum, the following information:

(1) If a customer participates in the percentage of income payment plan or in a governmental aggregation, the customer's supplier of generation and/or transmission ~~supplier~~ services appearing on the customer's bill may be a company other than the ~~EDU;~~ electric utility.

(2) If the customer's electric bill reflects a supplier of electric service not chosen by the customer, the customer should call the commission to initiate a slamming investigation~~; and,~~.

(3) If the ~~commission~~ staff determines that the customer's service was changed without proper authorization:

(a) The customer ~~shall~~ will be switched back to the customer's previous supplier of electric service without charge to the customer~~;~~.

(b) The customer's account ~~shall~~ will be credited for any switching fees resulting from the customer being ~~slammed; and,~~switched without proper authorization.

(c) The customer ~~shall~~ will be credited or reimbursed for any charges in excess of what the customer would have paid absent the unauthorized change in electric service provider~~, excluding the distribution charges~~.

(K) ~~Actual~~ Information concerning actual meter readings.

*** DRAFT – NOT FOR FILING ***

(1) ~~Customers may have the option for an actual meter reading, depending on when the EDU most recently read the meter,~~ A statement that the electric utility is required to obtain an actual meter reading when the customer initiates or terminates electric service with the ~~EDU~~electric utility, if the meter has not been read within the preceding sixty days.

(2) A statement that, if the meter has not been read within the preceding thirty-three to fifty-nine days, the electric utility is required to inform the customer, when the customer contacts the electric utility to initiate or terminate service, of the option to have an actual meter read, at no charge.

~~(2)~~(3) ~~The~~ A statement that the customer may request two actual meter reads per calendar year, at no charge, if the customer's usage has been estimated for more than two of the consecutively preceding billing cycles or if the customer has reasonable grounds to believe that the meter is malfunctioning.

*** DRAFT – NOT FOR FILING ***

4901:1-10-13 **Employee identification.**

Any ~~EDU~~ electric utility employee or agent seeking access to the customer's or landlord's premises shall~~, upon request,~~ identify himself/herself~~, provide~~ by displaying company photo identification~~,~~ and, upon request, state the reason for the visit.

*** DRAFT – NOT FOR FILING ***

4901:1-10-14 ~~Deposits~~ **Establishment of credit for applicants and customers.**

(A) Each ~~EDU~~ electric utility shall establish written procedures to determine creditworthiness of applicants and customers for service based solely on the customer's or applicant's creditworthiness. These procedures shall be submitted in current form to the ~~commission~~ staff upon request.

(B) Upon request, each ~~EDU~~ electric utility shall provide applicants/customers with the following information:

(1) Their credit history with that company~~; and~~.

(2) A copy of this rule, the commission's website and the ~~local/~~toll-free~~-~~ and ~~TDD/~~ TTY numbers of the commission's ~~public interest~~ call center.

(C) An applicant shall be deemed creditworthy if one of the following criteria is satisfied:

(1) The ~~EDU~~ electric utility verifies that the applicant is a creditworthy property owner or verifies the applicant's creditworthiness in accordance with legally accepted practices to verify credit. ~~Verification for residential applicants shall include, but not be limited to, consideration of the applicant's employer and length of service, reference letters, and substantive credit cards;~~

(2) The applicant had a prior account with the ~~EDU~~ electric utility for the same class of service within two years before the date of application, unless during the final year of prior service one of the following occurred:

(a) The company disconnected applicant for nonpayment~~;~~.

(b) ~~Applicant~~ The applicant failed to pay ~~his/her~~ its bill by the due date at least two times~~; or~~.

(c) The company disconnected the applicant for a fraudulent practice, tampering, or unauthorized reconnection~~;~~.

(3) The applicant furnishes a reasonably safe guarantor, who is a customer of that ~~EDU~~electric utility, to secure payment of bills in an amount sufficient for a sixty-day supply for the service requested~~; or~~.

(4) The applicant makes a cash deposit as set forth in this rule.

(D) Unless otherwise provided in paragraph ~~(G)~~(H) of this rule, when an ~~EDU~~ electric utility fails to demand security within thirty calendar days after initiation of service, it may not require security for that service.

*** DRAFT – NOT FOR FILING ***

(E) Deposit to establish tariffed service; review of deposit upon customer request.

(1) An ~~EDU~~ electric utility may require an applicant who fails to establish creditworthiness to make a deposit. The amount of the deposit shall not exceed one hundred thirty per cent of the estimated annual average monthly bill for the customer's tariffed service for the ensuing twelve months.

(2) Upon the customer's request, the amount of the deposit paid is subject to adjustment, when the deposit paid differs by twenty per cent or more from the deposit which would have been required, based upon actual usage for three consecutive billing periods while taking into account seasonal variations in usage.

(F) Each ~~EDU~~ electric utility which requires a cash deposit shall communicate to the applicant/customer:

(1) The reason(s) for its decision~~;~~.

(2) Options available to establish credit (including a guarantor to secure payment)~~;~~.

(3) The ~~applicant/customer may~~ applicant/customer's right to contest ~~the company's~~ electric utility's decision and ~~show~~ to demonstrate creditworthiness~~;~~.

(4) The applicant/customer may ~~contest~~ appeal the ~~commission's public interest center;~~electric utility's decision to the staff.

(5) The commission's website and the ~~local~~/toll-free and ~~TDD/~~TTY telephone numbers of the commission's ~~public interest~~ call center.

Upon request of the applicant/customer, the information in paragraph ~~(F)~~ (G) of this rule shall be provided in writing.

(G) Deposit to reestablish creditworthiness for tariffed service.

(1) An ~~EDU~~ electric utility may require a customer to make an initial or additional deposit on an account, as set forth in this rule, to reestablish creditworthiness for tariffed service based on the customer's credit history on that account with that ~~company~~ electric utility.

(2) A deposit may be required if the customer ~~has~~meets one of the following criteria:

(a) ~~Not~~ The customer has not made full payment or payment arrangements by the due date ~~on which the bill becomes past due~~ for two consecutive bills~~;~~ during the preceding twelve months.

(b) ~~Received~~ The customer has been issued a disconnection notice for nonpayment on two or more occasions during the preceding twelve months~~; or~~.

(c) ~~Had~~ The customer has had service disconnected for nonpayment, a fraudulent practice, tampering, or unauthorized reconnection during the preceding twelve months.

(H) Upon acceptance of a deposit, each ~~EDU~~ electric utility shall furnish a receipt to the applicant or customer which shows:

(1) The name of the applicant~~;~~.

(2) The address of the premises currently served or to be served~~;~~.

(3) The billing address for service~~;~~.

(4) The amount of the deposit~~;~~.

(5) A statement as to the interest rate to be paid and the length of time the deposit must be held to qualify for interest~~; and~~.

(6) The conditions for refunding the deposit.

(I) Each ~~EDU~~ electric utility shall:

(1) Review each ~~nonresidential~~ account after the first two years of service for which a deposit is being held, and shall promptly refund the deposit or credit the ~~nonresidential~~ customer's account, plus interest accrued, if during the preceding twenty-four months, both of the following are true:

(a) The customer's service was not disconnected for nonpayment, a fraudulent practice, tampering, or unauthorized reconnection~~; and~~.

(b) The customer had not more than three past due bills.

(2) Upon customer request, but not more than annually, review each ~~nonresidential~~ account after the first two years of service for which a deposit is being held, and shall promptly refund the deposit or credit the customer's account, plus interest accrued, if ~~during~~, with regard to the preceding twelve months, both of the following are true:

(a) The customer's service was not disconnected for nonpayment, a fraudulent practice, tampering, or unauthorized reconnection~~; and~~.

(b) The customer had not more than two past due bills.

~~(3) Annually review each residential account, for which a deposit is being held, and shall promptly refund the deposit or credit the customer's account, plus interest accrued, if during the preceding twelve months:~~

~~(a) The customer's service was not disconnected for nonpayment, a fraudulent practice, tampering, or unauthorized reconnection; and~~

~~(b) The customer had not more than two past due bills.~~

(J) Each ~~EDU~~ electric utility shall pay interest on a deposit of not less than three per cent per annum, provided the company has held the deposit for at least six consecutive months.

(K) When service is terminated or disconnected, each ~~EDU~~ electric utility shall promptly:

(1) Apply the deposit and interest accrued to the final bill for service~~; and~~.

(2) Refund any amount in excess of the final bill to the customer, unless the amount of the refund is less than one dollar.

A transfer of service from one premise to another premise within the ~~EDU's~~ electric utility's certified territory or service area shall not be deemed a disconnection under this paragraph.

(L) Deposits for customers leaving bundled or standard offer services.

When a customer who has previously paid a deposit to the ~~EDU~~ electric utility switches to a ~~CRES~~ competitive retail electric service provider and is no longer served under an ~~EDU's~~ electric utility's bundled service or standard offer service, the ~~EDU~~ electric utility shall apply the ~~EDU's~~ electric utility's generation service portion of the deposit and the accrued interest to the amounts due and payable on the next bill and refund any amount remaining to the customer, unless the amount of the refund is less than one dollar.

~~(M) Residential service guarantors.~~

~~(1) Each EDU shall annually review an account where the residential customer provided a guarantor. When a residential customer satisfies the requirements for a deposit refund under paragraph (I) of this rule, each company shall notify the guarantor in writing within thirty days that he/she is no longer obligated for that account.~~

~~(2) Each EDU shall provide to the guarantor of a residential account all notices of disconnection of service which are provided to the customer.~~

~~(3) Upon the residential customer's default, an EDU may:~~

~~(a) Transfer the balance owed by the customer, not to exceed the amount for sixty days service, to his/her guarantor's account; and~~

~~(b) Disconnect service under the guaranty, if the guarantor fails to pay the customer's balance within thirty days after notice of the customer's default or fails to make other payment arrangements acceptable to the EDU.~~

~~(N)~~(M) Each ~~EDU~~ electric utility shall retain records of customer deposits for at least one year after the deposit, including interest, –is returned and/or applied to the customer's bill.

