

LARGE FILING SEPERATOR SHEET

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(CONTINUED)

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~~shall submit to the commission staff its proposed methodology for determining its environmental disclosure data. Such submittal shall detail the proposed methodology for completing the required annual projection, as well as the methodology for determining and compiling the required quarterly actual data.~~

- (b) The actual environmental disclosure data, to be provided quarterly, shall be verifiable. Each ~~EDU~~electric utility shall maintain documentation sufficient to demonstrate the accuracy of the actual environmental disclosure data.

(3) Each electric utility shall submit to staff for its review and approval a proposal for incorporating the use of renewable energy credits (RECs) within its annual and quarterly environmental disclosures. At a minimum, such submittal would be required for the following:

- (a) An electric utility sells RECs from one of its electric generating facilities.
- (b) An electric utility purchases RECs as a means of complying, in part or whole, with a renewable energy resource benchmark under the state's alternative energy portfolio standard requirements.

(3)(4) Timing for disclosing environmental disclosure data.

- (a) ~~EDUs~~electric utilities shall annually project their environmental disclosure data for at least the subsequent calendar year.
- (b) ~~EDUs~~electric utilities shall also complete no less than quarterly comparisons of actual to projected environmental disclosure data.
- (c) Below is the schedule applicable to the environmental disclosure process.

January - disclosure of projected environmental disclosure data for current calendar year.

March ~~(not applicable during initial year of disclosure requirement)~~—disclosure of actual environmental disclosure data for the prior calendar year, compared to the projected environmental disclosure data from prior calendar year.

June - disclosure of actual environmental disclosure data for January through March of current year, compared to projected data for current calendar year.

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September - disclosure of actual environmental disclosure data for January to June of current year, compared to projected data for current calendar year.

December - disclosure of actual environmental disclosure data for January through September of current year, compared to projected data for current calendar year.

(D) Environmental disclosure to customers.

(1) Content.

Each customer shall receive environmental disclosure data, as detailed in paragraph (C)(1) of this rule.

(2) Format.

The environmental disclosure data shall be provided in a standardized format in order to facilitate comparisons by customers. This data shall be disclosed in not less than a ten-point font. The presentation of this data shall comply with each of the following requirements:

- (a) A pie chart shall be provided which illustrates on a percentage basis the various generation resources, as detailed in paragraph (C)(1)(a) of this rule, used in the generation of power that is made available under the standard offer.

The percentages shall be rounded to the nearest whole number. The pie chart shall not include colors, but shall include the use of shading and labels to more clearly communicate the information. ~~The following shades, when applicable, shall be utilized to develop the pie chart, as set forth in~~ appendices A and B to this rule.

~~To the extent these the patterns set forth in appendices A and B to this rule cannot be duplicated exactly, EDUs—electric utilities shall exercise~~ reasonable efforts to simulate the required shading to the extent possible.

- (b) A table shall be provided which illustrates the typical environmental characteristics associated with the generation resource categories detailed in paragraph (C)(1)(a) of this rule.

The general categories and assumptions to be depicted in the table are as follows:

Biomass power - results in air emissions and solid waste.

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Coal-fired power - results in air emissions and solid waste.

Hydro power - results in wildlife impacts.

Natural gas-fired power - results in air emissions and solid waste.

Nuclear power - results in radioactive waste.

Oil-fired power - results in air emissions and solid waste.

Other sources - results in unknown impacts.

Solar power - results in no significant impacts.

Unknown purchased resources - results in unknown impacts.

Wind power - results in wildlife impacts.

- (c) The product-specific air emissions shall be presented in a bar chart, along with a regional average emission reference. The product-specific emission rates shall appear as a percentage of the average regional emission rate for each of the three types of air emissions. Percentages shall be calculated from comparison of product-specific and average regional emission rates on a basis of pounds emitted per megawatt hour ~~(lb./MWh)~~.
- (d) The figures reflecting the generation of radioactive wastes shall be presented in a table. High-level radioactive waste shall be reported in pounds per one thousand kilowatt hours (kWh), while low-level radioactive waste is to be reported in cubic feet per one thousand kWh. Any radioactive waste greater than zero but less than ".0001" shall be depicted as "<0.0001".

For use in the implementation of this rule, the following definitions shall apply:

High-level radioactive waste - means nuclear fuel that has been removed from a nuclear reactor. Low-level radioactive waste - means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or by-product material as defined in section 11(E)(2) of the "Atomic Energy Act of 1954," 68 Stat. 921, 42 U.S.C. 2014(e)(2), as amended by the Price-Anderson Amendments Act of 2005, 119 Stat.779.

- (e) The annual projection of approximate generation resource mix and environmental characteristics shall appear as depicted in appendix A to this rule. The regional average data, if available, will be updated by the commission by December first of each year or as conditions warrant.

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The quarterly comparisons of actual environmental disclosure data to projected environmental disclosure data, comprised of data specific to the EDU's electric utility's standard offer, shall appear as depicted in appendix B to this rule.

- (f) Each ~~EDU~~ electric utility shall maintain records detailing the magnitude of each environmental characteristic associated with the generation resources. Such details shall be provided to customers and ~~commission~~ staff upon request. Such details may be included on an ~~EDU's~~ electric utility's website.
- (g) ~~An EDU~~ The electric utility may include other information that it feels is relevant to the required environmental disclosure data, provided this additional information is distinctly separated from the required information. ~~The EDU~~ electric utility shall maintain sufficient documentation to permit verification of the accuracy of any additional information that is disclosed.

(3) Timing.

(a) Annual projection.

Consistent with the schedule presented in paragraph ~~(C)(3)-(C)(4)~~ of this rule and the format depicted by appendix A of this rule, the most recent projection of environmental disclosure data shall be provided to each customer of the standard offer for generation service either via bill insert or separate mailing.

(b) Quarterly comparisons of actual to projected environmental disclosure data.

The comparison of actual to projected environmental disclosure data shall be provided to customers on a quarterly basis consistent with both the schedule presented in paragraph ~~(C)(3)-(C)(4)~~ of this rule and the format as depicted by appendix B to this rule.

These items will be disclosed to customers via bill inserts or by separate mailing. The quarterly environmental disclosure can be accomplished electronically if a customer agrees to such an approach.

(E) Environmental disclosure to the commission.

Each ~~EDU~~ electric utility shall submit its annual projection and quarterly comparisons of environmental disclosure data to the deputy director of the utilities department or their designee consistent with the schedule presented in paragraph ~~(C)(3)(e)-(C)(4)~~ of this rule, ~~on electronic media (e.g., diskettes) as prescribed by the~~

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~~commission~~. The information provided to the ~~commission~~-staff shall be identical in content and format to that provided to customers.

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4901:1-10-32

Cooperation with certified governmental aggregators.

- (A) Each ~~EDU~~ electric utility shall cooperate with governmental aggregators to facilitate the proper formation and functioning of governmental aggregations. Upon the request of a certified governmental aggregator or ~~CRES provider~~ certified electric services company under contract with the governmental aggregator, the ~~EDU~~ electric utility shall provide, ~~an updated list of names, account numbers, service addresses, billing addresses, rate codes, percentage of income payment plan codes, load data, and other related customer information for all customers residing within the governmental aggregator's boundaries. The information provided shall be consistent with the information that is provided to other CRES providers. This information shall also include like data for, including those customers who have opted off the pre-enrollment list and account numbers for all customers within the governmental aggregator's boundaries.,~~ the following information:
- (1) An updated list of names, account numbers, service addresses, billing addresses, rate codes, percentage of income payment plan codes, load data, and other related customer information, consistent with the information that is provided to other electric services companies, must be available in spreadsheet, word processing, or an electronic non-image-based format, with formulas intact, compatible with personal computers..
 - (2) An identification of customers who are currently in contract with an electric services company or in a special agreement with the electric utility.
 - (3) On a best efforts basis, an identification of mercantile customers.
- (B) Each electric utility shall provide such customer information list to the governmental aggregator, or the electric services company under contract with the governmental aggregator, at no charge.
- ~~(B)(C)~~ EDUs Each electric utility shall publish charges and/or fees for services and information provided to governmental aggregators in an approved tariff filed with the commission.
- ~~(C)(D)~~ Unless a customer notifies the ~~EDU~~ electric utility of the customer's intent not to join a governmental aggregation by responding to the confirmation notice or providing some other notice as provided by the ~~EDU's~~ electric utility's tariffs, the ~~EDU~~ electric utility shall switch customer accounts to or from a governmental aggregation under the same processes and time frames provided in published tariffs for switching other customer accounts. A switching fee shall not be assessed to customer accounts that switch to or from a governmental aggregation.
- (E) Pursuant to division (I) of section 4928.20 of the Revised Code, if the electric utility establishes a surcharge under section 4928.144 of the Revised Code, the electric

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utility shall charge customers that are part of a governmental aggregation only a portion of such surcharge that is proportionate to the benefits that the electric load centers within the jurisdiction of the governmental aggregation as a group receive as determined by the commission.

- (F) Each electric utility shall cooperate with governmental aggregators to determine the amount of any surcharge that will be assessed to customers that are part of a governmental aggregation pursuant to division (I) of section 4928.20 of the Revised Code.
- (G) If a governmental aggregator notifies the commission of its election to not receive standby service from the electric utility that is operating under an approved electric security plan during the governmental aggregation program, the electric utility shall not charge any customer that is part of that governmental aggregation for standby service. However, the electric utility shall charge any customer that returns to the electric utility for retail electric service during the governmental aggregation program the market price of power incurred by the electric utility to serve that customer plus any amount attributable to the electric utility's cost of compliance with the alternative energy resource provisions of section 4928.64 of the Revised Code to serve that customer, unless that customer becomes ineligible pursuant to paragraphs (E)(1)(a) or (E)(1)(g) of rule 4901:1-21-17 of the Administrative Code, or that customer moves within the aggregation boundaries where the electric utility considers the customer that is moving to be a new customer, or the commission otherwise terminates the electric utility's electric security plan in effect during the governmental aggregation program.

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4901:1-10-33

Consolidated billing requirements.

- (A) This rule applies to an EDU-electric utility that issues customers a consolidated electric bill that includes both EDU-electric utility and competitive retail electric service (CRES) provider charges for electric services. Nothing in this rule affects the obligations of the EDU-electric utility to provide disconnection notices.
- (B) A supplier agreement between an EDU-electric utility and a CRES provider must provide that if the EDU-electric utility collects customer payments on behalf of the CRES provider, the customer's liability to the CRES provider ceases to the extent of a payment made and applicable to the customer's CRES provider account.
- (C) Consolidated bills shall be accurate, shall be rendered at regular-monthly intervals, and shall contain clear and understandable form and language. All consolidated customer bills issued by or on behalf of an EDU-electric utility and a CRES provider must include at least the following information:
- (1) The customer's name, billing address and service address;.
 - (2) The EDU's-electric utility's twenty-four hour, local/toll-free number and toll-free telephone numbers for reporting service emergencies;
 - (3) The dates of the service period covered by the bill;.
 - (4) Current electric charges, separated from gas charges, if these charges appear on the same bill, but only to the extent that the biller provides both electric and gas services;.
 - (5) Applicable billing determinants: beginning meter read, ending meter read, demand meter read, multipliers, consumption, and demand;.
 - (6) Identification of estimated bills;.
 - (7) Any non-recurring charge(s);.
 - (8) Net-metered usage for customer generators, if applicable;.
 - (9) Each charge for non-tariffed and/or non-regulated service or product, if applicable, and the name and toll-free/1-800 number of each provider of such service(s);.
 - (10) Amount due for previous billing period;.
 - (11) Total payments, late payment charges or gross/net charges and total credits applied during the billing period;.

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- (12) Total consolidated amount due and payable, or, if applicable, the total consolidated budget bill amount_;
 - (13) Due date for payment to keep the account current_;
 - (14) Name and address of ~~company~~ the electric utility to whom payments should be made_;
 - (15) The following notice:

"If your complaint is not resolved after you have called your electric supplier and/or 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."
 - (16) An explanation of codes and abbreviations used_;
 - (17) 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 (kWh), shopping incentive or shopping credit, late payment charge, and transition charge_;
 - (18) The price-to-compare for residential bills and a notice that such customers can obtain a written explanation of the price-to-compare from their ~~EDU~~ electric utility.
- (D) In addition to the information required pursuant to paragraph (C) of this rule, each consolidated bill issued must include, in that portion of the bill which details the charges from the ~~EDU~~ electric utility, at least the following information:
- (1) ~~EDU~~ Electric utility account number_;
 - (2) List applicable ~~Applicable~~ rate schedule_;
 - (3) ~~Numerically state~~ Numerical statement of the customer's historical consumption for each of the preceding twelve months, and both the total and average consumption for such twelve-month period_;

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- (4) Specific tariffed charges to the extent applicable: customer charge, delivery charge, transition charge, shopping incentive or shopping credit, and other conceptually similar tariffed charges.
 - (5) If the customer is on a budget plan with the ~~EDU~~ electric utility only, the monthly budget amount and current balance of ~~EDU~~ electric utility account.
 - (6) Current charges; ~~and,~~
 - (7) The ~~EDU's toll-free/local number~~ electric utility's local and toll-free telephone numbers and address for questions and complaints.
- (E) In addition to the information required pursuant to paragraph (C) of this rule, each consolidated bill issued must include, in that portion of the bill which details the charges from the CRES provider, at least the following information:
- (1) Customer's CRES account number, if different from the ~~EDU~~ electric utility account number.
 - (2) To the extent applicable, itemization for each charge including, for fixed-price offers, the unit price per kWh for competitive service and, for all other offers for electric generation service, an explanation of how the rate is derived; ~~and,~~ as well as any other information the customer would need to recalculate the bill for accuracy.
 - (3) If the customer is on a budget plan with the CRES provider only, the monthly budget amount and the current balance of the CRES account.
 - (4) Current charges; ~~and,~~
 - (5) A highlighted notice of any change in rates, terms, or conditions appearing on the first two consecutive bills following the occurrence of any such changes and a clear explanation of each change.
- (F) Consolidated bill format. Any new consolidated bill format proposed by an ~~EDU or a CRES provider~~ electric utility shall be filed with the commission for approval. If an application for a consolidated bill format is not acted upon by the commission within forty-five calendar days after it is filed, the consolidated bill format shall be deemed approved on the forty-sixth day after filing.
- (G) Transfer of customer billing information.
- (1) The non-billing ~~EDU or CRES~~ provider shall furnish the applicable required bill content information to the billing party in a timely manner and in a mutually agreed upon electronic format for inclusion in the consolidated customer bill.

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- (2) The billing ~~EDU or CRES provider~~ electric utility shall include in the consolidated bill all required bill content information furnished by the non-billing ~~EDU or CRES provider~~.
- (3) An entity ordered by the commission to provide any bill content, message, insert, or notice remains responsible to provide such information to its customers, although the information may be provided through the consolidated bill.