*** DRAFT – NOT FOR FILING ***

4901:1-10-15 **Reasons for denial or disconnection of nonresidential service.**

Each ~~EDU~~ electric utility may refuse or disconnect service to nonresidential customers for only the following reasons:

(A) When the customer violates or fails to comply with ~~the~~ an applicable electric utility contract or ~~EDU~~ tariff(s)~~;~~.

(B) When ~~EDU~~ electric utility service to a customer ~~or consumer~~ violates any law of this state or any political subdivision thereof, or any federal law or regulation~~;~~.

(C) When a ~~customer or~~ consumer tampers with ~~EDU~~ electric utility property or engages in a fraudulent practice to obtain service, as set forth in rule 4901:1-10-20 of the Administrative Code~~;~~.

(D) For using electricity or equipment which adversely affects ~~EDU~~ electric utility service to other customers ~~or consumers~~, e.g., voltage fluctuations, power surges, and interruptions of service~~;~~.

(E) When a safety hazard to consumers or their premises, the public, or to the ~~EDU's~~ electric utility's personnel or facilities exists~~;~~.

(F) When the customer, landlord of the tenant/customer, or tenant leasing the landlord/customer's premises refuses access to ~~EDU~~ electric utility facilities or equipment on the customer's property or property leased by the customer~~;~~.

(G) For nonpayment of ~~EDU~~ electric utility bills and any tariffed charges, including security deposits and amounts not in bona fide dispute. Where the customer has registered a complaint with the commission's ~~public interest~~ call center or filed a formal complaint with the commission which reasonably asserts a bona fide dispute, the ~~EDU~~ electric utility shall not disconnect service if the customer pays either the undisputed portion of the bill or the amount paid for the same billing period in the previous year~~;~~.

(H) When the customer ~~vacates the premises;~~ has moved from the service location and the property owner is otherwise subject to disconnect.

(I) For repairs, provided that the ~~EDU~~ electric utility has notified ~~consumers~~ customers prior to scheduled maintenance interruptions in excess of six hours~~;~~.

(J) Upon the customer's request~~;~~.

(K) ~~A~~ When a former customer, whose account with that ~~EDU~~ electric utility is in arrears for service furnished at the premises, ~~resides~~ consumes service at, or has requested service for, such premises~~;~~.

(L) When an emergency may threaten the health or safety of a person, a surrounding area, or the operation of the ~~EDU's~~ electric utility's electrical system~~; and~~.

(M) For other good cause shown.

*** DRAFT – NOT FOR FILING ***

4901:1-10-16 **Notice of disconnection of nonresidential service.**

(A) Except as otherwise provided by contract approved by the commission pursuant to section 4905.31 of the Revised Code, each ~~EDU~~ electric utility shall ~~give~~ provide the nonresidential customer with written notice~~, not less than five days after the postmark date, before service is disconnected~~ of pending disconnection, when ~~any~~ either of the following conditions ~~exist~~exists:

(1) Violation of or noncompliance with the contract or ~~EDU's~~ electric utility's tariff(s) which applies to customer service, other than nonpayment of bills~~;~~ (which is addressed in rule 4901:1-10-17 of the Administrative Code).

(2) The customer refuses access to ~~EDU~~ electric utility facilities or equipment on the customer's property or property leased by the customer.

The notice shall set forth the earliest date on which service may be disconnected, which date shall not be less than five calendar days after the postmark date on the notice.

(B) Prior notice from the ~~EDU~~ electric utility is not required when any one or more of the following conditions ~~exist~~exists:

(1) When an emergency may threaten the health or safety of a person, a surrounding area, or the operation of the ~~EDU's~~ electric utility's electrical system~~;~~.

(2) When a safety hazard to consumers or their premises, the public, or the ~~EDU's~~ electric utility's personnel or facilities exists~~;~~.

(3) When a ~~customer or~~ consumer tampers with ~~EDU~~ the electric utility's property.

*** DRAFT – NOT FOR FILING ***

4901:1-10-17 **Payment schedule and disconnection procedures for nonpayment by nonresidential customers.**

(A) A nonresidential customer's bill for tariffed services shall not be due earlier than twenty-one calendar days from the date of the postmark on the bill. If the bill is not paid by the due date, it then becomes past due.

(B) Except as otherwise provided by contract approved by the commission pursuant to section 4905.31 of the Revised Code, each ~~EDU~~ electric utility shall provide the nonresidential customer with a written notice of pending disconnection, which notice shall be postmarked not less than five calendar days before service is disconnected for nonpayment of tariffed service.

(C) The disconnection notice shall clearly display each of the following items:

(1) The delinquent billing account number, total amount past due, reconnection charge, and any security deposit owed~~;~~.

(2) The earliest date when disconnection may occur~~;~~.

(3) The address and phone number of the ~~EDU~~ electric utility's office for customers to contact about their ~~account;~~accounts.

(4) A statement that the ~~commission~~ staff is available to render assistance with unresolved complaints, and the commission's current address, ~~local/~~toll-free ~~number~~ and ~~the TDD/~~TTY ~~number~~ numbers of the commission's ~~public interest~~ call center, and the commission's website~~;~~.

(5) A statement that the customer's failure to pay the amount required at the ~~EDU's~~ electric utility's office or to one of its authorized agents by the date specified in the notice may result in a security deposit~~,~~ and in a charge for reconnection~~and~~, together with the amount of the reconnection charge~~; and, if applicable,~~.

(6) ~~A~~ If any nontariffed charges appear on the bill, a statement that the nonpayment of nontariffed charge(s) shall not result in the disconnection of distribution service;

(7) ~~A~~ If any charges for competitive retail electric services appear on the bill, a statement that the failure to pay charges for ~~CRES~~ competitive retail electric services may result in loss of those products and services~~; and~~.

(8) ~~A~~ If any charges for competitive retail electric services appear on the bill a statement that the failure to pay charges for ~~CRES~~ competitive retail electric service may result in cancellation of the customer's contract with the ~~CRES~~

competitive retail electric service provider, and ~~return~~ returning of the customer to the ~~EDU's~~ electric utility's standard offer for generation services.

~~The information required by this paragraph may be included in documents accompanying the disconnection notice.~~

The information required by this paragraph may be included in documents accompanying the disconnection notice.

*** DRAFT – NOT FOR FILING ***

4901:1-10-18 **Reconnection of nonresidential service.**

(A) Unless a nonresidential customer requests otherwise, an electric ~~distribution company~~ utility shall reconnect service by the close of the following regular ~~working~~ business day after either of the following:

(1) The ~~EDU~~ electric utility receives both of the ~~full amount in arrears, for which service was disconnected, or agrees with the customer on a deferred payment plan and a payment, if required, under the plan; and~~following:

(a) The full amount in arrears, for which service was disconnected, or the amount in default on an agreed-upon deferred payment plan.

(b) Any security deposit authorized under these rules and any tariffed reconnection charges.

~~(2) The EDU receives any security deposit authorized under this chapter and any tariffed reconnection charge; or~~

~~(3)~~(2) The customer establishes that the conditions which warranted disconnection of service have been eliminated.

(B) Before service is reconnected under this rule, no electric ~~distribution company~~ utility may request or require a nonresidential customer to pay any of the following to have service reconnected:

(1) Any amount owed but not yet past due~~; and~~.

(2) When the customer has multiple accounts in the same customer class, any amount owed on those other billing accounts. ~~Paragraph (B)(2) of this rule shall not apply to any amount past due on another electric billing account in the same customer class.~~

*** DRAFT – NOT FOR FILING ***

4901:1-10-19 **Delinquent residential bills.**

~~No EDU~~ In addition to the requirements of Chapter 4901:1-18 of the Administrative Code, no electric utility may disconnect service to a residential customer when:

(A) That customer fails to pay any charge for a nontariffed service, including competitive retail electric service~~;~~ (CRES).

(B) Any authorized agent or CRES provider providing billing and collection services for the ~~EDU~~ electric utility fails to submit payment for the customer's tariffed distribution and/or transmission service(s) rendered by that ~~EDU;~~electric utility.

(C) The customer fails to pay any amount in bona fide dispute. Where the customer has registered a complaint with the commission's ~~public interest~~ call center or filed a formal complaint with the commission which reasonably asserts a bona fide dispute, the ~~EDU~~ electric utility can not disconnect service when the customer pays either the undisputed portion of the bill or the amount paid for the same billing period in the previous year~~;~~.

(D) The ~~EDU~~ electric utility issues a disconnection notice which fails to separate regulated from nontariffed charges, including CRES charges~~; or~~.

(E) The ~~EDU~~ electric utility fails to include on the disconnection notice a statement that:

(1) Failure to pay charges for nontariffed products or services may result in loss of those products or services~~; and~~.

(2) Failure to pay charges for ~~competitive retail electric service~~ CRES may result in cancellation of the customer's contract with the CRES provider, and return to the ~~EDU's~~ electric utility's standard-offer generation service. This provision is applicable only on accounts issued a consolidated bill for electric services.

*** DRAFT – NOT FOR FILING ***

4901:1-10-20 **Fraudulent ~~practice~~act, tampering, and theft of service.**

(A) Each ~~EDU~~ electric utility shall establish and maintain an ~~antitheft~~ anti-theft and ~~antitampering~~ anti-tampering plan and shall submit its plan and subsequent amendments to the director of the ~~consumer services~~ service monitoring and enforcement department ~~or the director's designee~~.

(B) Disconnection of service for tampering or unauthorized reconnection.

(1) An ~~EDU~~ electric utility may disconnect service for safety reasons without prior notice to a customer ~~when~~ in either of the following circumstances:

(a) The electric service meter, metering equipment, or associated property was damaged, interfered or tampered with, displaced, or bypassed~~, or otherwise tampered with by a customer, consumer, or other person;~~.

(b) A person not authorized by the ~~EDU~~ electric utility has reconnected service.

(2) Each ~~EDU which~~ electric utility that has disconnected service under this paragraph shall tag or seal the customer's meter and hand deliver a written notice to the customer or consumer at the service location. If no adult customer or consumer is present, each ~~EDU~~ electric utility shall attach written notice to a conspicuous place on the premises. When an ~~EDU~~ electric utility reasonably believes that tagging or sealing the meter, hand delivering a notice, or posting a notice may jeopardize employee safety, it shall promptly mail the notice, return receipt requested, to the customer or occupant. The notice shall ~~state~~clearly display each of the following items:

(a) ~~Service~~ An explanation that service was disconnected because one of the following circumstances was found:

(i) The meter, metering equipment and/or ~~EDU~~ electric utility property was tampered with~~; or~~.

(ii) A person not authorized by the ~~EDU~~ electric utility reconnected the customer's service.

(b) The ~~EDU's phone~~ electric utility's telephone number ~~and that the customer may contest the disconnection by requesting a meeting with a company representative;~~of the electric utility's office.

(c) A statement that the customer may contest the disconnection by contacting an electric utility representative at the telephone number provided.

*** DRAFT – NOT FOR FILING ***

~~(c)~~(d) ~~If~~A statement that, if the customer does not contest the disconnection, ~~no EDU~~ the electric utility is not required to restore service until the customer has provided satisfactory assurances that such tampering or unauthorized reconnection has ceased and has paid or made satisfactory arrangements to pay the ~~company~~ electric utility an amount ~~which~~ that ~~the company~~ electric utility calculates for unmetered service, any defaulted amount, any damage to ~~company~~ the electric utility's equipment or meter, any security deposit (consistent with rule 4901:1-10-14 of the Administrative Code), and any tariffed reconnection and investigation charges~~;~~.

~~(d)~~(e) ~~The~~ A statement that the staff is available to render assistance, and the commission's current address, ~~website, local/toll-free number, and the TDD/~~ toll-free and TTY ~~number~~ numbers of the commission's ~~public interest~~ call - center, and the commission's website.

(3) If the customer meets with the ~~EDU~~ electric utility to contest the disconnection, ~~each company~~ the electric utility shall timely mail or deliver its decision to the customer.

(C) Disconnection of service for fraudulent ~~practice~~act.

An electric utility may disconnect service, after following the steps set forth in this paragraph, when a customer uses any fraudulent act, as defined by paragraph (O) of rule 4901:1-10-01 of the Administrative Code, to obtain or maintain service

~~(1) An EDU may disconnect service, after providing notice to the customer pursuant to this paragraph, when a customer uses any fraudulent practice, as defined by paragraph (M) of rule 4901:1-10-01 of the Administrative Code, to obtain or maintain service.~~

~~(2)~~(1) Before it may disconnect service for a fraudulent ~~practice~~act, each ~~EDU~~ electric utility shall hand deliver written notice to the customer or consumer at the service location. If no adult customer or consumer is present, the ~~company~~ electric utility shall attach written notice to a conspicuous place on the premises. When ~~a company~~ an electric utility reasonably believes that hand delivering or posting notice may jeopardize employee safety, it shall promptly mail the notice, return receipt requested, to the customer or occupant.

~~(3)~~(2) The notice shall ~~state~~clearly display each of the following items:

(a) ~~The~~ A description of the alleged fraudulent ~~practice;~~act.

(b) The ~~EDU's phone~~ address and telephone number ~~and that the customer may contest the company's findings by requesting a meeting with a company representative;~~of the electric utility's office.

(c) A statement that the customer may contest the electric utility's findings by requesting a meeting with an electric utility representative.

~~(c)~~(d) ~~The EDU~~ A statement that the electric utility may disconnect service if either of the following occurs:

(i) The customer does not contact the ~~EDU~~ electric utility representative to ~~schedule a meeting and~~ contest the findings of the fraudulent ~~practice~~ act, within three business days after receiving this notice~~; or~~.

(ii) The customer does not provide a satisfactory explanation at that meeting~~;~~.

~~(d)~~(e) ~~If~~ A statement that, if service is disconnected, the ~~EDU~~ electric utility is not required to reconnect service until the customer pays or makes satisfactory arrangements to pay the ~~company~~ electric utility the bill for service ~~which~~ that was fraudulently obtained or maintained, any security deposit (consistent with rule 4901:1-10-14 of the Administrative Code), and any tariffed reconnection and investigation charges~~;~~.

~~(e)~~(f) ~~The~~ A statement that the staff is available to render assistance, and the commission's current address, ~~local/toll-free number,~~ toll-free and ~~TDD/~~TTY ~~number~~ numbers of the commission's ~~public interest~~ call center, and the commission's website.

~~(4)~~(3) An ~~EDU~~ electric utility may terminate service for a fraudulent ~~practice~~act in the following circumstances:

(a) ~~When the customer fails to request a meeting with the company within~~ No sooner than three business days after delivery of the written notice required by this paragraph~~;~~, if the customer does not contact the electric utility at the telephone number provided.

(b) No sooner than two business days after the customer received the ~~EDU's~~ electric utility's written adverse decision ~~regarding~~ subsequent to the ~~meeting~~ discussion between the customer and ~~company~~the electric utility representative, in the event that the customer initiated the discussion.

(D) Each ~~EDU~~ electric utility shall maintain records ~~which shall include~~ that clearly set forth the basis for its decision to terminate service for a fraudulent act, tampering, unauthorized reconnection, or theft of service, and the steps taken under this rule.

*** DRAFT – NOT FOR FILING ***

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

(A) As used in this rule, customer/consumer complaint means a customer/consumer contact when such contact necessitates follow-up by or with the ~~EDU~~ electric utility to resolve a point of contention.

(B) Each electric utility shall make good faith efforts to settle unresolved disputes, which efforts may include meeting with the customer/consumer at a reasonable time and place.

~~(B)~~(C) Except as ordered by the commission or directed by the ~~commission~~ staff in disconnection or emergency cases, each ~~EDU~~ electric utility shall investigate customer/consumer complaints and provide a status report within three business days of the date of receipt of the complaint to:

(1) The customer/consumer, when investigating a complaint made directly to the ~~EDU; or~~ electric utility.

(2) The customer/consumer and ~~commission~~ staff, when investigating a complaint referred to the ~~EDU~~ electric utility by the commission or ~~commission~~ staff.

~~(C)~~(D) If an investigation is not completed within ten business days, ~~each EDU~~ the electric utility shall provide status reports, either orally or in writing, to update the customer/consumer, or to update the customer/consumer and ~~commission~~ staff, where appropriate, ~~either orally or in writing, at~~ every five business ~~day intervals~~ days until the investigation is complete, unless ~~the action that must be taken will take longer than five days (e.g., volt meter will be placed on the premises for twenty days). In such cases the EDU may omit the status report for a maximum of thirty days if a response date is given to the customer/consumer or the customer/consumer and commission staff, where appropriate, when the investigation is initiated~~ agreed to otherwise.

~~(D)~~(E) ~~Each EDU~~The electric utility shall inform the customer/consumer, or the customer/consumer and ~~commission~~ staff, where appropriate, of the results of the investigation, orally or in writing, no later than five business days after completion of the investigation. The customer/consumer or ~~commission~~ staff may request the final report to be in writing.

~~(E)~~(F) If the customer/consumer disputes the ~~EDU's~~ electric utility's report(s), ~~each EDU~~ the electric utility shall inform the customer/consumer that the ~~commission~~ staff is available to mediate complaints. The company shall provide the customer/consumer with the commission's current address, ~~local/toll-free numbers,~~toll-free and ~~TDD/~~TTY ~~number~~ numbers of the commission's ~~public interest~~ call center, and the commission's website.

*** DRAFT – NOT FOR FILING ***

~~(F) Each EDU shall make good faith efforts to settle unresolved disputes, which may include meeting with customer/consumer at a reasonable time and place.~~

(G) If ~~customers contact the EDU~~ a customer contacts an electric utility concerning competitive retail electric service (CRES) issues, the ~~EDU~~ electric utility shall take the following actions:

(1) Review the issue with the customer to determine whether it also involves the ~~EDU;~~ electric utility.

(2) Coordinate the resolution of any joint issues with the CRES provider~~; and~~.

(3) Refer the customer to the appropriate CRES provider only in those instances where the issue lacks any ~~EDU~~ electric utility involvement.

(H) Slamming complaints.

(1) A slamming complaint is a customer's allegation that the customer's ~~electric~~ supplier of electric service has been switched without the customer's authorization.

(2) If ~~the~~ a customer contacts ~~the EDU~~ an electric utility with a slamming complaint after the end of the seven-day rescission period for the customer's enrollment with the alleged slamming CRES provider, the ~~EDU~~ electric utility shall take the following actions:

(a) Provide the customer with the enrollment information contained in its records~~, and refer the customer to the commission;~~.

(b) ~~Provide~~Refer the customer to the commission and provide the customer with the ~~local/toll-free telephone~~ commission's current address, toll-free and TTY numbers of the commission's ~~consumer services department; and~~call center, and the commission's website.

(c) Cooperate with the staff in any subsequent investigations of the slamming complaint, including assisting the staff in determining the amount of any restitution owed to the customer pursuant to paragraph (C)(5) of rule 4901:21-08 of the Administrative Code if the customer was switched without authorization from the ~~EDU's~~ electric utility's standard offer service.

(3) If a customer initiates a slamming complaint with the staff within thirty calendar days after being issued a bill from the alleged slammer, the customer shall not be required to pay the current charges assessed by the alleged slammer until the staff determines that the change in the customer's electric service provider was authorized.

(4) If the ~~commission~~ staff determines that a customer's service was switched without the customer's authorization, the staff shall notify the ~~EDU~~ electric utility of such determination. After such notification, and if the ~~EDU~~ electric utility is not at fault, the ~~EDU~~ electric utility may then seek reimbursement from the CRES provider that improperly initiated the switch for any incremental costs incurred by the ~~EDU~~ electric utility to correct the unauthorized switch including any switching fees. The ~~EDU~~ electric utility shall provide the CRES provider an itemized list of any such incremental costs.