(H) Partial payment priority.

- (1) A customer's partial payment shall be credited in the following order:

- ~~(a) Billed and past due EDU distribution, standard offer generation, and transmission charges, or if applicable, EDU payment arrangement or past due EDU budget billing;~~
- ~~(b)(a) Billed and past due CRES provider charges, or, if applicable, CRES provider payment arrangement or past due CRES provider budget billing;~~
- (b) Billed and past due electric utility distribution, standard offer generation, and transmission charges or, if applicable, electric utility payment arrangement or past due electric utility budget billing.
- (c) Billed and due current electric utility distribution and transmission charges or current electric utility budget billing.
- ~~(e)(d) Billed and due current CRES provider charges or current CRES provider budget billing;~~
- ~~(d) Billed and due current EDU distribution and transmission charges or current EDU budget billing and;~~
- (e) Other past due and current non-regulated charges, excluding CRES charges.

- (2) Exceptions to the partial payment priority.

- (a) 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.
- (b) If a customer pays an agreed-upon ~~EDU~~ electric utility and/or CRES budget payment amount, then that payment shall be considered payment in full for the current bill.

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- (I) Upon the customer's switch from a CRES provider, the billing party shall identify for the customer and state on the bill as of what the date after which the billing party will no longer remit payments to the previous CRES provider and include any outstanding balance due the previous CRES provider.
- (J) Any ~~EDU~~electric utility wishing to issue consolidated billing statements online shall follow the listed guidelines:
- (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 paragraphs (C), (D), and (E) 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 customer's account in accordance with paragraph ~~(E)~~(F) of rule 4901:1-10-22 of the Administrative Code. The time needed to post the payment to the customer's account shall be clearly stated_; ~~and~~_;
 - (7) If a customer chooses to use online billing, the customer shall not be restricted to making payments online in the future. All payment methods shall continue to be available to the customer.

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4901:1-21-01 Definitions.

As used in chapter:

~~(A) As used within Chapter 4901:1-21 of the Administrative Code, these terms denote the following:~~

~~(1)(A)~~ "Aggregation" means combining the electric load of multiple retail customers via an agreement with the customers or formation of a governmental aggregation pursuant to section 4928.20 of the Revised Code for the purpose of purchasing retail electric generation service on an aggregated basis.

~~(2)(B)~~ "Aggregator" means a person, certified by the commission, who contracts with customers to combine the customers' electric load for the purpose of purchasing retail electric generation service on an aggregated basis.

~~(3)(C)~~ "Billing and collection agent" ~~has~~ shall have the meaning set forth in division (A)(2) of section 4928.01 of the Revised Code.

~~(4)(D)~~ "Biomass power" means a renewable generation resource that is primarily derived from the combustion of organic matter. Biomass fuels may be solid, liquid, or gas and are derived from feedstocks. Examples of such feedstocks include, but are not limited to: agricultural crops and residues, industrial wood and logging residues, farm animal wastes, the organic portion of municipal solid waste, and methane gas from landfills.

~~(5)(E)~~ "Commission" means the public utilities commission of Ohio.

~~(6)(F)~~ "Competitive retail electric service" (CRES) ~~has~~ shall have the meaning set forth in division (A)(4) of section 4928.01 of the Revised Code, and includes the services provided by an electric services company, retail electric generation providers, power marketers, power brokers, aggregators, and governmental aggregators.

~~(7)(G)~~ "Complaint" means any customer/consumer contact when such contact necessitates follow-up by or with the electric supplier of electric service or electric utility to resolve a point of contention.

~~(8)(H)~~ "Consumer" means a person who uses ~~a competitive retail electric service~~ CRES.

~~(9)(I)~~ "Contract" means an agreement between a customer and ~~competitive retail electric service provider~~ an electric services company that specifies the terms and conditions for provision of ~~a competitive retail electric service~~ CRES or services.

~~(10)(J)~~ "CRES provider" Certified electric services company means a person or entity, under certification by the commission, who supplies or offers to supply ~~a competitive~~

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~~retail electric service~~CRES. This term does not apply to an electric distribution utility in its provision of standard offer generation service.

~~(11)(K)~~ "Customer" means a person who contracts with or is solicited by a ~~competitive retail electric service~~ CRES provider for the provision of a ~~competitive retail electric service~~CRES.

~~(12)(L)~~ "Deposit" means a sum of money a CRES provider collects from a customer as a precondition for initiating service.

~~(13)(M)~~ "Direct solicitation" means face-to-face solicitation of a customer initiated by a ~~CRES provider~~certified electric services company at the home of a customer or at a place other than the normal place of business of the provider, and includes door-to-door solicitations.

~~(14)(N)~~ "Distribution service" means the physical delivery of electricity to consumers through facilities provided by an electric distribution utility.

~~(15)(O)~~ "Electric cooperative" ~~has~~shall have the meaning set forth in division (A)(5) of section 4928.01 of the Revised Code.

~~(16)(P)~~ "Electric distribution utility" ~~(EDU)~~ ~~has~~shall have the meaning set forth in division (A)(6) of section 4928.01 of the Revised Code.

~~(17)(Q)~~ "Electric generation service" means retail electric generation service.

~~(18)(R)~~ "Electric utility" ~~has~~shall have the meaning set forth in division (A)(11) of section 4928.01 of the Revised Code.

~~(19)(S)~~ "Environmental disclosure data" means both generation resource mix and environmental characteristics.

~~(T)~~ "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.

~~(20)(U)~~ "Governmental aggregator" ~~has~~shall have the meaning set forth in division (A)(13) of section 4928.01 of the Revised Code.

~~(21)(V)~~ "Market development period" ~~has~~shall have the meaning set forth in division (A)(17) of section 4928.01 of the Revised Code.

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

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~~(22)(X)~~ "Net metering" ~~has~~shall have the meaning set forth in division (A)(31) of section 4928.01 of the Revised Code.

~~(23)(Y)~~ "OCC" means the Ohio consumers' counsel.

~~(24)(Z)~~ "Other sources" means known electric energy generation resources that cannot reasonably be included within any of the specific fuel categories.

~~(25)(AA)~~ "Person" ~~has~~shall have the ~~same~~meaning as set forth in division (A)(24) of - section ~~4.59~~ 4928.01 of the Revised Code.

~~(26)(BB)~~ "Power broker" means a person certified by the commission, who provides power brokerage.

~~(27)(CC)~~ "Power brokerage" means assuming the contractual and legal responsibility for the sale and/or arrangement for the supply of retail electric generation service to a retail customer in this state without taking title to the electric power supplied.

~~(28)(DD)~~ "Power marketer" means a person, certified by the commission, who provides power marketing services.

~~(29)(EE)~~ "Power marketing" means assuming the contractual and legal responsibility for the sale and provision of retail electric generation service to a retail customer in this state and having title to electric power at some point during the transaction.

~~(30)(FF)~~ "Residential customer" means a customer ~~who contracts for~~of a competitive retail electric service for residential purposes.

~~(31)(GG)~~ "Retail electric service" ~~has~~shall have the meaning set forth in division (A)(27) of section 4928.01 of the Revised Code.

~~(32)(HH)~~ "Retail electric generation service" means the provision of electric power to a retail customer in this state through facilities provided by an electric distribution utility and/or a transmission entity in this state. The term encompasses the services performed by retail electric generation providers, power marketers, and power brokers, but does not encompass the service provided by an ~~EDU~~ electric utility pursuant to section 4928.14 or division (D) of section 4928.35 of the Revised Code.

~~(33)(II)~~ "Small commercial customer" means a commercial customer that is not a mercantile commercial customer.

~~(34)(JJ)~~ "Solicitation" means any communication intended to elicit a customer's agreement to purchase or contract for a ~~competitive retail electric service~~ CRES.

~~(35)(KK)~~ "Staff" means the commission staff or its authorized representative.

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~~(36)~~(LL) "Toll-free" means telephone access provided to a customer without toll charges to the customer.

~~(37)~~(MM) "Unknown purchased resources" means electric energy generation resources neither owned nor operated by a competitive retail generation supplier where the electric energy generation source(s) or process cannot be identified after making all reasonable efforts to identify the source or process used to produce the power.

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4901:1-21-02 **Purpose and scope.**

(A) The rules in this chapter:

(1) Apply to persons offering or providing any retail electric service which has been declared competitive pursuant to section 4928.03 of the Revised Code including retail electric generation, aggregation, power marketing, and power brokerage.

(2) Are intended to:

(a) Provide minimum standards for service quality, safety, and reliability;

(b) Provide consumers with sufficient information to make informed decisions about competitive retail electric service; ~~and~~ (CRES).

(c) Protect consumers against deceptive, unfair, and unconscionable acts and practices in the marketing, solicitation, and sale of ~~competitive retail electric service~~ CRES and in the administration of any contract for that service.

(B) After notice and, if necessary, an opportunity for hearing, the commission may require ~~competitive retail electric service (CRES)~~ providers to take any appropriate action necessary to comply with these rules and the state's policy as stated in section 4928.02 of the Revised Code upon:

(1) The commission's own motion;

(2) Formal or informal complaints brought to the commission; ~~or~~

(3) The application of any CRES provider.

(C) The commission may waive any requirement of Chapter 4901:1-21 of the Administrative Code for good cause shown ~~or upon its own motion~~. Any CRES provider requesting a waiver of any requirement in Chapter 4901:1-21 of the Administrative Code shall serve notice of the request upon the Ohio consumers' counsel and all electric distribution utilities operating in Ohio.

(D) The rules in this chapter shall not relieve CRES providers from complying with all applicable federal, state, and local laws.

(E) The rules of this chapter supersede any inconsistent provisions, terms, and conditions of the ~~each~~ CRES provider's contracts or other documents describing service offerings for customers or potential customers in Ohio.

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4901:1-21-03 **General provisions.**

- (A) Competitive retail electric service (CRES) providers shall not engage in unfair, misleading, deceptive, or unconscionable acts or practices related to, without limitation, the following activities:
- (1) Marketing, solicitation, or sale of a ~~competitive retail electric service;~~ CRES.
 - (2) Administration of contracts for ~~such service;~~ or CRES.
 - (3) Provision of ~~such service~~ CRES, including interactions with consumers.
- (B) CRES providers shall not cause or arrange for the disconnection of distribution service, or employ the threat of such actions, as a consequence of contract termination, customer nonpayment, or for any other reason.
- (C) CRES providers shall not change or authorize the changing of a customer's supplier of retail electric service without the customer's prior consent, as provided for under rule 4901:1-21-06 of the Administrative Code. For the purpose of procuring CRES, this requirement does not apply to governmental aggregation pursuant to division (A) of section 4928.10 of the Revised Code, or for programs funded by the universal service fund for whom the Ohio department of development procures electric services pursuant to section 4928.54 of the Revised Code or the assignment of contracts where such assignment occurs in accordance with the rules in Chapter 4901:1-24 of the Administrative Code.
- (D) For the purposes of market monitoring and providing the public comparative information from CRES providers' residential standard contract offers, CRES providers shall furnish to the director of the ~~consumer services~~ service monitoring and enforcement department or the director's designee the following information, transmitted by e-mail or facsimile within four calendar days of making such offers to Ohio customers:
- (1) For fixed-rate contracts, the price per ~~kWh~~ kilowatt hour for generation service;.
 - (2) For variable-rate contracts, an explanation of the factors that will cause the price to vary, and the frequency of such variation;.
 - (3) For all standard contracts, a listing of any recurring and nonrecurring charges not provided under paragraphs (D)(1) and (D)(2) of this rule, and a statement of the length of contract term; ~~and~~.
 - (4) Other information as the staff may deem necessary.

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4901:1-21-04 **Records and record retention.**

- (A) Each ~~CRES-competitive retail electric service~~ provider shall establish and maintain records and data sufficient to:
 - (1) Verify its compliance with the requirements of any applicable commission rules;
and,
 - (2) Support any investigation of customer complaints.
- (B) Unless otherwise prescribed in this chapter, all records required by this chapter shall be retained for no less than two years.
- (C) Unless otherwise prescribed by the commission or its authorized representatives, all records required by this chapter shall be provided to the ~~commission~~ staff within five calendar days of its request.

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4901:1-21-05 **Marketing and solicitation.**

(A) Each competitive retail electric service (CRES) provider that offers retail electric generation service to residential or small commercial customers shall provide, in marketing materials that include or accompany a service contract, sufficient information for customers to make intelligent cost comparisons against offers they receive from other CRES providers.

(1) For fixed-rate offers, such information shall, at minimum, include:

- (a) The cost per ~~kWh~~ kilowatt hour for generation service_;
- (b) The amount of any other recurring or nonrecurring CRES provider charges_;
- (c) A statement that the customer will incur additional service and delivery charges from the ~~EDU~~ electric utility.
- (d) A statement of any contract contingencies or conditions precedent.

(2) For variable-rate offers, such information shall, at a minimum, include:

- (a) A clear and understandable explanation of the factors that will cause the price to vary, including any related indices, and how often the price can change and, for discounted rates, an explanation of the discount and the basis on which any discount is calculated_;
- (b) The amount of any other recurring or nonrecurring CRES provider charges_;
- (c) A statement that the customer will incur additional service and delivery charges from the ~~EDU~~ electric utility.
- (d) A statement of any contract contingencies or conditions precedent.

(B) A CRES provider's promotional and advertising material that is targeted for residential and small commercial customers shall be provided to the commission or its staff within five calendar days of a request by the commission or its staff.