(5) If correcting an unauthorized switch involves returning the customer to its previous CRES provider, the ~~EDU~~ electric utility shall make the corrective switch at the next regularly scheduled meter reading date following receipt of the enrollment request from the previous CRES provider. Such corrective switch shall be made in accordance with the ~~EDU's~~ electric utility's normal practices and procedures for switching customers, except that the ~~EDU~~ electric utility shall not charge, or shall credit to the customer, any switching fees and the ~~EDU~~ electric utility is not required to issue the customer the notice required by paragraph (F)(1) of rule 4901:1-10-29 of the Administrative Code.

(6) If correcting an unauthorized switch involves returning the customer to the ~~EDU's~~ electric utility's standard offer service, the ~~EDU~~ electric utility shall make the corrective switch at the next regularly scheduled meter reading date in accordance with the ~~EDU's~~ electric utility's normal practices and procedures for switching customers, except that the ~~EDU~~ electric utility shall not charge or shall credit to the customer any switching fees and ~~that the EDU~~ electric utility is not required to issue the customer the notice required by paragraph (F)(1) of rule 4901:1-10-29 of the Administrative Code.

(7) If, as part of correcting an unauthorized switch, a customer who was taking standard offer service from the ~~EDU~~ electric utility at the time of the unauthorized switch is returned to standard offer service, the customer shall not be subject to any minimum stay or other commission-approved alternative for returning customers, unless the customer would have been subject to such a requirement had the unauthorized switch not occurred.

(8) If the ~~EDU~~ electric utility switches the customer served by a CRES provider to the ~~EDU's~~ electric utility's standard offer service without authorization by the customer, without authorization by the appropriate CRES provider or pursuant to a commission order, the ~~EDU~~ electric utility shall take the following actions:

(a) Not charge, or shall credit the customer, any switching fees and shall return the customer to the previous CRES provider, making the corrective switch at the next regularly scheduled meter reading date following receipt of the enrollment request from the previous CRES provider~~;~~.

*** DRAFT – NOT FOR FILING ***

(b) By the next billing cycle~~:~~, take all three of the following actions:

(i) Credit ~~the customer's EDU account for~~ or refund to the customer any fees previously charged for switching the customer to the ~~EDU; and~~ electric utility.

(ii) Either of the two following actions:

~~(ii)~~(a) If reported to ~~the commission~~ staff within thirty calendar days after being issued a bill from the alleged slammer, absolve the customer of any liability for any charges assessed to the customer, excluding the distribution charges and refund to the customer any charges collected from the customer~~; or~~.

~~(iii)~~*(b)* If reported to the ~~commission~~ staff more than thirty calendar days after being issued a bill by the alleged slammer, credit the customer any fees the ~~EDU~~ electric utility charged in excess of the amount the customer would have paid its previous CRES provider for the same usage~~;~~.

~~(c)~~(iii) If the customer can not be returned to the original contract terms with its previous CRES provider, the slamming ~~EDU~~ electric utility shall credit or refund to the customer, the value of the customer's contract with the previous CRES provider for the remaining term of the contract immediately prior to the slam~~;~~.

~~(d)~~(c) Reimburse the CRES provider~~, within thirty days of receiving an invoice,~~ for any incremental costs incurred by the CRES provider to correct the unauthorized switch within thirty calendar days of receiving an itemized invoice of the incurred incremental costs.

*** DRAFT – NOT FOR FILING ***

4901:1-10-22 ~~EDU~~**Electric utility customer billing and payments.**

(A) This rule applies to ~~EDU~~ electric utility bills that do not include any competitive retail electric service (CRES) provider charges. Requirements for consolidated billing appear in rule 4901:1-10-33 of the Administrative Code.

(B) Customer bills issued by or for the ~~EDU~~ electric utility shall be accurate ~~and~~, shall be rendered at ~~regular~~ monthly intervals, and shall contain clear and understandable form and language. Each bill shall state at least the following information:

(1) The customer's name, billing address, service address, and account number~~;~~.

(2) The ~~EDU's~~ electric utility's name and its payment address~~;~~.

(3) The ~~EDU's~~ electric utility's twenty-four hour ~~local/toll free number~~ local and toll-free telephone numbers for reporting service emergencies~~;~~.

(4) ~~Customers~~ A statement that customers with billing questions or complaints should call or write the ~~EDU~~ electric utility first. The bill shall list the ~~EDU's local/toll free number~~ electric utility's local and toll-free telephone numbers and the address where a question or complaint may be sent~~;~~.

(5) The following text:

"If your complaint is not resolved after you have called your electric utility, or for general utility information, residential and business customers may contact the Public Utilities Commission of Ohio for assistance at 1-800-686-7826 (toll free) or for TTY -at 1-800-686-1570 (toll free) from 8:00 a.m. to 5:00 p.m. weekdays, or at www.PUCO.ohio.gov.

Residential customers may also contact the Ohio Consumers' Counsel for assistance with complaints and utility issues at 1-877-742-5622 (toll free) from 8:00 a.m. to 5:00 p.m. weekdays, or at www.pickocc.org."

(6) ~~Rate~~ The rate schedule, if applicable~~;~~.

(7) Dates of the service period covered by the bill~~;~~.

(8) The billing determinants applicable:

(a) Beginning meter reading(s)~~;~~

(b) Ending meter reading(s)~~;~~.

(c) Demand meter reading(s)~~;~~.

(d) Multiplier(s)~~;~~.

(e) Consumption(s)~~; and~~.

(f) Demand(s)~~;~~.

(9) ~~Identification~~ An identification of estimated bills~~;~~.

(10) ~~Due~~ The due date for payment~~;~~.

(11) ~~Current~~ The current billing ~~which~~ that reflects the net-metered usage for customer generators, if applicable~~;~~.

(12) Any late payment charge or gross and net charges, if applicable~~;~~.

(13) Any unpaid amounts due from previous bills, any customer credits, and the total amount due and payable~~;~~.

(14) ~~Current~~ The current balance of the account, if the residential customer is billed according to a budget plan~~;~~.

(15) ~~Current~~ The current gas and electric charges separately, if the customer is billed for gas and electric service on the same bill~~;~~.

(16) If applicable, each charge for nontariffed, nonregulated service~~;~~, and the name and toll-free telephone number of each provider of each service.

(17) Any nonrecurring charge~~;~~.

(18) Any payment(s) or credit(s) applied to the account during the current billing period~~;~~.

(19) ~~Percentage~~ Any applicable percentage of income payment program (PIPP) billing information ~~applicable~~:

(a) Current PIPP payment~~;~~.

(b) PIPP payments defaulted (i.e., past due)~~;~~.

(c) Total PIPP amount due~~; and~~.

(d) Total account arrearage.

(20) An explanation of codes and abbreviations used~~;~~.

*** DRAFT – NOT FOR FILING ***

(21) At a minimum, definitions for the following terms, or like terms used by the company, if applicable: customer charge, delivery charge, estimated reading, generation charge, kilowatt hour, shopping incentive or shopping credit, late payment charge, and transition charge.

~~(21)~~(22) If applicable, the name of the CRES provider and a statement that such provider is responsible for billing the supplier charges~~;~~.

~~(22)~~(23) A numerical representation of the customer's historical consumption during each of the preceding twelve months, with a total and average consumption for such twelve-month period~~;~~.

~~(23)~~(24) The price-to-compare notice on residential customer bills and a notice that such customers can obtain a written explanation of the price-to-compare from their ~~EDU; and~~ electric utility.

~~(24)~~(25) Other information required by Ohio law or commission rule or order.

(C) Any new bill format proposed by an ~~EDU~~ electric utility shall be filed with the commission for approval. If an application for sample bill approval is not acted upon within forty-five calendar days, said sample shall be deemed approved on the forty-sixth day after the filing.

(D) Each ~~EDU~~ electric utility shall, upon request, provide customers with an updated list of the name and street address/location of the nearest payment center and/or local authorized agent, and alternative methods available for payment of customer bills. If an electric utility accepts payments from customers via authorized agents, the electric utility shall provide signage to the authorized agent with its logo, or other appropriate indicators, that affirm the payment location as an authorized agent of the electric utility. Customers shall not be charged more than two ~~times the cost of a first class postage stamp~~ dollars for processing their payments by cash, check, or money order at authorized agent locations.

(E) When a customer pays ~~the~~ a bill at the ~~EDU's~~electric utility's business office or to an authorized agent of the company, that payment, including any partial payment, shall be immediately credited to the customer's account where feasible, and in any event be credited to the customer's account as of the date received at the business office or by the agent. No ~~EDU~~electric utility shall disconnect service to a customer who pays, to the ~~company~~electric utility or an authorized agent of the ~~company~~ electric utility, the total amount due on the account (or an amount agreed upon between the ~~EDU~~ electric utility and the customer to prevent disconnection) ~~on the account~~, by the close of business on the disconnection date listed on the disconnection notice. Payment received by an authorized agent of the ~~EDU~~electric utility shall constitute receipt of payment by the ~~company~~ electric utility.

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(F) Each ~~EDU~~electric utility shall establish a policy for its own personnel ~~at its business offices~~ and for its authorized agents to handle billing disputes, requests for payment arrangements, and ~~reporting~~ payments to prevent disconnection of service. If such matters cannot be handled by an agent authorized to accept payments, ~~each EDU~~ the electric utility shall provide customers with its local/~~toll-free number~~ and toll-free numbers to use at a nearby ~~phone~~telephone.

(G) Each ~~EDU~~electric utility shall credit any customer's partial payments in the following order:

(1) Past due distribution, standard offer generation, and transmission charges~~;~~.

(2) Current distribution, standard offer generation, and transmission charges~~; and~~.

(3) Other past due and current nonregulated charges.

Budget billing payments and payments in full of the undisputed amount related to a bona fide dispute do not constitute partial payments. Payments made on accounts for which there is a bona fide dispute shall be credited to the undisputed portion of the account.

(H) Any ~~EDU~~electric utility wishing to issue billing statements online shall ~~follow~~ comply with the ~~listed guidelines~~following requirements:

(1) A customer shall not be required to use online billing~~;~~.