(C) No CRES provider may engage in marketing, solicitation, or sales acts, or practices which are unfair, misleading, deceptive, or unconscionable in the marketing, solicitation, or sale of a CRES. Such unfair, misleading, deceptive, or unconscionable acts or practices include, but are not limited to, the following:

- (1) ~~Soliciting customers to enroll for a competitive retail electric service after suspension, rescission, or conditional rescission of its certification by the~~

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~~commission or after denial of certification renewal by the commission;~~at either of the following times:

- (a) After suspension, rescission, or conditional rescission of its certification by the commission.
 - (b) After denial of certification renewal by the commission.
- (2) Failing to comply with paragraph (A) or (B) of this rule;
- (3) Failing to provide in or with its advertisements and promotional materials that make an offer for sale, a toll-free/800 telephone number (and address for printed materials) which the potential customer may call or write to request detailed information regarding the price, terms, conditions, limitations, restrictions, and, if applicable, environmental characteristics of the service offered.
- (4) Soliciting via telephone calls initiated by the CRES provider (or its agent) without first ~~obtaining the list of Ohio customers who have requested to be placed on the federal communications commission's (FCC's) "do not call" list and obtaining every thirty one days the updates of the FCC's "do not call" list;~~ taking both of the following actions:
 - (a) Obtaining the list of Ohio individuals who have requested to be placed on the federal trade commission's "do not call" registry by the appropriate area code.
 - (b) Obtaining monthly updates of the federal trade commission's "do not call" registry for the appropriate area code.
- (5) Engaging in telephone solicitation of ~~Ohio customers~~ individuals who have been placed on the FCC's federal trade commission's "do not call" list; registry and who are not otherwise exempted.
- (6) Engaging in telephone solicitation to residential customers either before nine a.m. or after nine p.m.;
- (7) Engaging in direct solicitation to residential customers where the CRES provider's sales agent fails to wear and display a valid CRES provider photo identification;
- (8) Advertising or marketing offers that:
 - (a) Claim that a specific price advantage, savings, or guarantee exists if it does not;

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- (b) Claim to provide a ~~competitive retail electric service~~ CRES when such an offer is not a bona fide offer to sell such services;.
 - (c) Offer a fixed price for ~~competitive retail electric service~~ CRES without disclosing the cost per kilowatt hour and all recurring and nonrecurring charges;.
 - (d) Offer a variable price for ~~competitive retail electric service~~ CRES without disclosing all recurring and nonrecurring charges;.
 - (e) Fail to disclose all material limitations, exclusions, contract contingencies, conditions precedent and offer expiration dates;.
 - (f) Offer a variable price for competitive retail electric service that is not based on verifiable factors.
 - (g) Fail to conspicuously disclose an affiliate relationship with an existing Ohio electric utility.
 - (h) Lead the customer to believe that the CRES provider is soliciting on behalf of or is an agent of an Ohio electric utility when no such relationship exists.
- (9) Marketing, advertising, or claiming that the environmental characteristics of any generation service energy source(s)– provide an environmental advantage that does not exist.
- (10) Engaging in any solicitation that leads the customer to believe that the CRES provider is soliciting on behalf of or is an agent of an Ohio electric utility when no such relationship exists.

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4901:1-21-06

Customer enrollment.

- (A) Except as provided in paragraph (B) of this rule, ~~CRES competitive retail electric service (CRES)~~ providers shall coordinate customer enrollment with the ~~EDU electric utility~~ in accordance with the procedures set forth in the applicable ~~EDU electric utility tariff~~.
- (B) 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) CRES providers are prohibited from knowingly enrolling PIPP and arrearage crediting program customers.
 - (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's~~ 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~~ transferred to the ~~EDU to electric utility's~~ 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. 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 CRES provider shall submit to the host ~~EDU electric utility~~ the pre-PIPP arrearages for the PIPP participant within sixty ~~calendar~~ days of the customer's transfer to the ~~EDU's electric utility's~~ standard offer service or the Ohio department of development's selected CRES provider pursuant to section 4928.54 of the Revised Code.
- (C) CRES providers are prohibited from enrolling potential customers without their consent and proof of that consent as delineated in paragraph (D) of this rule. This requirement does not apply to automatic governmental aggregation pursuant to division (A) of section 4928.20 of the Revised Code and ~~percentage of income payment plan (PIPP)~~ customers who will be coordinated exclusively by the Ohio department of development pursuant to section 4928.54 of the Revised Code.

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(D) Residential and small commercial enrollment.

(1) Mailings, facsimiles, and direct solicitation.

- (a) Where enrollment occurs by mail, facsimile, or direct solicitation, the customer's signature on a contract shall constitute consent.**
- (b) Consistent with rule 4901:1-21-05 of the Administrative Code, prior to entering into a contract for service, CRES providers shall provide each customer with enrollment documents that contain, at a minimum, understandable pricing, the terms and conditions of service, the dollar amount of all recurring and nonrecurring charges (including any fees for early termination of the contract), the applicable generation resource mix and environmental characteristics, and the duration of the contract.**
- (c) Before obtaining a signature from the applicant, CRES providers shall provide each customer a reasonable opportunity to read all enrollment documents and shall answer any and all questions posed by any applicant about information contained in the documents.**
- (d) Immediately upon obtaining the customer's signature, CRES providers shall provide the applicant a legible copy of the signed contract.**
- (e) Where enrollment occurs by direct solicitation, customers shall be advised both verbally and in the contract that: (i) the EDU-electric utility will be sending a confirmation notice of the transfer of service; (ii) they are allowed a seven day period to rescind the contract; and (iii) the customer should contact the EDU-electric utility to rescind the contract.**
- (f) The CRES provider shall not initiate enrollment with the EDU-electric utility prior to the completion of the enrollment transaction with the customer.**
- (g) The CRES provider shall send an electronic enrollment request to the EDU-electric utility within three calendar days following completion of the enrollment transaction with the customer, unless a later start date is agreed to in the contract.**

(2) Telephonic enrollment

- (a) To enroll a residential or small commercial customer telephonically, a CRES provider shall make a date and time stamped audio recording verifying before the completion of the telephone call, at a minimum, all of the following:**
 - (i) The CRES provider's identity and the exact purpose of the call;**

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- (ii) A verbal statement and the customer's acknowledgement that the call is being recorded;
- (iii) A verbal question and the customer's acknowledgement that the customer wishes to enroll with the provider;
- (iv) A verbal question and the customer's acknowledgement that the customer is the customer of record at the customer's local distribution utility or is authorized to switch providers by the customer of record;
- (v) In accordance with rule 4901:1-21-12 of the Administrative Code, a verbal statement and the customer's acceptance of each of the principal terms and conditions for the service that will be provided, including, but not limited to all of the following:
 - (a) The service(s) that will be provided;
 - (b) The price;
 - (c) The length of the contract term;
 - (d) An approximate service commencement date;
 - (e) The contract termination date, and any fees for customer cancellation prior to such date;
 - (f) Any material limitations, exclusions, contract contingencies or conditions precedent;
 - (g) Any fees or costs to the customer;
 - (h) If applicable, whether the provider will perform a credit check and require a deposit, including the amount; ~~and,~~
 - (i) Who will bill for the provider's service(s);
- (vi) A verbal statement and the customer's acknowledgement that the provider will, within one calendar day, send the customer a written contract that details the terms and conditions that were summarized in the telephone call;
- (vii) A verbal statement and the customer's acknowledgement that the customer has seven calendar days from the postmark date of the ~~EDU's~~ electric utility's confirmation notice to cancel the contract without penalty and a reminder that the ~~EDU~~ electric utility will give the

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customer a cancellation number to confirm any cancellation of the contract during the cancellation period;

- (viii) A toll-free-~~or local~~ telephone number the customer can call to cancel the contract;
 - (ix) If applicable, a verbal request for and the customer's provision of the customer's electric distribution-utility account number;
 - (x) A verbal request for and the customer's provision of the customer's mailing address; ~~and~~
 - (xi) ~~A~~ A unique enrollment confirmation number.
- (b) Following telephonic enrollment, the CRES provider shall comply with all of the following:
- (i) Within one calendar day, send the customer a written contract that details the terms and conditions summarized in the telephone call and the generation resource mix and environmental characteristics information pursuant to rule 4901:1-21-09 of the Administrative Code. Such contract shall in no way alter the terms and conditions to which the customer agreed in the telephone call;
 - (ii) Retain the audio recording of the customer's enrollment for one year after the contract with the customer is terminated; ~~and~~
 - (iii) Provide a copy of the audio recording to the customer, commission, or its the staff within five calendar days of a request.
- (c) The CRES provider shall send an electronic enrollment request to the ~~EDU~~ electric utility no sooner than three calendar days and no later than five calendar days after sending the customer the written contract, unless a later start date is agreed to in the contract; ~~and~~
- (d) The CRES provider shall not initiate enrollment with the ~~EDU~~ electric utility prior to the completion of the enrollment transaction with the customer.

(3) Internet enrollment.

- (a) Where enrollment occurs by internet, prior consent shall be obtained by encrypted customer input on a provider's internet web site.
- (b) The internet enrollment web site shall, at a minimum, include all of the following:

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- (i) A copy of the CRES provider's customer contract with all terms and conditions as required by rule 4901:1-21-12 of the Administrative Code;
 - (ii) A conspicuous statement, within the body of the electronic version of the contract, that residential and small commercial customers may cancel their enrollment within seven calendar days following a confirmation notice from the ~~EDU~~electric utility;
 - (iii) A statement that the ~~EDU~~electric utility will be sending a confirmation notice of the transfer of service and that the customer should contact the ~~EDU~~electric utility to rescind the contract and a reminder that the ~~EDU~~electric utility will give the customer a cancellation number to confirm any cancellation of the contract during the cancellation period; and;
 - (iv) A conspicuous prompt for the customer to print or save a copy of the contract.
- (c) The CRES provider shall not initiate enrollment with the ~~EDU~~electric utility prior to the completion of the enrollment transaction with the customer.
- (d) The CRES provider shall send an electronic enrollment request to the ~~EDU~~electric utility within three calendar days following completion of the enrollment transaction with the customer, unless a later start date is agreed to in the contract.
- (e) Any electronic version of the contract shall be identified by version number, in order to ensure the ability to verify the particular contract to which the customer assents.
- (f) Throughout the duration of the contract, the CRES provider shall retain and, within three calendar days of the customer's request, provide to the customer an e-mail, paper, or facsimile of the terms and conditions of the numbered contract version to which the customer assents.
- (g) The CRES provider shall require the customer to complete an electronic customer consent form in a format retrievable by the CRES provider that includes the following:
- (i) The customer's agreement to the terms and conditions;
 - (ii) An electronic agreement version number;
 - (iii) The name of the CRES provider;

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- (iv) The date the customer electronically enrolled;
 - (v) The name of the account holder;
 - (vi) The ~~EDU—electric utility~~ account number or other customer identification number provided by the ~~EDU—electric utility~~ and used for customer choice purposes; and
 - (vii) The account holder's U.S. mailing address.
- (h) The CRES provider shall provide a mechanism by which both the submission and receipt of the electronic customer consent form are recorded by time and date.
- (i) After the customer completes the electronic customer consent form, the internet enrollment process shall disclose conspicuously that the customer has been enrolled and the CRES provider shall provide the customer ~~an~~ a unique enrollment confirmation number.

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4901:1-21-07 **Credit and deposits.**

(A) Each competitive retail electric service (CRES) provider must establish reasonable and nondiscriminatory creditworthiness standards and may require a deposit or other reasonable demonstration of creditworthiness from a customer as a condition of providing service.

~~(A)(B) Each CRES provider must establish reasonable and nondiscriminatory creditworthiness standards and may require a deposit or other reasonable demonstration of creditworthiness from a customer as a condition of providing service. In the application of such standards, deposits, or creditworthiness procedures, the CRES provider shall:~~

- ~~(1) Disclose in service contracts with customers its policies regarding creditworthiness and deposits, including the amount of any deposit, the allocation of the deposit, and the return of any deposit balance;~~
- ~~(2) Accept a reasonable and nondiscriminatory cash deposit as sufficient evidence of the customer's creditworthiness to initiate service;~~
- ~~(3) Disclose whether interest will be paid on deposits, and the applicable rate of interest;~~
- ~~(4) Provide the customer a receipt for any deposit within fourteen calendar days of the date that the deposit is collected;~~
- ~~(5) Return the deposit within ten calendar days if the customer cancels the contract during the rescission period;~~
- ~~(6) Apply the deposit to the final bill and promptly refund any excess to the customer when service is terminated;~~
- ~~(7) Not require an applicant to pay the balance due another CRES provider as a condition of establishing credit or providing competitive retail electric service; and~~
- ~~(8) Notify customers that the failure to pay competitive retail electric service charges may result in the customer being returned to the EDU's standard offer service and forfeiture of the customer's ability to choose another CRES provider until the arrearages are paid off.~~

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4901:1-21-08 **Customer access, slamming complaints, and complaint handling procedures.**

(A) Customer access

- (1) Each competitive retail electric service (CRES) provider shall ensure customers reasonable access to its service representatives to make inquiries and complaints, discuss charges on customer bills, terminate competitive service, and transact any other pertinent business.
- (2) Telephone access shall be toll-free and afford customers prompt answer times during normal business hours.
- (3) Each CRES provider shall provide a twenty-four hour automated telephone message instructing callers to report any service interruptions or electrical emergencies to their EDUelectric utility.

(B) Customer complaints

- (1) As used in this rule, customer complaint means a customer contact when such contact necessitates follow-up by or with the supplier of the customer's electric service to resolve a point of contention.
- ~~(1)(2)~~ Each CRES provider shall investigate customer complaints (including customer complaints referred by the EDUelectric utility) and provide a status report within five calendar days following receipt of the complaint to:
 - (a) The ~~consumer~~customer, when the complaint is made directly to the CRES provider; ~~or,~~
 - (b) The ~~consumer~~customer and ~~commission~~ staff, when a complaint is referred to the CRES provider by the ~~commission~~ staff.
- ~~(2)(3)~~ If an investigation is not completed within fourteen calendar days, the CRES provider shall provide status reports, either orally or in writing, to the ~~consumer~~customer, or if applicable, to the ~~consumer~~customer and ~~commission~~ staff. Such status reports shall be provided at five calendar-day intervals until the investigation is complete, ~~unless the action that must be taken will require more than five calendar days and the customer has been so notified~~agreed to otherwise.
- ~~(3)(4)~~ The CRES provider shall inform the ~~consumer~~customer, or the ~~consumer~~customer and ~~commission~~ staff, of the results of the investigation, orally or in writing, no later than five calendar days after completion of the investigation. The ~~consumer~~customer or ~~commission~~ staff may request the report in writing.

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~~(4)~~(5) If a residential or small commercial ~~consumer-customer~~ disputes the CRES provider's report, the CRES provider shall inform the ~~consumer-customer~~ that the ~~commission-staff~~ is available to help resolve informal complaints. The CRES provider shall provide the consumer with the current address, ~~local~~/toll-free telephone numbers, and ~~TDD/TTY~~ telephone numbers of the commission's ~~consumer services department call center, and the commission's website.~~

~~(5)~~(6) Each CRES provider shall retain records of customer complaints, investigations, and complaint resolutions for one year after the occurrence of such complaints, and shall provide such records to the ~~commission-staff~~ within five calendar days of request.

~~(6)~~(7) Each CRES provider shall make good faith efforts to resolve disputes, and cooperate with the resolution of any joint issues with the ~~EDU~~electric utility.

(C) 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 a customer contacts the CRES provider alleging that the customer's supplier has been switched without the customer's authorization, the CRES provider shall take the following actions:

(a) Provide the customer ~~any evidence relating to~~ with the customer's enrollment; information contained in its records.

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

(c) Cooperate with the ~~commission-staff~~ in any subsequent investigations of the slamming complaint, including assisting ~~the commission-staff~~ in determining the amount of any restitution owed to the customer pursuant to paragraph (C)(5) of this rule if the customer was switched without authorization from the customer's supplier of electric service.

(3) If a customer initiates a slamming complaint with ~~the commission-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.

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- (4) Except as provided in rules 4901:1-21-16 and 4901:1-21-17 of the Administrative Code, if the CRES provider cannot produce valid documents confirming that the customer authorized the switch, there shall be a rebuttable presumption that the customer was switched without authorization. Such documents shall include one of the following, in conformance with the requirements of rule 4901:1-21-06 of the Administrative Code:
- (a) A signed contract, in the case of direct enrollment;
 - (b) An audio recording, in the case of telephonic enrollment; ~~or,~~
 - (c) Electronic consent, in the case of internet enrollment.
- (5) If the ~~commission~~ staff determines that the customer was switched without authorization, the CRES provider responsible for initiating the switch shall by the end of the succeeding billing period following the customer's return to the correct electric supplier of electric service, take all three of the following actions:
- (a) Credit or refund to the customer any fees previously charged for switching the customer to and from the correct ~~electric supplier; and~~ electric service.
 - (b) Either of the two following actions:
 - ~~(b)(i)~~ (i) If reported to the ~~commission~~ staff within the thirty calendar days after being issued a bill from the alleged slammer, absolve the customer of any liability for charges assessed by the slamming ~~electric service~~ CRES provider to the customer and refund to the customer any charges collected from the customer; ~~or,~~
 - ~~(b)(ii)~~ (ii) If reported to the ~~commission~~ staff more than thirty calendar days after being issued a bill from the alleged slammer, credit the customer any fees the slamming CRES provider charged in excess of the amount the customer would have paid its previous supplier of electric service provider for the same usage; ~~and,~~
 - ~~(d)(c)~~ (c) If the customer can not be returned to the original contract terms with its previous supplier of electric service ~~provider~~, the slamming CRES provider shall credit or refund to the customer the value of the customer's contract with the customer's previous supplier of electric service ~~provider~~ for the remaining term of the contract immediately prior to the slam.
- (6) In the event the customer was switched without authorization, the customer's previous CRES provider shall take all of the following actions:

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- (a) Re-enroll the customer without penalty under such customer's original contract price and terms, including substantially similar inducements to enter such contract. If the original CRES provider is unable to return the customer to the original contract price, the original CRES provider may enroll the customer in a new contract pursuant to the provisions of rule 4901:1-21-06 of the Administrative Code, or the customer may select a new CRES provider, or return to the ~~EDU's electric utility's~~ standard offer - service.
 - (b) Issue the customer a credit on the first bill following the customer's re-enrollment, for any exit fees previously charged the customer as a result of the unauthorized switch, or directly reimburse the customer for such fees; and,
 - (c) Assist ~~the commission~~ staff in determining the amount of any restitution owed the customer under this rule.
- (7) If ~~the commission~~ staff informs the CRES provider that a customer was switched without the customer's authorization, the CRES provider that improperly initiated the switch shall within thirty calendar days reimburse the prior CRES provider and the ~~EDU electric utility~~ for any reasonable incremental costs incurred by them to correct the unauthorized switch.
- (8) 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.
- (9) 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.
- (10) 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

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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.

- (11) 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.
- (12) If the ~~EDU-electric utility~~ switches a CRES provider's customer to the ~~EDU's-electric utility's~~ standard offer service without authorization by the customer, without the authorization of the appropriate CRES provider or pursuant to a commission order, the ~~EDU-electric utility~~ shall take all of 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; ~~and,~~
 - (b) By the next billing cycle, take all three of the following actions:
 - (i) Credit or refund to the customer any fees previously charged for switching the customer to the CRES provider; ~~and,~~
 - (ii) Either of the two following actions:
 - (i)(a) If reported to the ~~commission~~ staff within thirty calendar days after being issued a bill by the alleged slammer, absolve the customer of any liability for any charges assessed by the slamming electric-service-provider utility to the customer 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 slamming-CRES-provider electric utility charged in excess of the amount the customer would have paid its previous-electric-service CRES provider for the same usage; ~~and,~~
 - (iv)(iii) If the customer can not be returned to the original contract terms with its previous-electric-service CRES provider, the slamming EDU-electric utility shall credit or refund to the customer, the value of the customer's contract with the customer's previous supplier of electric

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service ~~provider~~ for the remaining term of the contract immediately prior to the slam.

(c) Reimburse the CRES provider 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.

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4901:1-21-09

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 electric generation resource mix and environmental characteristics associated with electrical power offered in Ohio's competitive marketplace.

(B) This rule applies to all competitive retail electric service (CRES) providers of retail electric generation service. CRES providers offering or providing more than one contract for power supplies shall disclose the appropriate generation resource mix and environmental characteristics for each such contract.

(C) Determination of environmental disclosure data.

(1) Contents of environmental disclosure data shall include:

(a) Approximate generation resource mix, which consists of the following:

CRES providers shall specifically identify each of the following generation sources used in their generation of power: biomass power, coal-fired power, hydro power, natural gas-fired power, nuclear power, oil-fired power, other sources, solar power, wind power, and unknown purchased resources.

CRES providers shall exercise all reasonable efforts to identify the power source or resources used to generate the power in question, and shall maintain documentation sufficient to demonstrate the steps taken to make such identification.

(b) Environmental characteristics, which consists of the following:

CRES providers shall report the environmental characteristics typically associated with the generation of power being offered under each supply contract.

CRES providers shall also report the air emissions of nitrogen oxides, sulfur dioxide, and carbon dioxide associated with the generation of power being offered under the supply contract.

In addition, CRES providers shall report the generation of high- and low-level radioactive waste associated with the power being offered under the supply contract.

(2) Methodology for determining environmental disclosure data shall include:

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- (a) At the time of certification, CRES providers shall submit for commission review their proposed methodology for determining their environmental disclosure data.
- (b) The actual environmental disclosure data, to be provided quarterly, shall be verifiable. CRES providers shall maintain documentation sufficient to demonstrate the accuracy of the actual environmental disclosure data.
- (3) Each CRES provider shall submit to staff for its review and approval a proposal for incorporating the use of renewable energy credits (RECs) within its annual and quarterly environmental disclosures. At a minimum, such submittal would be required for the following:
 - (a) A CRES provider sells RECs from one of its electric generating facilities.
 - (b) A CRES provider purchases RECs as a means of complying, in part or whole, with a renewable energy resource benchmark under the state's alternative energy portfolio standard requirements.
- (4) Timing for disclosing environmental data:
 - (a) Certified CRES providers shall annually project their environmental disclosure data for the current calendar year.
 - (b) Certified CRES providers shall make quarterly comparisons of actual to projected environmental disclosure data.
 - (c) Each certified CRES provider shall publish the required environmental disclosure data each year according to the following schedule:
 - January - disclose projected data for current calendar year.
 - March - disclose actual data for the prior calendar year, compared to projected data for prior calendar year.
 - June - disclose actual data for the period January through March of current year, compared to projected data for current calendar year.
 - September - disclose actual data for the period January through June of current year, compared to projected data for current calendar year.
 - December - disclose actual data for the period January through September of current year, compared to projected data for current calendar year.
- (D) Environmental disclosure to customers shall include:

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(1) Content:

Each customer shall receive environmental disclosure data, as detailed in paragraph (C) of this rule.

(2) Format:

The environmental disclosure data shall be provided in a standardized format to facilitate comparisons by customers. This data shall be disclosed in not less than ten-point type. The presentation of this data shall comply with each of the following requirements:

(a) A pie chart shall be provided which illustrates on a percentage basis the various generation resources, as detailed in paragraph (C)(1)(a) of this rule, used in the generation of the power offered under the contract. The percentages shall be rounded to the nearest whole number. The pie chart shall not include colors, but shall include the use of shading and labels to more clearly communicate the information as set forth in appendices A and B to this rule. To the extent the pie chart included in appendices A and B to this rule cannot be replicated, CRES providers shall exercise reasonable efforts to simulate the required shading to the extent possible.

(b) A table shall be provided which illustrates the typical environmental characteristics associated with the generation resource categories detailed in paragraph (C)(1)(a) of this rule.

The general categories and assumptions to be depicted in the table are as follows:

Biomass power - results in air emissions and solid waste.

Coal-fired power - results in air emissions and solid waste.

Hydro power - results in wildlife impacts.

Natural gas-fired power - results in air emissions and solid waste.

Nuclear power - results in radioactive waste.

Oil-fired power - results in air emissions and solid waste.

Other sources - results in unknown impacts.

Solar power - results in no significant impacts.

Unknown purchased resources - results in unknown impacts.

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Wind power - results in wildlife impacts.

(c) The product-specific air emissions shall be presented in a bar chart, along with a regional average emission reference. The product-specific emission rates shall appear as a percentage of the average regional emission rate for each of the three types of air emissions. Percentages shall be calculated from comparison of product-specific and average regional emission rates on a basis of pounds emitted per megawatt hour.

(d) The figures reflecting the generation of radioactive wastes shall be presented in a table. High-level radioactive waste shall be reported in pounds per one thousand kilowatt hour (kWh), while low-level radioactive waste is to be reported in cubic feet per one thousand kWh. Any radioactive waste greater than zero but less than ".0001" shall be depicted as <0.0001.

For use in the implementation of this rule, the following definitions shall apply:

High-level radioactive waste - means nuclear fuel that has been removed from a nuclear reactor.

Low-level radioactive waste - means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or by-product material as defined in section 11(E)(2) of the "Atomic Energy Act of 1954," 68 Stat. 921, 42 U.S.C. 2014(e)(2), as amended by the Price-Anderson Amendments Act of 2005, 119 Stat. 779.

(e) The annual projection of approximate generation resource mix and environmental characteristics shall appear as depicted in appendix A to this rule. The regional average data, if available, will be updated by the commission by December first of each year or as conditions warrant. The quarterly comparisons of actual environmental disclosure data to projected environmental disclosure data, comprised of data specific to the power offered under the contract, shall appear as depicted in appendix B to this rule.

(f) Each CRES provider shall maintain records detailing the magnitude of each environmental characteristic associated with the power offered under the contract. Such details shall be provided to customers and commission staff upon request and may be included on a CRES provider's website.

(g) A CRES provider may include other information that it feels is relevant to the required environmental disclosure data, provided this additional information is distinctly separated from the required information. CRES

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providers shall maintain sufficient documentation to permit verification of the accuracy of any additional information that is disclosed.

(3) Timing:

(a) Annual projection.

The CRES provider shall include with each customer contract, its most recent projection of environmental disclosure data, consistent with the schedule presented in paragraph (C)(3) of this rule and the format depicted by appendix A to this rule.

If a customer is under contract at the time the projected environmental disclosure data is revised, the revised environmental disclosure data shall be provided to the customer via bill insert or separate mailing. The annual environmental disclosure can be accomplished electronically if a customer agrees to such an approach.

(b) Quarterly comparisons of actual to projected data.

The comparison of actual to projected environmental disclosure data shall be provided to customers on a quarterly basis, consistent with both the schedule presented in paragraph (C)(3) of this rule and the format depicted by appendix B to this rule.

These items will be disclosed to customers via bill inserts or by separate mailing. The quarterly environmental disclosure can be accomplished electronically if a customer agrees to such an approach.

(E) Environmental disclosure to the commission shall include:

Each CRES provider shall electronically submit its annual projection and quarterly comparisons of environmental disclosure data to the deputy director of the utilities department or their designee consistent with the schedule presented in paragraph (C)(3)(c) of this rule. The information provided to staff shall be identical in content and format to that provided to customers.

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4901:1-21-10 **Customer information.**

(A) Upon customer request and if the competitive retail electric service (CRES) provider possesses such information, a CRES provider shall timely provide to the customer, no more than twice within a twelve-month period, up to twenty-four months of the customer's payment history— without charge.

(B) CRES providers shall ~~only not~~ disclose a customer's account number without the customer's written consent, electronic authorization, or appropriate order, except for - credit evaluation, collections and credit 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 CRES provider must use the consent form set forth in paragraph (D) of this rule.the following purposes:

(1) A CRES provider's collections and credit reporting activities.

(2) Participation in 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.

(3) Governmental aggregation, pursuant to section 4928.20 of the Revised Code.

(4) Assignment of a customer contract to another CRES provider.

The CRES provider must use the consent form set forth in paragraph (D) of this rule unless authorization is obtained electronically.

(C) CRES providers shall ~~only not~~ disclose a customer's social security number without the customer's written consent, electronic authorization, or a court order, except for - programs funded by the universal service fund, for credit evaluation, collections and/or reporting, or as ordered by the commission or other governmental agency or pursuant to court order. The CRES provider must use the consent form set forth in paragraph (D) of this rule.the following purposes:

(1) A CRES provider's own credit evaluation.

(2) Electric utility's or CRES provider's own collection and/or credit reporting.

(3) Participation in 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.

(4) Assignment of a customer contract to another CRES provider.

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- (D) The CRES provider must obtain the customer's signature on the consent form prior to releasing the customer's account number or social security number, except as set forth in paragraphs (B) or (C) of this rule. The consent form shall be on a separate ~~piece of paper~~ form 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 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 CRES provider) to release the information set forth above. By my signature, I freely give (name of the CRES provider) permission to release the information designated above." The information that the CRES provider 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.