(2) No enrollment or usage fees shall be assessed to a customer who chooses to receive bills and/or customer information online~~;~~.

(3) The online billing statement shall include all requirements listed in paragraph (B) of this rule~~;~~.

(4) The ~~EDU~~ electric utility shall maintain a secure and encrypted site that is to be accessed only by the customer of record after completing a secure registration process~~;~~.

(5) Any fees to accept online payments shall be clearly disclosed in payment window(s)~~;~~.

(6) Any payment made online shall be treated as a payment made at the ~~company's~~ electric utility's business office and shall be posted to the account in accordance with paragraph (E) of this rule. The time needed to post the payment to the account shall be clearly stated~~; and~~.

*** DRAFT – NOT FOR FILING ***

(7) If a customer chooses to use online billing, the ~~customer~~ electric utility shall ~~not be restricted to making payments online in the future. All~~ continue to make all payment methods ~~shall continue to be~~ available to the customer.

*** DRAFT – NOT FOR FILING ***

4901:1-10-23 **Billing adjustments.**

(A) When an ~~EDU~~ electric utility has undercharged any nonresidential customer as the result of a meter or metering inaccuracy, billing problem, or other continuing problem under the ~~EDU's~~ electric utility's control, unless the customer and the ~~company~~ electric utility agree otherwise, the maximum portion of the undercharge that may be billed to the customer in any billing month, based upon the appropriate rates, shall be determined by dividing the amount of the undercharge by the number of months of undercharged service. Each ~~EDU~~ electric utility shall state the total amount to be collected in the first bill under this rule. This rule shall not affect the ~~EDU's~~ electric utility's recovery of regular monthly charges.

(B) Billing adjustments for residential customers shall comply with section 4933.28 of the Revised Code.

(C) This rule shall not apply to tampering with or unauthorized reconnection of the meter, metering equipment, or ~~EDU's~~ electric utility's property which causes meter or metering inaccuracies or no measurement of service.

*** DRAFT – NOT FOR FILING ***

4901:1-10-24 ~~Consumer~~**Customer safeguards and information.**

(A) Each ~~EDU~~ electric utility shall ~~annually~~ notify customers annually, by bill insert or other notice, about its summary of customer rights and responsibilities, as prescribed by rule 4901:1-10-12 of the Administrative Code, and how to request a copy from the ~~company~~electric utility.

(B) Each ~~EDU~~ electric utility shall maintain a listing in each local telephone service provider's directory operating in the ~~EDU's~~ electric utility's certified territory.

(C) Customer education and marketing practices.

Each ~~EDU~~ electric utility shall provide informational, promotional, and educational materials ~~which~~ that are non-customer specific and explain services, rates, and options to customers. The ~~commission~~ staff may review and/or request modification of informational, promotional, and educational materials. Such materials, shall include the following information:

(1) An explanation of the service, its application, and any material exclusions, reservations, restrictions, limitations, modifications, or conditions~~;~~.

(2) If services are bundled, an identification and explanation of service components and associated prices~~; and~~.

(3) An identification and explanation of:

(a) Any one-time or nonrecurring charge(s)~~,~~ (e.g., penalties and open-ended clauses~~;~~).

(b) Recurring charge(s) (e.g., usage).

(D) Unfair and deceptive acts or practices. No ~~EDU~~ electric utility shall commit an unfair or deceptive act or practice in connection with the promotion or provision of service, including an omission of material information. An unfair or deceptive act/practice includes, but is not limited to, the following:

(1) An ~~EDU~~ electric utility states to a customer that distribution service will or may be disconnected unless the customer pays any amount due for a nontariffed or nonregulated service~~; or~~.

(2) An ~~EDU~~ electric utility charges a customer for a service ~~in~~ for which the customer did not make an initial affirmative order. An affirmative order means that a customer or applicant for service must positively elect to subscribe to a service before it is added to the account. Failure to refuse an offered or proposed service is not an affirmative order for the service.

*** DRAFT – NOT FOR FILING ***

(E) Customer specific information.

(1) An ~~EDU~~ electric utility shall ~~only~~ not disclose a customer's account number without the customer's written consent ~~for EDU credit evaluation, collections and/or credit reporting and for CRES provider credit collections and/or reporting; for participants in programs funded by the universal service fund, pursuant to section 4928.54 of the Revised Code; for governmental aggregation, pursuant to section 4928.20 of the Revised Code; or pursuant to court order. The EDU must use the consent form set forth in paragraph (E)(3) of this rule;~~, or electronic authorization, or a court or commission directive ordering disclosure, except for the following purposes:

(a) An electric utility's collections and/or credit reporting activities.

(b) Participation in the home energy assistance program, the emergency home energy assistance program, and programs funded by the universal service fund, pursuant to section 4928.54 of the Revised Code, such as the percentage of income payment plan programs.

(c) Cooperation with governmental aggregation programs, pursuant to section 4928.20 of the Revised Code.

The electric utility must use the consent form set forth in paragraph (E)(3) of this rule, unless authorization is obtained electronically.

(2) An ~~EDU~~ electric utility shall ~~only~~ not disclose a customer's social security number without the customer's written consent ~~for EDU credit evaluation, collections and/or credit reporting and for CRES provider credit collections and/or reporting; for participants in programs funded by the universal service fund, pursuant to section 4928.54 of the Revised Code; or as ordered by the commission, other governmental agency or pursuant to court order. The EDU must use the consent form set forth in paragraph (E)(3) of this rule;~~ or without a court order, except for the following purposes:

(a) Completing a customer credit evaluation.

(b) An electric utility's or competitive retail electric service (CRES) provider's collections and/or credit reporting activities.

(c) Participation in the home energy assistance program, the emergency home energy assistance program, and programs funded by the universal service fund, pursuant to section 4928.54 of the Revised Code, such as the percentage of income payment plan programs.

The electric utility must use the consent form set forth in paragraph (E)(3) of this rule.

(3) The ~~EDU must obtain the customer's signature on the consent form prior to releasing the customer's account number or social security number. The~~ consent form shall be on a separate piece of paper and shall be clearly identified on its face as a release of personal information and all text appearing on the consent form shall be in at least ~~16 point~~ sixteen-point type. The following statement shall appear prominently on the consent form, just prior to the signature, in type darker and larger than the type in surrounding sentences: "I realize that under the rules and regulations of the public utilities commission of Ohio, I may refuse to allow (name of the ~~EDU~~electric utility) to release the information set forth above. By my signature, I freely give (name of the ~~EDU~~electric utility) permission to release the information designated above." The information that the ~~EDU~~ electric utility seeks to release shall be specified on the form. Forms requiring a customer to circle or to check off preprinted types of information to be released may not be used.

(4) Nothing in this rule prohibits the commission from accessing records or business activities of an electric utility, as provided for in paragraph (B) of rule 4901:10-03 of the Administrative Code.

(F) Customer load pattern information. An ~~EDU~~ electric utility shall:

(1) Upon request, timely provide ~~twelve~~ twenty-four months of a customer's usage history ~~and twenty-four months of a customer's~~, payment history, detailed consumption data, if available, and time differentiated price data, if applicable, to the customer~~;~~ without charge.

(2) Provide generic customer load pattern information, in a universal file format, to other electric service providers on a comparable and nondiscriminatory basis~~;~~.

(3) Provide customer-specific information to CRES providers on a comparable and nondiscriminatory basis as prescribed in paragraph (E) of rule 4901:1-10-29 of the Administrative Code, unless the customer objects to the disclosure of such information~~;~~.

(4) Prior to issuing any eligible-customer lists and at least four times per calendar year, provide all customers clear written notice, in billing statements or other communications, of their right to object to being included on such lists. Such notice shall include instructions for reporting such objection. This notice shall read as follows:

"We are required to include your name, address, and usage information on a list of eligible customers that is made available to other competitive retail electric service providers. If you do not wish to be included on this list, please call (

~~company~~ electric utility telephone number) or write (~~company~~electric utility address). If you have previously made a similar election, your name will continue to be excluded from the list without any additional action on your part. If you previously decided not to be included on the list and would like to reverse that decision, please call or write us at the same telephone number and address. An election not to be included on this list will not prevent (electric utility name) from providing your information to governmental aggregators."

In addition, the ~~EDU~~ electric utility may offer its customers the option of contacting the ~~company~~ electric utility by electronic means and, if it does so, the electric utility shall add ~~their~~ its electronic mail address or web site to the above notice.

(5) If a customer ~~reports such objection~~ objects as provided in paragraphs (F)(3) and (F)(4) of this rule, the ~~EDU~~ electric utility shall not release such information unless and until the customer affirmatively indicates that the information may be released.

(G) Each ~~EDU~~ electric utility shall develop, update, and maintain a list of certified CRES providers that are actively seeking residential customers within the ~~EDU's~~ electric utility's service territory. Where CRES providers are actively seeking residential customers, the ~~EDU~~ electric utility shall provide such lists to:

(1) All of its customers quarterly ~~for the remainder of the market development period;~~.

(2) All applicants for new service and customers returning to standard offer service~~; and~~.

(3) Any customer upon request.

*** DRAFT – NOT FOR FILING ***

4901:1-10-26 **Annual system improvement plan report.**

(A) Each electric utility and transmission owner shall report annually regarding its compliance with the minimum service quality, safety, and reliability requirements for noncompetitive retail electric services.

(B) Annual report. On or before March thirty-first of each year, each electric utility and transmission owner shall file with the commission an annual report for the previous calendar year by the utility's chief executive officer or other senior officer responsible for the service quality, safety, and reliability of the electric utility's and transmission owner's transmission and/or distribution service. The annual report shall include:

(1) A plan for ~~future~~ investment in and ~~safety, reliability, and service quality~~ improvements ~~for~~ to the electric utility's or transmission owner's transmission and distribution facilities/equipment that will ensure ~~continued~~ high quality, safe, and reliable delivery of energy to customers~~,~~ and will provide the delivery reliability needed for fair and open competition. Each plan shall also contain~~:~~ the estimated cost of implementation and any changes to the plan from the previous annual report. Each plan shall:

(a) Cover all of the electric utility's service territory, ~~including a description of~~ and shall describe the relevant characteristics of the service territory~~;~~ including the following:

(i) The number of miles of overhead distribution lines.

(ii) The number of miles of underground distribution lines.

(iii) The number of miles of overhead transmission lines.

(iv) The number of miles of underground transmission lines.

(v) Any other notable characteristics.

(b) Cover a period of no less than three years following the year in which the report was filed~~;~~.

(c) Provide a timetable for achievement of the plan's goals~~;~~.

(d) List any quality, safety, and reliability complaints the ~~utility's system~~ electric utility or transmission owner received during the reporting period from other electric ~~utility companies, regional transmission entity~~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~~; and~~.

(e) For transmission facilities within the commission's jurisdiction, list any electric 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.

~~(e)~~(f) Report all unresolved quality, safety, and reliability complaints ~~about the electric utility's system received from other electric utility companies, regional transmission entity, and competitive retail electric suppliers and explain why these complaints are still unresolved;~~ and violations as described in section (B)(1)(d) and (B)(1)(e) of this rule that were carried over from the prior year, along with the reason the complaint or violation was not resolved.

(2) A report of the electric utility's or transmission owner's implementation of ~~its~~ the plan that it filed pursuant to paragraph (B)(1) of this rule for the previous annual reporting period, including an identification of significant deviations from the goals of the previous plan and the reasons for the deviations~~;~~.

(3) A report by service territory of the age, current condition, reliability and performance of the electric utility's and/or transmission owner's transmission and distribution facilities in Ohio. (In analyzing and reporting the age of the electric utility's and/or transmission owner's facilities and equipment, the electric utility and/or transmission owner may utilize book depreciation. Statistical estimation and analysis may be used when actual ages and conditions of facilities are not readily available. The use of such techniques shall be disclosed in the report.) The report shall include:

(a) A qualitative characterization of the condition of the electric utility's and/or transmission owner's system and an explanation of the criteria used in making the qualitative assessment~~;~~.

(b) An overview ~~pertaining to~~ of the number and substance of customers' safety and reliability complaints for the annual reporting period in each service territory~~;~~

(c) Each electric utility's or transmission owner's budgeted and actual reliability-specific capital and maintenance expenditures for the past and current fiscal year, by account and subaccount, reported separately for transmission construction and maintenance, ~~if applicable, expressed in constant dollars, and~~ the ratio of those expenditures to the electric utility's or transmission

owner's total transmission investment~~;~~, and an explanation for any variance between budgeted and actual expenditures that exceeds ten per cent.

(d) Each electric utility's budgeted and actual reliability-specific capital and maintenance expenditures for the past and current fiscal year, by account and subaccount, reported separately for distribution construction and maintenance, ~~if applicable, expressed in constant dollars,~~ and the ratio of those expenditures to the electric utility's total distribution investment~~;~~, and an explanation for any variance between budgeted and actual expenditures that exceeds ten per cent.

(e) The average remaining depreciation lives of the electric utility's and/or transmission owner's transmission and distribution facilities, expressed separately by facility type as a percentage of total depreciation lives~~;~~.

(f) For each reporting period ~~ending December thirty first~~, provide a list and purpose of current inspection, maintenance, repair, and replacement programs required by paragraph (E) of rule 4901:1-10-27 of the Administrative Code that the electric utility and/or transmission owner's utilizes for quality, safe, and reliable service from its transmission, substation, and distribution facilities and/or equipment. This report shall include the following:

(i) The goals of each program and whether the ~~company's~~ electric utility's and/or transmission owner's annual goals for each program were achieved. If the goals were achieved, describe how they were achieved and to what extent, including numerical values and percentages in the description. If the goals were not achieved, describe the ~~causes which~~ problems that prevented the achievement and the level of completion of each program, including numerical values and percentages~~;~~.

(ii) A summary of the electric utility's and/or transmission owner's annual findings as a result of performing each program~~;~~.

(iii) A summary of the remedial activity that has been or will be performed as a result of the program findings, and the actual and estimated completion dates for such remedial activity~~;~~.

(iv) The electric utility's and/or transmission owner's plans and programs to prevent overloading or excessive loading of its transmission and distribution facilities and equipment~~; and~~.

(v) The electric utility's and/or transmission owner's actions to remedy overloading or excessive loading of its transmission and distribution facilities and equipment~~;~~.

(vi) An identification of the programs that have been added, deleted, and/or modified from the previous reporting period in accordance with the requirements of paragraph (F) of rule 4901:1-10-27 of the Administrative Code.

~~(g) For each reporting period thereafter, an identification of the programs that have been added, deleted, and/or modified from the previous reporting period. Each electric utility shall:~~

~~(i) Explain why any program is being eliminated;~~

~~(ii) Identify what aspects of a program are being modified and explain what the modifications are and what affects these modifications would have on the current program and/or related programs; and~~

~~(iii) Identify all inspection, maintenance, repair, and replacement programs that have been added during the reporting period. For each added program provide the explanation of the program's purpose and the goals expected to be achieved;~~

~~(4) The number and duration of planned and unplanned interruptions of service and supply a periodic sampling of voltage measurements for the annual reporting period; and~~

~~(5)~~(4) An identification of customer service interruptions that were due solely to the actions or in-actions of another electric utility, regional transmission entity, and/or a competitive retail electric supplier for the annual reporting period and the causes of these interruptions.

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

(A) This rule applies to the inspection, maintenance, repair, and replacement of utility transmission and distribution system facilities (circuits and equipment). The rebuttable presumption that an electric utility and/or transmission owner is providing adequate service pursuant to paragraph (F) of rule 4901:1-10-02 of the Administrative Code, does not apply to this rule.

(B) Distribution system performance assessment. For electric distribution circuits, the electric utility shall comply with rule 4901:1-10-11 of the Administrative Code.

(C) Transmission system performance assessment. Each electric utility ~~operating during the year 2000~~ and transmission owner shall maintain, on file ~~a report no later than January 1, 2001 and any new electric utility commencing operation after January 1, 2001 shall file within ninety days of commencing operations~~with the staff, a report setting forth its methodology used to assess the reliability of its transmission circuits ~~for review and acceptance by the commission:~~. That methodology shall be subject to review and acceptance by the director of the utilities department.

(1) Each electric utility or transmission owner shall submit~~, for review and acceptance by the director of the consumer services department or the director's designee,~~ a method to assess circuit reliability based on the total number of sustained outages per circuit per calendar year and other factors proposed by the electric utility ~~company~~, ~~and~~ or required by the electric reliability organization (ERO), the regional reliability organization (RRO), or the regional transmission operator, which affect circuit performance, together with supporting justification for that method.

(a) If the electric utility and/or transmission owner and the director of the ~~consumer services~~ utilities department ~~or the director's designee cannot~~ can not agree on a method to assess transmission circuit reliability, the electric utility and/or transmission owner shall apply, within ninety calendar days after the submission of its proposal, to the commission for a hearing and shall file a written report along with documentation supporting its methodology.

(b) Revisions to a previously accepted methodology for assessing the reliability of its transmission circuits, shall be submitted for review and acceptance along with supporting justification to the director of the ~~consumer services~~ utilities department ~~or the director's designee~~, no later than ninety calendar days prior to the beginning of the next succeeding calendar year.

(2) Each electric utility ~~providing transmission service~~ or transmission owner shall submit a report~~, no later than sixty days after the end of each calendar year~~

~~ending December~~ on electronic media in a format prescribed by the commission on or before March thirty-first~~, to the director of the consumer services department or the director's designee~~ of each year, that identifies the performance of each transmission circuit for the previous calendar year. Each annual report shall, at a minimum, provide the following information for each transmission circuit:

(a) ~~Circuit~~ The circuit identification number~~;~~.

(b) The ~~location of each~~ circuit~~;~~ name (if different from the origin terminus).

(c) The circuit origin and terminus.

(d) The circuit voltage level (KV).

(e) The circuit mileage.

(f) The circuit in-service date, where available.

~~(c)~~(g) The number of unplanned outages (sustained and momentary if available) and their causes by circuit~~;~~.

~~(d)~~(h) The substation(s) and/or distribution circuit(s) affected by each of the outages reported for paragraph ~~(C)(2)(c)~~ (C)(2)(g) of ~~rule 4901:1-10-27 of the Administrative Code~~this rule, by circuit~~;~~.

~~(e)~~(i) A description of and the rationale for any remedial action taken or planned to improve circuit performance or for taking no remedial action~~; and~~.

~~(f)~~(j) ~~Start~~ The start and completion dates of any remedial action taken or planned.

(k) The applicable ERO standard requirement.

(l) The applicable ERO standard violation.

(3) The annual report shall be submitted in a form prescribed by the commission or its staff.

(D) Transmission and distribution facilities inspections.

Unless otherwise determined by the commission, each electric utility and transmission owner shall, at a minimum, inspect its electric transmission and distribution facilities (circuits and equipment) to maintain quality, safe, and reliable service on the following scheduled basis:

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(1) Distribution - at least one-fifth of all distribution circuits and equipment shall be inspected annually. All distribution circuits and equipment shall be inspected at least once every five years.

(2) Transmission - all transmission circuits and equipment shall be inspected at least once every year.

(3) Substations - all transmission and distribution substations and equipment shall be inspected ~~at least once each month~~twelve times annually, with no inspection interval exceeding forty calendar days between inspections.

(4) ~~Each~~ On or before March thirty-first of each year, each electric utility and transmission owner shall ~~file~~ submit a report ~~on its~~ in an electronic medium, in a format prescribed by the commission or its staff, of the electric utility's and/or transmission owner's compliance with the inspection schedule in paragraphs (D)(1) to (D)(3) of this rule ~~no later than ninety days after the end of each calendar year ending December thirty-first.~~ for the preceding calendar year. The annual report of inspection compliance shall include:

(a) A listing of distribution circuits inspected during the year and, for each listed circuit, the date(s) such inspection was performed.