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4901:1-21-11 **Contract administration.**

- (A) Competitive retail electric service (CRES) providers, except automatic governmental aggregation pursuant to division (A) of section 4928.20 of the Revised Code, and percentage of income payment plan customers for whom the Ohio department of development procures electric services pursuant to section 4928.54 of the Revised Code, shall arrange for the provision of competitive retail electric service by contracting with their customers. In their administration of such contracts, CRES providers are prohibited from engaging in unfair, deceptive, misleading, and unconscionable acts and practices.
- (B) CRES providers shall arrange for the provision of ~~competitive retail electric service~~ CRES to residential and small commercial customers in compliance with rule 4901:1-21-06 of the Administrative Code.
- ~~(C) During the market development period or until December 31, 2005, whichever comes last, a CRES provider shall establish residential contract terms of not more than twenty four consecutive months and small commercial contracts of not more than thirty six consecutive months. Any CRES provider that offers small commercial contracts of more than twenty four consecutive months shall include as an addendum to the report filed pursuant to rule 4901:1-25-02 of the Administrative Code, the following information:~~
- ~~(1) For the first quarterly report filed which includes any small commercial contract with a term of more than twenty four consecutive months, the number of small commercial customers the CRES provider has enrolled in each EDU service territory prior to November 1, 2001;~~
 - ~~(2) The number of small commercial customers signed to contracts for a term of more than twenty four consecutive months and the number assigned to contracts for a term of twenty four consecutive months or less during the quarter in each EDU service territory; and~~
 - ~~(3) For each customer reported in response to paragraph (C)(2) of this rule, the estimated kWh load.~~
- ~~(D)~~(C) CRES providers shall maintain copies of individual customer contracts for no less than two years after each such contract terminates.
- ~~(E)~~(D) In its administration of residential and small commercial contracts, a CRES provider shall also comply with the following requirements:
- ~~(1) Not~~A CRES provider shall not assign a customer contract contract(s) to another CRES provider without:

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- (a) Providing a minimum of fourteen calendar days written notice to the director of the ~~consumer services~~ service monitoring and enforcement department or the director's designee and ~~the any affected EDU(s)~~ electric utility before the contract assignment. Such notice shall include:
- (i) The name of the CRES provider to whom the contracts will be assigned;
 - (ii) The type of contracts to be assigned (i.e., residential, small commercial);
 - (iii) The number of contracts to be assigned;
 - (iv) The ~~EDU~~ electric utility service territories involved;
 - (v) The date of the proposed assignment; ~~and,~~
 - (vi) A copy of the customer notification; ~~and,~~
- (b) Providing written notice to the customer prior to the customer's next bill that includes a statement that following the assignment the customer's service will continue under the same rates, terms, and conditions established under the original contract and ~~provide~~ includes the new CRES provider's name, - ~~local/toll-free telephone number,~~ and address;
- (2) When assigned a contract previously administered by another CRES provider, the CRES provider to whom the contract is assigned shall——— comply with all terms and conditions in effect for the contract before the assignment occurred;
- (3) ~~Comply~~ A CRES provider shall comply in a timely manner with all valid notices from customers to cancel or terminate the contract as provided for by the contract and by these rules; ~~and,~~
- (4) ~~Assign~~ A CRES provider shall assign a number to each version of its standard contract form (including changes in contract price), retain such forms for no less than two years, and provide copies to ~~commission~~ staff within ~~three~~ five calendar days of request.
- ~~(F)~~ (E) Residential and small commercial customers shall have the right to rescind their contracts, within seven calendar days following the postmark date on the ~~EDU's~~ electric utility's confirmation notice:
- (1) By calling the ~~EDU~~ electric utility at the designated local or toll-free ~~or local~~ telephone number;
 - (2) By written notice to the ~~EDU~~ electric utility, which is effective as of the date of the postmark.

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(G)(F) Contract renewals

~~The provisions of this paragraph apply to contracts which contain automatic renewal clauses except those which renew on a month-to-month basis.~~

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

~~(1)~~(2) For contracts that contain an early termination or cancellation option with no fee for early termination or cancellation, the CRES provider shall, in a separate notice, notify customers of such expiration at least forty-five calendar days, but not more than ninety calendar days, in advance of the contract expiration date. Such notice shall accurately describe or highlight any changes, and state that the customer contract will renew at the specified rate unless the customer affirmatively cancels the contract. Such notices must clearly and accurately describe the manner in which the customer may cancel the contract and the time during which the customer must act to cancel the contract.

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

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

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

~~(2)~~(3) For contract renewals that contain an early termination or cancellation option with a fee of twenty-five dollars or less for early termination or cancellation, the CRES provider shall provide the customer with two separate notices that accurately describe or highlight any changes, and state that the customer contract will renew at the specified rate unless the customer affirmatively cancels the contract. Such notices must clearly and accurately describe in understandable language the manner in which the customer may cancel the contract and the time during which the customer must act to cancel the contract. The first notice shall be in writing in accordance with the requirements of this rule and shall be provided at least forty-five calendar days, but no more than ninety calendar days in advance of the contract expiration date. The second notice ~~must be sent to the customer at least fifteen days subsequent to the first notice and may be in writing, in accordance with the requirements of this rule, or by telephone, by a notice on the customer's monthly bill, or by electronic mail.~~ The notices shall be provided at least forty-five days, but not more than ninety days in advance of the contract expiration date, and comply with paragraphs (G)(1)(a) to (G)(1)(e) of this rule in accordance with paragraphs (F)(2)(a) to

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(F)(2)(c) of this rule, by telephone, by a notice on the customer's monthly bill, or by electronic mail. The second notice shall be provided at least thirty-five calendar days in advance of the contract expiration and must contain the rate at which the customer contract will renew, or in the case of a variable rate, the applicable formula.

- (a) In the event that the CRES provider provides the second notice by telephone, the CRES provider or opt-in governmental aggregator must confirm that the customer of record is on the line, clearly explain both the new contract price and the manner in which the customer may cancel the contract, record the entire conversation, and retain such recording in a manner consistent with rule 4901:1-21-06 of the Administrative Code.
- (b) In the event that the CRES provider provides the second notice on the customer's monthly bill, such notice must be in a different color, highlighted, or otherwise differentiated from the remainder of the bill.
- (c) In the event that the CRES provider provides the second notice by electronic mail, the notice must:
 - (i) State "Important notice regarding your electric service contract" in the subject area of the message.
 - (ii) Be from an electronic mail address that is readily identifiable as the CRES provider.
 - (iii) Include a receipt returned to the sender which confirms that the addressee has opened the document.
- (d) This paragraph shall not apply to contract renewals which renew on a month-to-month basis.
- ~~(3)~~(4) For contract renewals that contain an early termination or cancellation option with a fee greater than twenty-five dollars for early termination or cancellation or which contain no option for early termination or cancellation, the CRES provider shall notify the customer of any changes, describe or highlight each change, and also obtain the customer's affirmative consent to such changes pursuant to any of the enrollment procedures established in rule 4901:1-21-06 of the Administrative Code. In addition, the CRES provider shall notify the customer that no response will result in the customer automatically reverting to the EDU-electric utility unless the customer chooses another CRES provider. The notice shall be provided at least forty-five calendar days, but not more than ninety calendar days in advance of the contract expiration date, and comply with paragraphs ~~(G)(1)(a) to (G)(1)(e)~~(F)(2)(a) to (F)(2)(c) of this rule. This paragraph shall not apply to contract renewals which renew on a month-to-month basis.

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

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

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

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4901:1-21-12 **Contract disclosure.**

(A) All competitive retail electric service (CRES) provider customer contracts shall include, but not be limited to, the following information:

- (1) A notification that the ~~EDU~~electric utility may charge switching fees to the customer;.
- (2) A notification that the customer has the right to request from the CRES provider, twice within a twelve month period, up to twenty-four months of the customer's payment history without charge.

(B) All CRES provider contracts with residential and small commercial customers shall include, but not be limited to, the following information (to be stated in clear and understandable language):

- (1) The CRES provider's name, mailing address, internet address (if applicable), and a toll-free telephone number (with hours of operation and time-zone reference) for customer contacts;.
- (2) The services to be provided by the CRES provider and those to be provided by the ~~EDU~~electric utility, including which entity will bill for those services;.
- (3) The number of days a customer has to cancel such contract without penalty and the methods for customers to make such cancellation by contacting the ~~EDU~~electric utility (orally, electronically, and in writing);.
- (4) The respective policies, procedures, and any penalties for contract termination by the CRES provider and by the customer after the cancellation period;.
- (5) A notification that the CRES provider may terminate the contract on at least fourteen calendar days written notice should the customer fail to pay the bill or fail to meet any agreed-upon payment arrangements;.
- (6) The customer's right to terminate the contract without penalty ~~if in one of the following circumstances:~~
 - (a) ~~The~~If the customer moves outside the CRES provider's service area or into an area where the CRES provider charges a different price; ~~or~~;
 - (b) ~~The~~If the contract allows the CRES provider to terminate the contract for any reason, ~~excluding other than the customer's failure to pay, then the customer shall be afforded a reciprocal right to terminate the contract; or the occurrence of a force majeure event, including but not limited to, a change in any governing law or regulation that physically prevents or legally~~

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prohibits the CRES provider from performing under the terms of the contract.

- (7) An itemized list and explanation of all prices and fees associated with the service such that:
- (a) For fixed-rate offers, such information shall, at minimum, include:– the cost per kWh kilowatt hour for generation service; the amount of any other recurring or nonrecurring CRES provider charges; and a statement that the customer will incur additional service and delivery charges from the ~~EDU;~~ electric utility.
 - (b) For variable-rate offers, such information shall, at minimum, include: a clear and understandable explanation of the factors that will cause the price to vary, including any related indices, and how often the price can change; for discounted rates, an explanation of the discount and the basis on which any discount is calculated; the amount of any other recurring or nonrecurring CRES provider charges; and a statement that the customer will incur additional service and delivery charges from the ~~EDU;~~ electric utility.
- (8) The terms and conditions of service, including any restrictions, limitations, contingencies, or conditions precedent associated with the service or product offered;
- (9) Procedures for handling complaints and disputes, including the following statement:
- "If your complaint is not resolved after you have called your electric supplier and/or 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.
- (10) "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."
- (11) Billing intervals and any late payment fees;
- (12) Contract duration, including the estimated starting and expiration dates and a commitment that service shall begin with the next available meter reading after processing of the request by the ~~EDU~~ electric utility and the CRES provider;
- (13) If the contract contains an automatic renewal provision and the terms of such provision do not require the customer's affirmative consent, a conspicuous, highlighted statement indicating that the CRES provider can renew this contract

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without the customer's affirmative consent even when there is a change in the rate or other terms and conditions;

- (14) Any credit, deposit, and collection procedures, including terms and conditions associated with the return of any deposit at the time of contract termination;
- (15) For generation service contracts, an incorporation by reference of information (accompanying the contract) regarding the approximate generation resource mix and environmental characteristics of the power supplies;
- (16) Who will bill for the CRES provider's service(s);
- (17) A notification that the CRES provider is prohibited from disclosing a customer's social security number and/or account number(s) without the customer's - ~~affirmative written consent~~ except for the CRES provider's own collections and credit reporting, participation in programs funded by the universal service fund, pursuant to section 4928.54 of the Revised Code, or assigning a customer contract to another CRES provider;
- (18) A statement informing customers that if they switch back to (name of ~~EDU~~ electric utility) they may or may not be served under the same rates, terms, and conditions that apply to other customers served by the ~~EDU~~; and electric utility.
- (19) A statement indicating to the customer whether the CRES provider offers budget billing for the generation portion of the bill.
- (20) A statement informing customers that the failure to pay electric utility charges may result in the customer being disconnected in accordance with the electric utility tariff.

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4901:1-21-13 ~~Net metering~~Net metering contracts.

(A) ~~Consistent with the requirements of rules 4901:1-21-11 and 4901:1-21-12 of the Administrative Code, CRES providers that supply~~ An electric services company providing retail electric generation service shall develop ~~may offer net metering to its customers by developing a standard contract for net metering that is consistent with the requirements of rules 4901:1-21-11 and 4901:1-21-12 of the Administrative Code. Such contract shall be made available upon request on a first come, first served basis, to qualifying customer generators whenever the total rated generating capacity used by customer generators is less than one per cent of the CRES provider's aggregate customer peak demand in the state.~~

(1) A qualifying customer generator is one whose generating facilities are:

- (a) Fueled by solar, wind, biomass, landfill gas, or hydropower, or use a microturbine or a fuel cell.
- (b) Located on a customer generator's premises.
- (c) Operated in parallel with the ~~EDU's~~ electric utility's transmission and distribution facilities.
- (d) Intended primarily to offset part or all of the customer generator's requirements for electricity.

(2) ~~Notwithstanding paragraph (A)(1) of this rule, a hospital, as defined in section 3701.01 of the Revised Code, may become a qualifying customer generator by meeting the requirements of paragraphs (A)(1)(b) and (A)(1)(c) of this rule.~~

~~(2)(3)~~ Net metering ~~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 one per cent limit as of the date the customer generator signs a CRES provider's net metering contract. Conversely, such capacity shall no longer count toward the one per cent limit upon cancellation of a net metering contract.~~

~~(B) The rate structure of a CRES provider's net metering contracts, including retail rate components and any monthly charges, shall be identical to such aspects of the contracts for noncustomer generators.~~

~~(C) No contracts for net metering shall require customer generators to:~~

~~(1) 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-~~

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~~09 of the Administrative Code, and the "2002 National Electrical Code," the "Institute of Electrical and Electronics Engineers," and "Underwriters Laboratories," as effective in accordance with rule 4901:1-22-03 of the Administrative Code~~

~~(2) Perform or pay for additional tests beyond those required by paragraph (C)(1) of this rule.~~

~~(3) Purchase additional liability insurance beyond that required by paragraph (C)(1) of this rule.~~

~~(D)(B)~~ 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. ~~Only if its~~ If 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 such a meter that is capable of measuring electricity flow in two directions.

~~(E) The measurement of net electricity supplied or generated shall be calculated in the following manner:~~

~~(1) The net electricity produced or consumed during the billing period shall be measured in accordance with normal metering practices.~~

~~(2) If the CRES provider 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 CRES provider supplied, as measured in accordance with normal metering practices.~~

~~(3) If the customer generator feeds more electricity back to the system than the CRES provider 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.~~

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4901:1-21-14 **Customer billing and payments.**

- (A) This rule applies to competitive retail electric service (CRES) bills that do not include any ~~EDU~~electric utility charges. Requirements for consolidated billing appear in rule 4901:1-21-18 of the Administrative Code.
- (B) A CRES provider may bill customers directly for competitive retail electric services or arrange for the ~~EDU~~electric utility to bill customers for such services according to a tariff approved by the commission.
- (C) Residential and small commercial customer bills issued by or for CRES providers shall be accurate and understandable, be rendered at monthly intervals consistent with those of the customer's ~~EDU~~electric utility, and contain sufficient information for customers to compute and compare the total cost of competitive retail electric service(s). Such bills shall also include:
- (1) The customer's name, billing address, service address, ~~the customer's EDU~~electric utility account number, and, if applicable, the CRES account number;
 - (2) The dates of service covered by the bill, an itemization of each type of competitive service covered by the bill, any related billing components, the charge for each type of service, and any other information the customer would need to recalculate the bill for accuracy;
 - (3) The applicable billing determinants, including beginning meter reading(s), ending meter reading(s), demand meter reading(s), multiplier(s), consumption(s), and demands;
 - (4) For customer generators with net-metering contracts, a statement of the net-metered generation;
 - (5) The unit price per ~~kWh~~kilowatt hour charged for competitive service, as calculated by dividing the current-period competitive service charges by the current-period consumption;
 - (6) An identification of the provider of each service appearing on the bill;
 - (7) A notice in ~~bold face~~boldface type containing clear explanation for any change of providers, rates, terms, or conditions of service ~~(such~~. Such notice shall appear on the first two consecutive bills following the occurrence of any such changes, excluding the first billing after the starting date of competitive retail electric service);
 - (8) The amount billed for the current period, any unpaid amounts due from previous periods, any payments or credits applied to the customer's account during the

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current period, any late payment charges or gross and net charges, if applicable, any nonrecurring charges, and the total amount due and payable;

- (9) The due date for payment to keep the account current. Such due date shall be no less than:

(a) Fourteen calendar days after the postmark date on the bill for residential customers; ~~and~~.

(b) Twenty-one calendar days after the postmark date on the bill for nonresidential customers.