(b) A listing of transmission circuits inspected during the year and, for each listed circuit, the date(s) such inspections were performed.

(c) For each substation, the date of each inspection during the year.

(d) The date(s) when any circuits or substations were added or retired during the reporting year.

(E) Transmission and distribution inspection, maintenance, repair, and replacement programs.

(1) Each electric utility and transmission owner shall establish ~~and~~, maintain, and comply with written programs, policies, procedures, and schedules for the inspection, maintenance, repair, and replacement of its transmission and distribution circuits and equipment. These programs shall establish preventative requirements for the electric utility to maintain safe and reliable service. Programs shall include, but are not limited to, the following facilities:

(a) Poles and towers~~;~~.

(b) ~~Conductors;~~Circuit and line inspections.

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(c) ~~Pad-mounted~~ Primary enclosures (e.g., pad-mounted transformers~~;~~ and pad-mounted switch gear) and secondary enclosures (e.g., pedestals and handholes).

(d) Line reclosers~~;~~.

(e) Line capacitors~~;~~.

(f) Right-of-way vegetation control~~; and~~.

(g) Substations.

(2) Each electric utility and transmission owner shall file its inspection, maintenance, repair, and replacement programs, instituted pursuant to paragraph (E)(1) of this rule, with the commission, and simultaneously provide a copy of the filing to the director of the service monitoring and enforcement department. The electric utility's and transmission owner's filing shall include supporting justification and rationale based upon generally accepted industry practices and procedures or requirements set by ERO, RRO, or the transmission operator in the case of transmission.

(3) If a filing to establish the electric utility's and transmission owner's inspection, maintenance, repair, and replacement programs is not acted upon by the commission within forty-five calendar days after it is filed, the inspection, maintenance, repair, and replacement programs shall be deemed approved on the forty-sixth day after filing.

(4) 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.

~~(2)~~(F) Inspection, maintenance, repair, and replacement program ~~review~~revisions and amendments..

~~(a) Each electric utility operating during the year 2000 shall submit a plan for the inspection, maintenance, repair, and replacement of circuits and equipment as stated in paragraph (E)(1) of this rule for review and acceptance by the director of the consumer services department or the director's designee no later than January 1, 2001. The electric utility's submittal shall include supporting~~

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~~justification and rationale based upon historical practices and procedures used by the electric utility over the past five years. Any new electric utility commencing operation after January 1, 2001, shall file within ninety days of commencing operations a plan for its inspection, maintenance, repair and replacement of circuits and equipment, including supporting justification and rationale for the plan.~~

~~(b)~~(1) ~~If the electric utility and the director of the consumer services department or the director's designee cannot agree on the details and contents of the utility's plan, the~~ All revisions or amendments (including modification to a current program, addition of a new program, or elimination of an existing program) requested by an electric utility or transmission owner shall ~~file, within one hundred twenty days after the submission of its plan, with the commission for a hearing, file a written report and documentation supporting its plan~~be filed with the commission as outlined in paragraph (E)(2) of this rule.

~~(c)~~(2) ~~Revisions to a previously accepted plan shall be submitted for review and acceptance as outlined in paragraph (E)(2)(a) of this rule, no later than ninety days prior to the beginning of the next succeeding calendar year~~If a filing to revise or amend the electric utility's and transmission owner's inspection, maintenance, repair, and replacement programs is not acted upon by the commission within forty-five days after it is filed, the inspection, maintenance, repair, and replacement programs shall be deemed approved on the forty-sixth day after filing.

~~(F) Records. Each electric utility shall maintain records sufficient to demonstrate compliance with its transmission and distribution facilities inspection, maintenance, repair, and replacement programs as required by this rule.~~

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4901:1-10-28 **Net metering.**

(A) Standard net metering.

~~(A)~~(1) Each ~~EDU~~ electric utility shall develop a tariff for net metering. Such tariff shall be made available to qualifying customer generators~~,~~ upon request~~, and on a first-come, first-served basis, whenever the total rated generating capacity used by customer generators is less than one per cent of the EDU's aggregate customer peak demand in the state~~.

~~(1)~~(a) A qualifying customer generator is one whose generating facilities are:

~~(a)~~(i) Fueled by solar, wind, biomass, landfill gas, or hydropower, or use a microturbine or a fuel cell.

~~(b)~~(ii) Located on a customer generator's premises.

~~(c)~~(iii) Operated in parallel with the electric utility's transmission and distribution facilities.

~~(d)~~(iv) Intended primarily to offset part or all of the customer generator's electricity requirements.

~~(2)~~(b) Net-metering arrangements shall be made available regardless of the date the customer's generating facility was installed.

~~(3) The generating facility's rated capacity shall be counted toward the EDU's one per cent aggregate customer peak demand limit as of the date the EDU receives the customer generator's net metering application. Such date shall not be modified due to an incomplete application unless such application omits the generating facility's rated capacity. However, if the generating facility does not begin operation within six months from the date the application is received by the EDU, such application shall be considered void, and shall no longer count toward the one per cent limit.~~

~~(B)~~(2) The ~~EDU's~~ electric utility's tariff for net metering shall be identical in rate structure, all retail rate components, and any monthly charges, to the tariff to which the same customer would be assigned if that customer were not a customer generator. Such terms shall not change simply because a customer becomes a customer generator. ~~Subject to paragraph (E)(3) of this rule, net metering applies to all charges that are based on a meter reading.~~

(3) No electric utility's tariff for net metering shall require customer generators to:

~~No EDU's tariff for net metering shall require customer generators to:~~

~~(1)~~(a) Comply with any additional safety or performance standards beyond those established by rules ~~4901:1-22-05, 4901:1-22-07, 4901:1-22-08 and 4901:1-22-09~~in Chapter 4901:1-22 of the Administrative Code, and the "National Electrical Code," the "Institute of Electrical and Electronics Engineers," and "Underwriters Laboratories," ~~effective~~ in effect as set forth in rule 4901:1-22-03 of the Administrative Code.

~~(2)~~(b) Perform or pay for additional tests beyond those required by paragraph ~~(B)(1)~~ (A)(3)(a) of this rule.

~~(3)~~(c) Purchase additional liability insurance beyond that required by paragraph ~~(B)(1)~~ (A)(3)(a) of this rule.

~~(C)~~(4) Net metering shall be accomplished using a single meter capable of registering the flow of electricity in each direction. A customer's existing single-register meter that is capable of registering the flow of ~~energy~~ electricity in both directions satisfies this requirement. If ~~its~~ the customer's existing electrical meter is not capable of measuring the flow of electricity in two directions, the ~~customer generator shall be responsible for all expenses involved in purchasing and installing~~ electric utility, upon written request from the customer, shall install at the customer's expense a meter that is capable of measuring electricity flow in two directions.

~~(D)~~(5) The ~~EDU~~electric utility, at its own expense and with the written consent of the customer generator, may install one or more additional meters to monitor the flow of electricity in each direction. No ~~EDU~~ electric utility shall impose, without commission approval, any additional interconnection requirement or additional charges on customer generators refusing to give such consent.

~~(E)~~(6) The measurement of net electricity supplied or generated shall be calculated in the following manner:

~~(1)~~(a) The ~~EDU~~ electric utility shall measure the net electricity produced or consumed during the billing period, in accordance with normal metering practices.

~~(2)~~(b) If the ~~EDU~~ electric utility supplies more electricity than the customer generator feeds back to the system in a given billing period, the customer generator shall be billed for the net electricity that the ~~EDU~~ electric utility supplied, as measured in accordance with normal metering practices.

~~(3)~~(c) If the customer generator feeds more electricity back to the system than the ~~EDU~~ electric utility supplies to the customer generator, only the excess generation component shall be allowed to accumulate as a credit until netted against the customer generator's bill, or until the customer generator

requests in writing a refund that amounts to, but is no greater than, an annual true-up of accumulated credits over a twelve-month period.

~~(F)~~(7) In no event shall the ~~EDU~~ electric utility impose on the customer generator any charges that relate to the electricity the customer generator feeds back to the system.

(B) Hospital net metering.

(1) Each electric utility shall develop a separate tariff providing for net metering for hospitals. Such tariff shall be made available to qualifying hospital customers upon request.

(a) As defined in section 3701.01 of the Revised Code, "hospital" includes public health centers and general, mental, chronic disease, and other types of hospitals, and related facilities, such as laboratories, outpatient departments, nurses' home facilities, extended care facilities, self-care units, and central service facilities operated in connection with hospitals, and also includes education and training facilities for health professions personnel operated as an integral part of a hospital, but does not include any hospital furnishing primarily domiciliary care.

(b) A qualifying hospital customer generator is one whose generating facilities are:

(i) Located on a customer generator's premises.

(ii) Operated in parallel with the electric utility's transmission and distribution facilities.

(2) Net-metering arrangements shall be made available regardless of the date the hospital's generating facility was installed.

(3) The tariff shall be based both upon the rate structure, rate components, and any charges to which the hospital would otherwise be assigned if the hospital were not taking service under this rule and upon the market value of the customer-generated electricity at the time it is generated. For purposes of this rule, market value means the locational marginal price of energy determined by a regional transmission organization's operational market at the time the customer-generated electricity is generated.

(4) For hospital customer generators, net metering shall be accomplished using either two meters or a single meter with two registers that are capable of separately measuring the flow of electricity in both directions. One meter or register shall be capable of measuring the electricity generated by the hospital at the time it is generated. If the hospital's existing electrical meter is not capable of separately

measuring electricity the hospital generates at the time it is generated, the electric utility, upon written request from the hospital, shall install at the hospital's expense a meter that is capable of such measurement.

(5) The tariff shall allow the hospital customer-generator to operate its electric generating facilities individually or collectively without any wattage limitation on size.

(6) The hospital customer generator's net metering service shall be calculated as follows:

(a) All electricity flowing from the electric utility to the hospital shall be charged as it would have been if the hospital were not taking service under this rule.

(b) All electricity generated by the hospital shall be credited at the market value as of the time the hospital generated the electricity.

(c) Each monthly bill shall reflect the net of paragraphs (B)(6)(a) and (B)(6)(b) of this rule. If the resulting bill indicates a net credit dollar amount, the credit shall be netted against the hospital customer generator's bill until the hospital requests in writing a refund that amounts to, but is no greater than, an annual true-up of accumulated credits over a twelve-month period.

(7) No electric utility's tariff for net metering shall require hospital customer generators to:

(a) Comply with any additional safety or performance standards beyond those established by rules in Chapter 4901:1-22 of the Administrative Code, and the National Electrical Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories, in effect as set forth in rule 4901:1-22-03 of the Administrative Code.

(b) Perform or pay for additional tests beyond those required by paragraph (B)(7)(a) of this rule.

(c) Purchase additional liability insurance beyond that required by paragraph (B)(7)(a) of this rule.

(8) In no event shall the electric utility impose on the hospital customer generator any charges that relate to the electricity the customer generator feeds back to the system.

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4901:1-10-29 **Coordination with competitive retail electric service (CRES) providers.**

(A) Each ~~EDU~~ electric utility shall coordinate with CRES providers to promote nondiscriminatory access to electric services, to ensure timely enrollment with CRES providers to maintain a customer's electric service, and to timely and correctly switch the customer's electric service between CRES providers.

(B) Each ~~EDU~~ electric utility shall adopt a supplier tariff containing standardized requirements to the extent such standardization is feasible. At a minimum, such tariff shall include requirements for imbalances, load profiles, scheduling, billing (between the ~~EDU~~ electric utility and CRES provider), customer billing (options, collection, and application of customer payments), metering, retail settlements, scheduling coordinators, losses, customer information (procedures for disclosing load profile, account information, and payment history), dispute resolution ~~process~~ processes (between the ~~EDU~~ electric utility and CRES provider), standard operating rules, performance incentives and standards, creditworthiness and default security, supplier agreement, electronic data interchange protocols, CRES provider enrollment with the electric utility, service termination and disconnection (of end-user customer), certified CRES provider lists, return to standard offer, customer enrollment and switching, supplier training, and supplier proof of certification.

(C) An ~~EDU~~ electric utility shall execute with each CRES provider a supplier agreement to operate under the terms of the supplier tariff. At minimum, the supplier agreement shall include representations and warranties, indemnification, limitations on liability, default (breach), remedies, force majeure, form/format of scheduling coordinators, commencement, and term.

(D) The ~~EDU~~ electric utility and CRES provider shall execute a standardized trading partner agreement, as required by the standard electronic transmission protocols.

(E) Pre-enrollment. ~~EDUs~~ Electric utilities shall make eligible-customer lists available to certified CRES providers ~~via electronic media~~in spreadsheet, word processing, or an electronic non-image-based format, with formula intact, compatible with personal computers. Such lists shall be updated quarterly ~~during the market development period~~. The eligible customer list shall, at a minimum, contain customer name, service and mailing address, rate schedule (class and sub-class), applicable riders, load profile reference category, meter type, interval meter data indicator, budget bill indicator, meter read date or schedule, and historical consumption data (actual energy usage plus any applicable demand) for each of the most recent twelve months.

(F) Customer enrollment.

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(1) Within two business days after confirming the validated electronic data file for a CRES provider's customer enrollment request, the ~~EDU~~ electric utility shall mail the customer a competitively neutral confirmation notice stating:

(a) That the ~~EDU~~ electric utility has received a request to enroll the customer for competitive electric service with the named CRES provider~~;~~.

(b) The date such service is expected to begin~~;~~.

(c) That residential and small commercial customers have ~~—~~seven days from the postmark date on the notice to contact the ~~EDU~~ electric utility to rescind the enrollment request or notify the ~~EDU~~ electric utility that the change of service provider was not requested by the customer~~; and~~.

(d) The ~~EDU's~~ electric utility's toll-free telephone number.

(2) Such notice shall not be used as an opportunity for the ~~EDU~~ electric utility to convince customers to remain on or return to the ~~EDU's~~ electric utility's standard offer service.

(3) Each ~~EDU~~ electric utility shall ~~employ~~ have a twenty-four hour per day capability for accepting CRES residential and small commercial customer enrollment rescission by telephone.

(4) When a residential or small commercial customer calls the ~~EDU~~ electric utility to rescind enrollment with a CRES provider, the ~~EDU~~ electric utility shall provide the customer a unique cancellation number.

(5) Within two business days after receiving a customer's request to rescind enrollment with a CRES provider, the ~~EDU~~ electric utility shall initiate such rescission and mail the customer confirmation that such action has been taken.

(G) Customer billing.

(1) ~~EDUs~~ Electric utilities shall make consolidated billing available to CRES providers and shall not take any actions to inhibit or prohibit dual billing by CRES providers.

(2) Consolidated billing shall include budget billing as a customer-elected option.

(H) Customers returning to standard offer.

(1) Any customer returning to the standard offer due to a CRES provider's default, abandonment, slamming, ~~or~~ certification rescission of a CRES provider, or the end of their contract term with a CRES provider, will not be liable for any costs or penalties associated with the ~~switch~~customer's return to the standard offer.

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(2) Within two business days after confirming the validated electronic data file for a CRES provider's customer-drop request, the ~~EDU~~ electric utility shall mail the customer a notice stating:

(a) That the ~~EDU~~ electric utility has received a request to drop the customer from competitive electric service with the named CRES provider~~;~~.

(b) The deadline date for the ~~EDU~~ electric utility to receive a CRES provider's request to enroll the customer~~;~~.

(c) That the ~~EDU~~ electric utility is available to address any questions the customer may have~~; and~~.

(d) The ~~EDU's~~ electric utility's local and toll-free telephone number.

(I) Percentage of income payment plan (PIPP) customers will be coordinated exclusively by the Ohio department of development pursuant to section 4928.54 of the Revised Code.

(1) ~~EDUs~~ Electric utilities shall not switch PIPP and arrearage crediting program customers to CRES providers.

(2) Customers pending enrollment with a CRES provider who subsequently become approved for PIPP or the ~~EDU's~~ electric utility's arrearage crediting program shall not be switched to the CRES provider.

(3) ~~EDU~~ Electric utility customers who have switched to a CRES provider and subsequently become approved for the ~~EDU's~~ electric utility's arrearage crediting program shall be transferred to the ~~EDU's~~ electric utility's standard offer service at the next regularly scheduled meter read date after the ~~EDU~~ electric utility enrolls the customer in the program.

(4) Until the Ohio department of development has in place a mechanism for the administration and operation of the low-income customer assistance programs, customers who have switched to a CRES provider and subsequently become approved for PIPP shall be dropped by the ~~EDU~~ electric utility to standard offer service at the next regularly scheduled meter read date after the ~~EDU~~ electric utility receives notice of the customer's participation in PIPP. The ~~EDU~~ electric utility shall notify the affected CRES provider within ten business days of the customer's transfer to a new electric service provider to participate in PIPP. Any switching fees shall be added to the customer's arrearages, not current charges.

(5) When the host ~~EDU~~ electric utility is not purchasing the receivables of the affected CRES provider, the ~~EDU~~ electric utility shall submit to Ohio

department of development, on behalf of the affected CRES provider(s), the pre-PIPP arrearages of customers transferred to the PIPP program.

(6) The host ~~EDU~~ electric utility shall transfer the pre-PIPP arrearages received from the Ohio department of development, on behalf of the affected CRES provider, to the appropriate CRES provider within ten business days after receipt from the Ohio department of development.

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4901:1-10-30 **Failures to comply with the rules or commission orders.**

(A) Any electric utility or CRES provider that fails to comply with the rules and standards in this chapter, or with any commission order~~ adopted~~, direction, or requirement promulgated thereunder, may be subject to any and all~~ of the following~~ - remedies available under the law, including but not limited to the following:

(1) Forfeiture to the state of not more than ~~one~~ ten thousand dollars for each such failure~~. Each~~, with each day's continuance of the violation ~~is~~ being a separate offense~~;~~.

(2) Corrective action to effectuate compliance~~;~~.

(3) Restitution or damages to the customer/consumer.

~~Enforcement of any rule in this chapter or commission order adopted thereunder will be conducted in accordance with Chapter 4901:1-23 of the Administrative Code.~~

(B) Enforcement of any rule in this chapter or commission order, direction or requirement promulgated thereunder, will be conducted in accordance with Chapter 4901:1-23 of the Administrative Code.

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4901:1-10-31 **Environmental disclosure.**

(A) This rule establishes a process by which customers are assured of receiving information, in a timely and consistent manner, concerning the approximate retail generation resource mix and environmental characteristics associated with electric power offered in Ohio's competitive marketplace.

(B) This rule applies to all ~~EDUs~~ electric utilities providing a standard offer for retail electric generation service.

(C) Determination of environmental disclosure data.

(1) Contents of environmental disclosure data.

(a) Approximate generation resource mix.

Each ~~EDU~~ electric utility shall specifically identify each of the following generation sources used in the generation of the power that is made available under its standard offer: biomass power, coal-fired power, hydro power, natural gas-fired power, nuclear power, oil-fired power, other sources, solar power, unknown purchased resources, and wind power.

The ~~EDU~~ electric utility shall exercise all reasonable efforts to identify the power source or resource used to generate the power in question. The ~~EDUs~~ electric utilities shall maintain documentation sufficient to demonstrate the steps taken to make such identification.

(b) Environmental characteristics.

~~EDUs~~ electric utilities shall report the environmental characteristics typically associated with the generation resources used to generate the power that is made available under their respective standard offers.

~~EDUs~~ electric utilities shall also report the air emissions of nitrogen oxides, sulfur dioxide, and carbon dioxide associated with the generation of power being offered under their respective standard offers.

In addition, ~~EDUs~~ electric utilities shall report the generation of high- and low-level radioactive waste associated with the power being offered under their standard offers.

(2) Methodology for determining environmental disclosure data.

(a) ~~By December 1, 2000, or for any~~Any new ~~EDU~~electric utility shall submit to the staff, at least thirty days prior to commencing operations, ~~each EDU~~