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

- (11) Options and instructions on how customers may make their payments;

- (12) For each provider whose charges appear on the bill, a listing of the provider's toll-free telephone number and address for customer billing questions or complaints;

- (13) The following notice:

"If your complaint is not resolved after you have called (name of CRES provider), ~~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."

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

- (15) ~~Identification~~ An identification of estimated bills or bills not based upon actual end-of-period meter readings for the period; ~~and~~.

- (16) An explanation of any codes and abbreviations used.

- (D) If applicable, each CRES provider shall, upon request, provide customers with the name and street address/location of the nearest payment center and/or authorized payment agent.

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- (E) If applicable, when a customer pays the bill at a payment center or to an authorized payment agent, such payment shall be credited to the customer's account as of the day it is received by such payment center or agent.
- (F) Each CRES provider shall establish policies and procedures for handling billing disputes and requests for payment arrangements.
- (G) Each CRES provider shall credit any customer partial payments in the following order:
 - (1) Billed and past due CRES provider charges;
 - (2) Billed and due current CRES provider 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 CRES provider wishing to issue billing statements online shall comply with the following guidelines:
 - (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 (C) of this rule;
 - (4) The CRES provider 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 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

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

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4901:1-21-15

Noncompliance with rules or orders.

- (A) Any competitive retail electric service (CRES) provider that fails to comply with Chapter 4928. of the Revised Code, any rule in this chapter, or any commission order adopted thereunder may, after opportunity for hearing, be subject to any and all of the following available under the law, including but not limited to:
- (1) Forfeiture to the state of not more than ~~one-ten~~ thousand dollars for each such failure. Each day's continuance of the violation is a separate offense_;
 - (2) Suspension, rescission, conditional rescission, or revocation of the CRES provider's certificate or denial of a request for renewal of a certificate_;
 - (3) Rescission of a customer contract_;
 - (4) Restitution or damages to the customer/consumer.
- (B) Enforcement of any rule in this chapter or any commission order adopted thereunder will be conducted in accordance with Chapter 4901:1-23 of the Administrative Code.

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4901:1-21-16 Formation and operation of an opt-out governmental aggregation.

- (A) Prior to applying for certification from the commission, a governmental aggregator seeking to form an opt-out aggregation shall complete all of the requirements specified in divisions (A) to (C) of section 4928.20 of the Revised Code, including adopting an ordinance or resolution authorizing an opt-out aggregation, conducting a general or special election in accordance with division (B) of section 4928.20 of the Revised Code for authorization from electors to form the aggregation, and approving a plan for operation and governance of the aggregation as specified by division (C) of section 4928.20 of the Revised Code.
- (B) The operation and governance plan adopted shall detail the services to be provided under the aggregation and specify all customer rights and obligations under the aggregation. The plan shall be sufficiently detailed to allow customers to readily understand the services that the governmental aggregator is to provide and to compare those services to similar services provided by competitive suppliers. The governmental aggregator shall write the plan in clear and plain language so that ~~residential consumers~~ customers can easily understand it. The plan shall, at a minimum, contain all of the following:
- (1) A detailed description of services that the governmental aggregator is to provide under the aggregation, noting whether the service is to be provided directly by the governmental aggregator or by a party contracted by the governmental aggregator.
 - (2) A description of the processes that the governmental aggregator will use to determine the rates that will be charged, including the applicable surcharge that may be charged to customers pursuant to division (I) of section 4928.20 of the Revised Code.
 - (3) A description of the process that the governmental aggregator will use to notify customers if the governmental aggregator chooses to implement division (J) of section 4928.20 of the Revised Code, including a description of the potential impact on the customers in the aggregation program.
 - ~~(3)~~(4) A detailed description of the governmental aggregator's plan for providing the required opt-out disclosure notices to customers. The plan shall describe the steps that the governmental aggregator will take to ensure that all eligible customers residing within the governmental aggregator's boundaries are notified. The plan shall also identify the time frames associated with the opt-out disclosure notice.
 - ~~(4)~~(5) A detailed description of the process for developing the pool of customer accounts that will be included in the aggregation, including the steps that the

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governmental aggregator will take to identify and exclude from the pool customers who have opted out of the aggregation and customers that are otherwise ineligible.

- ~~(5)~~(6) A detailed description of the governmental aggregator's opt-out process and opt-out methodologies. The process shall include provisions for customers to opt out, including returning a postcard or similar notice to the governmental aggregator. The process may include, in addition, other opt-out methods, such as telephonic or internet notice, provided that these alternative methods provide allow for verification of a customer's election to opt out of the aggregation.
- ~~(6)~~(7) A detailed description of the customer classes that the governmental aggregator intends to include in its aggregation pool.
- ~~(7)~~(8) The governmental aggregator's plan for billing customers, including an identification of billing intervals and the identity of the entity that will transmit the bill to the customer.
- ~~(8)~~(9) A listing of any credit or deposit procedures and policies that the governmental aggregator will employ in the event the customer fails to pay its bill(s).
- ~~(9)~~(10) A detailed description of the governmental aggregator's customer service procedures and dispute resolution processes, including notice of the customer's right to contact the commission and the commission's toll-free telephone number and TTY numbers. These procedures and processes shall comply with the requirements specified in rule 4901:1-21-08 of the Administrative Code.
- ~~(10)~~(11) A detailed description of the policies associated with a customer moving into the aggregation or within the aggregation where the ~~EDU~~ electric utility considers the customer that is moving to be a new customer. If the policies provide that these customers will be automatically included in the aggregation, the governmental aggregator shall provide the customer an opportunity to opt out of the aggregation in accordance with the procedures set forth in rule 4901:1-21-17 of the Administrative Code.
- ~~(11)~~(12) A detailed description of the policies associated with a customer moving within the aggregation where the customer is not assigned a new account number by the ~~EDU~~ electric utility. A customer in these circumstances shall maintain the rate that the customer was charged at its previous location or, if the rate at the new location is higher than at the customer's previous location, the customer shall have the opportunity to opt out of the aggregation without penalty, pursuant to the procedures set forth in rule 4901:1-21-17 of the Administrative Code.

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- ~~(12)~~(13) A description of the governmental aggregator's policies regarding the ability of a customer who has previously opted out of the aggregation to join the aggregation, including identification of any associated conditions.
- (C) A governmental aggregator shall keep its operation and governance plan available for public inspection and shall, upon request, provide a copy of the plan to any existing or potential customer of the aggregation.
- (D) A governmental aggregator shall not alter its operation and governance plan in any way that materially affects the customers of the aggregation without first providing notice to all affected customers and providing these customers the opportunity to opt out of the aggregation according to the procedures established for the initial opt-out disclosure notice set forth in rule 4901:1-21-17 of the Administrative Code. The notice shall set forth the changes to the plan, inform the customer of its right to opt out of the aggregation without penalty, and identify the method and time frame for the customer to opt out.
- (E) Notwithstanding paragraph (D) of this rule, if a governmental aggregator elects not to receive standby service from the electric utility under an approved electric security plan during the term of the governmental aggregation program pursuant to division (J) of section 4928.20 of the Revised Code, the governmental aggregation shall not alter its governmental aggregation program in a manner that would require conducting an additional opt-out for the duration of its governmental aggregation program.
- ~~(E)~~(F) No governmental aggregator shall send an opt-out disclosure notice to potential customers of an aggregation prior to the governmental aggregator being certified by the commission as a CRES-competitive retail electric service provider.

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

(A) Prior to including a customer's electric account or accounts in an aggregation, a governmental aggregator shall provide each customer written notice that the customer's account(s) will be automatically included in the aggregation unless the customer affirmatively opts out of the aggregation. The notice, written in plain language, shall, at a minimum, include:

- (1) A summary of the actions that the governmental entity took to authorize the aggregation.
- (2) A description of the services that the governmental aggregator will provide under the aggregation.
- (3) Disclosure of the price that the governmental aggregator will charge customers for electric generation service. If the price is a fixed rate, the governmental aggregator shall express the price in cents per kilowatt hour. If the governmental aggregator offers a variable rate, the governmental aggregator shall provide an understandable description of the factors that will cause the price to vary (including any associated indices) and disclose how frequently the rate will change. If the governmental aggregator charges different rates to different rate classes within the aggregation, the governmental aggregator shall disclose the applicable rate(s) to customers within each rate class.
- (4) An itemized list and explanation of all fees and charges that are not incorporated into the rates charged for electricity generation that the governmental aggregator will charge to the customer for participating in the aggregation, including any applicable switching fees or early termination penalties and any surcharges, or portions thereof, that may be assessed pursuant to division (I) of section 4928.20 of the Revised Code. ~~These switching fees and/or~~ The early termination penalties shall not apply to a customer that moves out of the governmental aggregator's territory.
- (5) Disclosure of the dates covered by the governmental aggregation program, including an estimated service commencement date, and notice that the customer may opt out of the aggregation at least every ~~two~~ three years without penalty.
- (6) A statement informing customers that choose to opt out of the governmental aggregation program prior to the commencement of the governmental aggregation program that they will be served by the standard service offer established pursuant to section 4928.14 of the Revised Code or until the customer chooses an alternative supplier of electric service.

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- ~~(6)~~(7) A statement informing customers that, if they switch back to (name of ~~EDU~~ electric utility), they may not be served under the same rates, terms, and conditions that apply to other customers served by the ~~EDU~~electric utility.
- ~~(8)~~ If the governmental aggregator elects not to receive standby service from the electric utility under an approved electric security plan during the term of the governmental aggregation program pursuant to division (J) of section 4928.20 of the Revised Code, a statement informing customers that any customer returning to the electric utility after the commencement of the governmental aggregation program will pay the market price of power incurred by the electric utility to serve that consumer plus the amount attributable to the electric utility's compliance with the alternative energy resource provisions of section 4928.64 of the Revised Code, unless such customer becomes ineligible pursuant to paragraphs (E)(1)(a) or (E)(1)(g) of this rule, or any customer who moves within the aggregation boundaries where the electric utility considers the customer that is moving to be a new customer.
- ~~(7)~~(9) Disclosure of any credit and/or deposit policies and requirements.
- ~~(8)~~(10) Disclosure of any limitations or conditions on customer acceptance into the aggregation.
- ~~(9)~~(11) A description of the process and associated time period for customers to opt out of the aggregation. The process shall include provisions for customers to return a postcard or similar notice to the governmental aggregator or its agent. The process may include, in addition, other opt-out methods, such as telephonic or internet notice, provided that these alternative methods ~~provide~~ allow for verification of a customer's election to opt out of the aggregation. The time period for a customer to choose to opt out of the aggregation shall extend at least twenty-one days from the date of the postmark on the written notice. If a customer's return postcard or notice is postmarked before the opt-out deadline has elapsed, the customer shall be deemed to have opted out of the aggregation.
- ~~(10)~~(12) A local or toll free telephone number, with the available calling hours, that customers may call with questions regarding the formation or operation of the aggregation.
- (B) At least every ~~two~~-three years from the establishment of its ~~initial governmental aggregation-pool program~~, a governmental aggregator shall provide notice to all customers served by the governmental aggregation of their right to opt out of the aggregation and take service pursuant to the electric utility's standard service offer - without penalty. This notice shall follow the procedures established for the initial opt-out notice set forth in this rule and shall prominently disclose to customers all changes to the terms and conditions associated with the aggregation. The governmental aggregator shall not send an opt-out notice to the same customer

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account during the period covered by the aggregation where such customer account has previously opted out.

- (C) No governmental aggregator or ~~CRES provider~~ electric services company serving a governmental aggregation may impose any terms, conditions, fees, or charges on any customer served by a governmental aggregation unless the particular term, condition, fee, or charge was clearly disclosed to customers at the time the customer chose not to opt out of the aggregation.

(D) List of eligible governmental aggregation customers.

~~(D)(1)~~ To assist in the preparation and dissemination of required opt-out notices, a governmental aggregator that is certified by the commission shall request that an EDU electric utility ~~provide it with an updated list of names, addresses, account numbers, rate codes, percentage of income payment plan codes, load data, and other related customer information. The governmental aggregator shall use the list of eligible aggregation customers to distribute its opt-out notices within thirty days of the date the list is generated by the EDU. Such list shall include an identification of customers who are currently in contract with a CRES provider or in a special contract with the EDU. The governmental aggregator shall not, without the customer's expressed written consent, disclose or use for any purpose, other than formation and operation of its aggregation, a customer's account number or social security number or any information regarding customers who opted off of an EDU's pre-enrollment list. Before a governmental aggregator releases any customer account number, service delivery identification number, or social security number or any information related to a customer who has opted off of an EDU's pre-enrollment list, the governmental aggregator shall obtain the signature of the customer on a release. The release shall be on a separate piece of paper. The release shall be clearly identified on its face as a release of personal information and all text appearing on the release shall be in at least sixteen point type. The following statement shall appear prominently on the release, 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 aggregator) to release the information set forth above. By my signature, I freely give (name of aggregator) permission to release the information designated above." The information that the governmental aggregator 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. for all customers residing within the governmental aggregator's boundaries, including those customers who have opted off the pre-enrollment list, the following information:~~

- (a) An updated list of names, addresses, account numbers, rate codes, percentage of income payment plan codes, load data, and other related customer

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information, consistent with the information that is provided to other CRES providers.

(b) An identification of customers who are currently in contract with an electric services company or in a special arrangement with the electric utility.

(c) On a best efforts basis, an identification of mercantile customers.

(2) The governmental aggregator shall use the list of eligible aggregation customers to distribute its opt-out notices within thirty calendar days of the date the list is received from the electric utility.

(3) The governmental aggregator shall remove from its list of eligible aggregation customers the accounts of customers who appear on the commission's "do not aggregate" list sixty calendar days prior to the distribution of its opt-out notice.

(4) The governmental aggregator shall not, without the customer's consent or an appropriate order, disclose or use for any purpose, other than formation and operation of its aggregation, a customer's account number, social security number, or any information regarding customers who opted off of an electric utility's pre-enrollment list. Before a governmental aggregator releases any customer account number, service delivery identification number, or any information related to a customer who has opted off of an electric utility's pre-enrollment list for any purpose other than those specified in this rule, unless the release is pursuant to a court or commission order, the governmental aggregator shall obtain the customer's written consent or electronic authorization. Before a governmental aggregator releases a customer's social security number for any purpose other than those specified in this rule, unless the release is pursuant to a court order, the governmental aggregator shall obtain the signature of the customer on a written release. The release shall be on a separate form. The release shall be clearly identified on its face as a release of personal information and all text appearing on the release shall be in at least sixteen-point type. The following statement shall appear prominently on the release, 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 aggregator) to release the information set forth above. By my signature, I freely give (name of aggregator) permission to release the information designated above." The information that the governmental aggregator 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

(E) Notice of governmental aggregation and opt-out notice.

(1) Each governmental aggregator shall ensure that only eligible customer accounts within the governmental aggregator's governmental boundaries, customers who

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~~are not in contract with a CRES provider or in a special contract with the EDU and the accounts of customers who have not opted out of the aggregation—~~
customers are included in its aggregation. For purposes of this rule, the following customers are not eligible and shall not be included in an aggregation:

- (a) A customer that is not located within the governmental aggregator's boundaries.
 - (b) A customer who appears on the commission's "do not aggregate" list.
 - (c) A customer that has opted out of the aggregation.
 - (d) A customer in contract with a certified electric services company other than the current supplier of the governmental aggregation.
 - (e) A customer that has a special arrangement with the electric utility.
 - (f) A mercantile customer that has not provided affirmative consent to join the aggregation.
 - (g) A customer who enrolls in the percentage of income payment plan pursuant to section 4928.54 of the Revised Code.
- ~~(2) The governmental aggregator must include a bold and highlighted statement on its opt-out notice: "WARNING: If you are already in contract with a competitive retail electric service provider you may incur a contract termination fee or other charges if you fail to opt out of the aggregation."~~
- ~~(3)~~(2) If accounts of customers who appear on the commission's "do not aggregate" list, accounts from outside the governmental aggregator's governmental boundaries, accounts of customers who have opted out of the aggregation, or—accounts of customers in contract with a CRES provider or in an electric services company, accounts of customers with a special contract with the EDU arrangement under Chapter 4901:1-38 of the Administrative Code, or accounts of mercantile customers who did not opt into the governmental aggregation are switched to the governmental aggregation, the governmental aggregator shall promptly inform the customer and take all necessary actions to have the customer switched back to the customer's former service provider. The governmental aggregator shall reimburse the customer for any switching fees that the customer paid as a result of the switch. In addition, if the customer's former rate was less than the rate charged by the governmental aggregator, then the governmental aggregator shall reimburse the customer the difference between the customer's former rate and the governmental aggregator's rate multiplied by the customer's usage during the time that the customer was served by the governmental aggregator.

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- (3) If a customer is enrolled in a governmental aggregation program at the time the customer first appears on the "do not aggregate" list, the governmental aggregator shall remove the customer from the governmental aggregation program at the next opt-out opportunity that is available to the customer under section 4928.20 of the Revised Code.
- (4) If a mercantile customer was enrolled in an opt-out governmental aggregation program that the mercantile customer subsequently became ineligible for, the governmental aggregator shall remove the mercantile customer from the governmental aggregation program at the next opt-out opportunity that is available to the customer under section 4928.20 of the Revised Code unless that mercantile customer affirmatively consents to remain in the governmental aggregation program.
- (F) The governmental aggregator shall docket with the commission's docketing division the final opt out and any supplemental opt outs no more than thirty days but no less than ten days prior to sending the opt outs to customers. The notice to the commission shall include the beginning and ending dates of the twenty-one day opt-out period and the identification of the selected CRES ~~supplier~~provider.
- (G) Upon its election for its customers to not receive standby service from the electric utility pursuant to the electric utility's approved electric security plan for those customers who return to the electric utility during the governmental aggregation program, a governmental aggregator shall file written notice with the commission and the electric utility. Such notice shall explain the process that the governmental aggregator will use to notify customers, including a description of the potential impact on customers in the aggregation program.

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4901:1-21-18

Consolidated billing requirements.

- (A) This rule applies to a competitive retail electric service (CRES) provider that issues customers a consolidated electric bill that includes both ~~EDU-electric utility~~ and CRES provider charges for electric services. Nothing in this rule affects the obligations of the ~~EDU-electric utility~~ to provide disconnection notices.
- (B) A supplier agreement between an ~~EDU-electric utility~~ and a CRES provider must provide that if the CRES provider collects customer payments on behalf of the ~~EDU-electric utility~~, the customer's liability to the ~~EDU-electric utility~~ ceases to the extent of the payment made and applicable to the customer's ~~EDU-account~~.
- (C) Consolidated bills shall be accurate, rendered at ~~regular-monthly~~ intervals, and shall contain clear and understandable form and language. All consolidated customer bills issued by or on behalf of an ~~EDU-electric utility~~ and a CRES provider must include at least the following information:
- (1) The customer's name, billing address, and service address;
 - (2) The ~~EDU's-electric utility's~~ twenty-four hour, local/~~toll-free~~ or toll-free number for reporting service emergencies;
 - (3) The dates of the service period covered by the bill;
 - (4) Current electric charges, separated from gas charges, if these charges appear on the same bill, but only to the extent that the biller provides both electric and gas services;
 - (5) Applicable billing determinants: beginning meter read, ending meter read, demand meter read, multipliers, consumption, and demand;
 - (6) Identification of estimated bills;
 - (7) Any nonrecurring charge(s);
 - (8) Net-metered usage for customer generators, if applicable;
 - (9) Each charge for nontariffed and/or nonregulated service or product, if applicable, and the name and toll-free/~~local~~ number of each provider of such service(s);
 - (10) Amount due for previous billing period;
 - (11) Total payments, late payment charges or gross/net charges, and total credits applied during the billing period;

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- (12) Total consolidated amount due and payable, or, if applicable, the total consolidated budget bill amount;
 - (13) Due date for payment to keep the account current;
 - (14) Name and address of company to whom payments should be made;
 - (15) The following notice:

"If your complaint is not resolved after you have called your electric supplier and/or 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."
 - (16) An explanation of codes and abbreviations used;
 - (17) 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 (kWh), shopping incentive or shopping credit, late payment charge, and transition charge;
 - (18) The price-to-compare for residential bills and a notice that such customers can obtain a written explanation of the price-to-compare from their EDUelectric utility.
- (D) In addition to the information required pursuant to paragraph (C) of this rule, each consolidated bill issued must include, in that portion of the bill which details the charges from the EDUelectric utility, at least the following information:
- (1) ~~EDU~~Electric utility account number;
 - (2) ~~List applicable~~ Applicable rate schedule;
 - (3) ~~Numerically state~~ A numerical statement of the customer's historical consumption for each of the preceding twelve months, and both the total and average consumption for such twelve-month period;
 - (4) Specific tariffed charges to the extent applicable: customer charge, delivery charge, transition charge, shopping incentive or shopping credit, and other conceptually similar tariffed charges;

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- (5) If the customer is on a budget plan with the ~~EDU~~electric utility only, the monthly budget amount and current balance of ~~EDU~~electric utility account;
 - (6) Current charges;~~and~~;
 - (7) The ~~EDU's toll-free/local number~~electric utility's local or toll-free number and address for questions and complaints.
- (E) In addition to the information required pursuant to paragraph (C) of this rule, each consolidated bill issued must include, in that portion of the bill which details the charges from the CRES provider, at least the following information:
- (1) Customer's CRES account number, if different from the ~~EDU~~electric utility - account number;
 - (2) To the extent applicable, itemization for each charge including: for fixed-price offers, the unit price per kWh for competitive service; for all other offers for electric generation service, an explanation of how the rate is derived; and any other information the customer would need to recalculate the bill for accuracy;
 - (3) If the customer is on a budget plan with the CRES provider only, the monthly budget amount and the current balance of the CRES account;
 - (4) Current charges;~~and~~;
 - (5) A highlighted notice of any change in rates, terms, or conditions appearing on the first two consecutive bills following the occurrence of any such changes and a clear explanation of each change.
- (F) Consolidated bill format. Any new consolidated bill format proposed by ~~an EDU or a~~ CRES provider shall be filed with the commission for approval. If an application for a consolidated bill format is not acted upon by the commission within forty-five days after it is filed, the consolidated bill format shall be deemed approved on the forty-sixth day after filing.
- (G) Transfer of customer billing information.
- (1) The non-billing ~~EDU or CRES provider~~electric utility shall furnish the applicable required bill content information to the billing party in a timely manner and in a mutually agreed upon electronic format for inclusion in the consolidated customer bill.
 - (2) The billing ~~EDU or CRES provider~~ shall include in the consolidated bill all required bill content information furnished by the nonbilling ~~EDU or CRES provider~~electric utility.

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- (3) An entity ordered by the commission to provide any bill content, message, insert, or notice remains responsible to provide such information to its customers, although the information may be provided through the consolidated bill.

(H) Partial payment priority.

- (1) A customer's partial payment shall be credited in the following order:

- ~~(a) Billed and past due EDU distribution, standard offer generation, and transmission charges, or if applicable, EDU payment arrangement or past due EDU budget billing;~~
- ~~(b)(a) Billed and past due CRES provider charges, or, if applicable, CRES provider payment arrangement or past due CRES provider budget billing;~~
- (b) Billed and past due electric utility distribution, standard offer generation, and transmission charges or, if applicable, electric utility payment arrangement or past due electric utility budget billing.
- (c) Billed and due current electric utility distribution and transmission charges or current electric utility budget billing.
- ~~(e)(d) Billed and due current CRES provider charges or current CRES provider budget billing;~~
- ~~(d) Billed and due current EDU distribution and transmission charges or current EDU budget billing; and~~
- (e) Other past due and current nonregulated charges, excluding CRES charges.

- (2) Exceptions to the partial payment priority.

- (a) 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.
- (b) If a customer pays an agreed-upon EDU electric utility and/or CRES budget payment amount, then that payment shall be considered payment in full for the current bill.

- (I) Upon the customer's switch from a CRES provider, the billing party shall identify for the customer and state on the bill as of what date the billing party will no longer remit payments to the previous CRES provider and any outstanding balance due to the previous CRES provider.

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(J) Any CRES provider wishing to issue consolidated billing statements online shall comply with the following guidelines:

- (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 paragraphs (C), (D), and (E) of this rule;
- (4) The CRES provider 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 business office and shall be posted to the account in accordance with paragraph (E) of rule- 4901:1-21-14 of the Administrative Code. The time needed to post the payment shall be clearly stated; and,
- (7) If a customer chooses to use online billing, the customer shall not be restricted to making payments online in the future. All payment methods shall continue to be available to the customer.

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4901:1-22-01 **Definitions.**

As used ~~within~~ in this chapter:

- (A) "Applicant" means the person requesting interconnection service and may be any of the following:
- ~~(1) The owner or operator of a small electric generation facility as defined by division (A)(28) of section 4928.01 of the Revised Code.~~
 - ~~(2)(1)~~ (1) A customer generator as defined by division ~~(A)(30)~~ (A)(29) of section 4928.01 of the Revised Code.
 - ~~(3)(2)~~ (2) A self-generator as defined by division ~~(A)(33)~~ (A)(32) of section 4928.01 of the Revised Code.
 - ~~(4)(3)~~ (3) The owner or operator of distributed generation as defined in paragraph (H) of this rule.
- (B) "Application" means a request to an electric distribution utility (EDU) using the format set forth on the web site of the public utilities commission of Ohio for interconnection of distributed generation to the electric distribution system owned by the EDU.
- (C) "Area network" means a type of electric distribution system served by multiple transformers interconnected in an electrical network circuit, which is generally used in large metropolitan areas that are densely populated, in order to provide highly reliable service. Area network has the same meaning as the term "distribution secondary grid network" found in institute of electrical and electronics engineers (IEEE) standard 1547 sub clause 4.1.4.
- (D) "Backup electricity supply" means replacement electric power supplied to an applicant by the EDU at a tariff rate or alternatively, as a market-based option or by a competitive retail electric service provider of the applicant's choice at a rate to be determined between the provider and the applicant.
- (E) "Commission" means the public utilities commission of Ohio.
- (F) "Competitive retail electric service" means a component of retail electric service that is competitive as provided under division (B) of section 4928.01 of the Revised Code.
- (G) "Cost recovery" means collection, upon approval by the commission pursuant to its authority under section 4909.15 of the Revised Code, of such documented EDU interconnection costs that are incurred at reasonable levels for prudent purposes and

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that are over and above the review processing fees set forth in rules 4901:1-22-06 to 4901:1-22-08 of the Administrative Code.

- (H) "Distributed generation" is a general term for all or part of a system of a distributed electrical generator or a static inverter either by itself or in the aggregate of twenty megawatts or less in size together with all protective, safety, and associated equipment installed at a point of common coupling on the EDU's distribution system in close proximity to the customer load.
- (I) "Electric distribution utility" (EDU) means an investor-owned electric utility that owns and operates a distribution wires system and supplies at least retail electric distribution service.
- (J) "Equipment package" means distributed generation facility assembled to include not only a generator or electric source but related peripheral devices that facilitate operation of the distributed generation.
- (K) "Expedited procedure" means a review process for certified distributed generation that passes a certain prespecified review procedure, has a capacity rating of two megawatts or less, and does not qualify for simplified procedures.
- (L) "Interconnection" means the physical connection of the applicant's facilities to the EDU's system for the purpose of electrical power transfers.
- (M) "Interconnection point" means the point at which the applicant's distributed generation facility physically connects to the EDU's system.
- (N) "Interconnection service" means the services provided by an EDU or transmission provider for the applicant's distributed generation facility.
- (O) "Minor modification" to an interconnection application means a change in the technical characteristics that improves the reliability, safety and compatibility of the interconnection with the electric distribution system while not materially increasing the size or cost of the intended distributed generation facility installation.
- (P) "Parallel operation with the EDU's system" means all electrical connections between the applicant's distributed generation facility and the EDU's system that are capable of operating in conjunction with each other.
- (Q) "Point of common coupling" means the point which the distributed generation facility is connected to the EDU's system.
- (R) "Reliability" means the degree of performance of the elements of the electric system that results in electricity being delivered to and from an applicant in the amount desired while avoiding adverse effects on the adequacy and security of the electric supply, defined respectively as:

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- (1) The ability of the electric system to supply the aggregate electrical demand and energy requirements at all times, taking into account scheduled and unscheduled outages of system elements.
- (2) The ability of the electric system to withstand sudden disturbances such as electric short circuits or unanticipated loss of system elements.
- (S) "Retail electric service provider" means any entity in this state that provides retail electric service as defined by division (A)(27) of section 4928.01 of the Revised Code.
- (T) "Sale for resale" means a sale of energy to an energy supplier, electric utility or a public authority for resale purposes.
- (U) "Scoping meeting" means a meeting between representatives of the applicant and the EDU conducted for but not limited to the following purposes:
 - (1) To discuss alternative interconnection options.
 - (2) To exchange information including any electric distribution system data and earlier study evaluations that would be expected to impact such interconnection options.
 - (3) To analyze such information.
 - (4) To determine the potential points of common coupling.
- (V) "Simplified procedures" means a review process for interconnection of distributed generation fifty kilowatts or less in size on a radial or spot network system under certain conditions.
- (W) "Standard procedure" means a review process for interconnection of any generating facility(s) that has a power rating of twenty megawatts or less, not qualifying for either simplified or expedited interconnection review processes.
- ~~(X) "Small electric generation facility" means an electric generation plant and associated facilities designed for, or capable of, operation at a capacity of less than two megawatts as defined in division (A)(33) of section 4928.01 of the Revised Code.~~
- ~~(Y)~~(X) "Spot network," as defined by IEEE standard 1547 sub clause 4.1.4, means a type of electric distribution system that uses two or more inter-tied transformers to supply an electrical network circuit and is generally used to supply power to a single customer or a small group of customers.

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4901:1-22-03 **Industry standards.**

The safety and performance standards established by the institute of electrical and electronics engineers, the underwriters laboratory, and the national electric code, as included in this chapter by reference, and as required consistent with division (C)(1) of section 4928.67 of the Revised Code, shall be the versions adopted in final form and effective as of ~~March 31, 2007~~ July 31, 2008.

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4901:1-22-04 **General provisions.**

(A) Prohibitions

- (1) In accordance with the electric distribution utility's (EDU) code of conduct adopted pursuant to section 4928.17 of the Revised Code, an EDU or its affiliates shall not use, without the customer's consent, such knowledge of proposed interconnection service to prepare competing proposals to the interconnection service that offer either discounted rates in return for not providing the interconnection service or competing generation.
- (2) No EDU shall reject, penalize, or discourage the use or development of new technology for interconnection service in accordance with division (A) of section 4928.11 of the Revised Code.

(B) Application processing

- (1) EDUs shall process all applications for interconnection service and parallel operation with the EDU's system in a nondiscriminatory manner and in the order in which they are received.
- (2) Where minor modifications to a pending application are required during the EDU's review of the application, such minor modifications shall not require a new or separate application to be filed by the applicant.
- (3) The EDU shall automatically provide each applicant with a written notice of the EDU's receipt of an application within three business days after the application has been received. The notice of receipt shall include the following:
 - (a) A copy of the applicable review process.
 - (b) A target date for processing the application.
- (4) If the EDU determines that the application is incomplete, the EDU personnel identified as being responsible for reviewing the application must provide the following:
 - (a) A written notice within ten business days after the application has been received indicating that the application is not complete.
 - (b) A checklist or description of the information needed to complete the application.
 - (c) A statement that processing the application cannot begin until the needed information is received.

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- (5) If an EDU determines that it cannot connect the applicant's facility within the time frames stated in this chapter, it will notify the applicant in writing of that fact within ten business days after the application has been received. The notification must include the following:

- (a) The reason or reasons interconnection service could not be performed within the time frames stated in this rule.
- (b) An alternative date for interconnection service.

(C) Compliance with national industry standards

An EDU shall file tariffs for uniform interconnection service with the commission that are consistent with the following:

- (1) The Institute of Electric and Electronics Engineers 1547 standard, effective as set forth in rule 4901:1-22-03 of the Administrative Code.
- (2) Underwriters Laboratory 1741 standard for inverters, converters, and controllers for use in independent power systems, effective as set forth in rule 4901:1-22-03 of the Administrative Code.
- (3) The appropriate criteria and interconnection parameters for the customer's technology, so as not to impose technical and economic barriers to new technology or the development, installation, and interconnection of an applicant's facilities, pursuant to division (A) of section 4928.11 of the Revised Code.

(D) Metering

Any metering installation, testing, or recalibration performed by the EDU at the request of the applicant for installation of the applicant's distributed generation facility shall be provided consistent with the electric service and safety standards pursuant to Chapter 4928. of the Revised Code, and rule 4901:1-10-05 and, as applicable, paragraph (C) of rule 4901:1-10-28 of the Administrative Code. Interconnection requested by the applicant for the purposes of net metering must follow the commission's net metering rules promulgated pursuant to division ~~(A)(32)~~ (A)(31) of section 4928.01 of the Revised Code. Any exception to the net metering rules shall be implemented in accordance with any special metering or communication infrastructure ordered by the commission.

(E) Disposal of excess energy produced by the applicant's distributed generation

- (1) An applicant proposing to install a self-generator as defined in division (A)(33) of section 4928.01 of the Revised Code, ~~or a small generating facility with a~~

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~~capacity of two megawatts or less as defined in division (A)(28) of section 4928.01 of the Revised Code, for the purposes of selling excess electricity to retail electric service providers as a competitive service to the extent not preempted by federal law must first seek certification of managerial, technical and financial capability consistent with section 4928.08 of the Revised Code.~~

- (2) An applicant requesting interconnection for the purpose of selling energy to any party as a sale for resale or as a wholesale transaction may be subject to applicable rules for regional interstate sales at wholesale prices in markets operated by independent transmission system operators or regional transmission operators under the jurisdiction of the federal energy regulatory commission.
- (F) Construction or system upgrades of the EDU's system
- (1) Where construction or system upgrades of the EDU's system are required by the applicant's installation of a distributed generation facility, the EDU shall provide the applicant with an estimate of the timetable and the applicant's cost for the construction or system upgrades, consistent with the provisions of this chapter.
 - (2) If the applicant desires to proceed with the construction or system upgrades, the applicant and EDU shall enter into a contract for the completion of the construction or system upgrades.
 - (3) Interconnection service shall take place no later than two weeks following the completion of such construction or system upgrades.

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4901:1-23-01 **Purpose and scope.**

(A) The rules contained in this chapter prescribe procedures for staff of the public utilities commission-staff of Ohio to administer and enforce the electric reliability, customer service, and safety code set forth in Chapters 4901:1-21 and/or 4901:1-10 of the Administrative Code and commission orders issued thereunder.

(B) This chapter also governs customer service, reliability, and safety proceedings of the public utilities commission of Ohio to:

(1) Investigate and determine an electric utility's or competitive retail electric service provider's compliance with Chapters 4901:1-21 and/or 4901:1-10 of the Administrative Code and commission orders issued thereunder;

(2) Review settlement agreements and approve stipulations by the staff and the electric utility or competitive retail electric service provider;

(3) Issue and enforce compliance orders;

(4) Assess forfeitures; and,

(5) Direct the attorney general to seek enforcement of commission orders, including orders authorizing forfeitures, and appropriate remedies in court to protect the public safety, reliability, and customer service.

(C) As used in this chapter:

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

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

(3) "Electric utility" includes electric distribution utilities, as that term is defined in division (A)(6) of section 4928.01 of the Revised Code, and electric transmission owners.

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

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4901:1-23-02 Staff notice of probable noncompliance, proposed corrective action, and proposed forfeiture.

- (A) After an inspection, investigation, or complaint, a staff notice of probable noncompliance may be issued. The staff notice of probable noncompliance may be issued with a proposed corrective action and/or a proposed forfeiture.
- (B) The staff may issue an amended notice of probable noncompliance, proposed corrective action, or proposed forfeiture at any time prior to the commencement of a compliance proceeding or other commission proceeding brought pursuant to rule 4901:1-23-05 of the Administrative Code, in order to modify or include additional probable noncompliance or violations, facts, proposed forfeitures, and proposed compliance orders. Once the commission initiates a compliance or other proceeding pursuant to rule 4901:1-23-05 of the Administrative Code, this rule does not prevent the staff during the course of such proceeding, from seeking a finding of violations not listed in the staff notice or amended staff notice of probable noncompliance (or rescinding or refraining from seeking a finding of violations) or from seeking a corrective action or proposed forfeiture that varies from previous staff notices issued under this rule, provided that the staff's proposed findings and/or violations relate to the same incident, type of incident, investigation, or audit(s).
- (C) Any staff notice of probable noncompliance, proposed corrective action, proposed forfeiture, or amendments thereto shall be served pursuant to rule 4901:1-23-03 of the Administrative Code.

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4901:1-23-03 **Service of staff notices of probable noncompliance, proposed corrective action, and proposed forfeiture.**

- (A) Staff notices of probable noncompliance, proposed corrective actions, proposed forfeitures, and amendments thereto under rule 4901:1-23-02 of the Administrative Code and investigative reports under rule 4901:1-23-05 of the Administrative Code shall be served on the electric utility or competitive retail electric service (CRES) provider by certified United States mail. Service is effective upon receipt by any employee, agent of, or person designated by the electric utility; or ~~competitive retail electric service~~ CRES provider. Unless otherwise provided in this paragraph, service upon an electric utility or ~~competitive retail electric service~~ CRES provider shall be made at the address designated as the service address in the company's most recent annual financial report, in its certification application, or certification renewal application.
- (B) Each electric utility ~~company or competitive retail electric service~~ CRES provider shall provide the commission with ~~the company's or provider's~~ its current service address. If the service address has changed since the most recent annual report was submitted to the commission, or the service address or business address has not been disclosed to the commission, service shall be made at any business address known to the commission.
- (C) If the service envelope is returned with an endorsement showing failure of delivery, then service may be made by ordinary United States mail and is effective on the date of mailing.

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4901:1-23-04 **Settlement agreements and stipulations.**

- (A) If staff and the electric utility or ~~competitive retail electric service (CRES)~~ provider reach agreement regarding ~~any of the following: The~~ the violation of a rule within this chapter, or Chapter 4901:1-21 or 4901:1-10 of the Administrative Code, the violation of a commission order, a proposed corrective action or remedy, or the amount of a forfeiture or other payment, then the agreement must be reduced to writing in a settlement agreement. Such agreement shall be signed by an officer of the company or its attorney and the assistant attorney general who serves as legal counsel for the ~~commission~~ staff. Except as otherwise provided in paragraph (B) of this rule, the settlement agreement shall not be effective until both of the following have occurred:
- (1) The stipulation is filed with the commission for approval pursuant to a compliance or other proceeding; ~~and,~~
 - (2) The stipulation is approved by and made the order of the commission.
- (B) If the settlement agreement provides for the payment of a forfeiture or other payment by an electric utility or ~~competitive retail electric service (CRES)~~ provider of ~~one ten~~ thousand dollars or less, the agreement shall be deemed accepted by the commission and fully enforceable upon the electric utility or ~~competitive retail electric service (CRES)~~ provider upon its execution.
- (C) Unless contained in or otherwise provided in a stipulation, no statement or conduct during settlement negotiations is admissible in any commission proceeding regarding the noncompliance.
- (D) Where an electric utility or competitive retail electric service provider has demonstrated to the staff's satisfaction, as confirmed in writing from the ~~commission's director of the consumer services commission's service monitoring and enforcement~~ department or the director of the commission's utilities department or his/her designee, that the violation(s) listed in the staff notice (or amended staff notice) of probable noncompliance or investigative report has been corrected and where the company submits full payment of the proposed forfeiture prior to the execution of a written settlement agreement or final commission order, the violation(s) listed in such staff notice of probable noncompliance or investigative report shall only be considered by the commission as part of the company's history of violations in determining the appropriate forfeiture or corrective action for any future violation. If a company pays a proposed forfeiture of more than one thousand dollars without executing a written settlement agreement, the payment shall be fully effective when approved by and made the order of the commission.

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4901:1-23-05 **Commission proceedings.**

- (A) The commission may initiate a compliance or other proceeding upon its own initiative, or after an incident has occurred, after a complaint is filed pursuant to section 4905.26 of the Revised Code, or after a staff notice of probable noncompliance is served.
- (B) The commission shall conduct such compliance or other proceedings in accordance with Chapter 4901-1 of the Administrative Code.
- (C) Unless otherwise ordered by the commission or an attorney examiner assigned to the proceeding, the staff shall file with the commission and serve upon the electric utility or competitive retail electric service (CRES) provider a written report of investigation (investigative report) in each proceeding, within forty-five calendar days after the commission issues an entry initiating a compliance proceeding. The investigative report shall present:
 - (1) The findings on any alleged noncompliance specified in any staff notice or amended staff notice, which may include:
 - (a) Noncompliances not included in any staff notice or amended staff notice, provided that such additional noncompliances relate to the same incident, investigation, or safety audit(s) referenced in the initial or amended staff notice;
 - (b) Staff's findings on the electric utility or ~~competitive retail electric service~~ CRES provider's practices and policies; ~~and~~
 - (2) Staff's recommendations for commission action.
- (D) The commission shall hold an evidentiary hearing on all proceedings initiated under this rule. The hearing may include evidence on the issues of proposed corrective action, compliance orders issued by the commission, forfeitures, enforcement of a commission order, and other remedies.
- (E) If, after a hearing, the commission finds an electric utility or ~~competitive retail electric service~~ CRES provider has violated or is violating Chapter 4928. of the Revised Code, or Chapter 4901:1-21 or 4901:1-10 of the Administrative Code, this chapter, or any order adopted thereunder, the commission, by order:
 - (1) Shall require the electric utility or ~~competitive retail electric service~~ CRES provider to comply with Chapter 4928. of the Revised Code, Chapter 4901:1-21 or 4901:1-10 of the Administrative Code, this chapter, or any commission order thereunder, and to undertake corrective action necessary to protect the public safety, reliability, and customer service. The commission is not restricted in the

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making of the compliance order by the terms of any proposed corrective action and/or forfeiture by ~~the staff~~;

- (2) May assess forfeitures upon an electric utility or ~~competitive retail electric service~~ CRES provider of not more than ~~one~~ ten thousand dollars for each day of each violation;
- (3) May direct the attorney general to seek enforcement of commission orders, including orders authorizing forfeitures, and appropriate remedies in court; ~~and~~;
- (4) May determine other appropriate remedies to protect the public safety, reliability, and customer service.

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4901:1-23-06 **Payment of forfeitures and other payments.**

- (A) All forfeitures and other payments shall be paid by certified check or money order made payable to "Treasurer, State of Ohio," and shall be mailed or delivered to:

"Public ~~utilities~~ Utilities Commission of Ohio

Fiscal Division

180 East Broad Street, ~~tenth floor~~ Thirteenth Floor

Columbus, Ohio 43215-3793"

- (B) All instruments of payment shall contain the identifying number of the violation/staff notice for which payment is tendered.
- (C) No electric utility or competitive retail electric service provider may recover any forfeiture, or other payment in any pending or subsequent proceeding before the commission.

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4901:1-24-01 **Definitions.**

As used in this chapter:

- (A) "Abandonment" means ceasing to provide competitive retail electric service(s) to one or more classes of customers in one or more electric distribution service territories prior to the expiration of customers' contracts.
- (B) "Aggregation" means combining the electric load of multiple retail customers through an agreement with the customers or formation of a governmental aggregation pursuant to section 4928.20 of the Revised Code for the purposes of purchasing retail electric generation service on an aggregated basis.
- (C) "Aggregator" means a person, certified by the commission, who contracts with customers to combine the customers' electric load for the purpose of purchasing retail electric generation service on an aggregated basis. The term, as used in this chapter, does not include a governmental aggregator.
- (D) "Applicant" means a person who files an application for certification or certification renewal under this chapter.
- (E) "Application form" means a form, approved by the commission, that an applicant seeking certification or certification renewal as a competitive retail electric service provider shall file with the commission as set forth in this chapter.
- (F) "Billing and collection agent" ~~has~~shall have the meaning set forth in division (A)(2) of section 4928.01 of the Revised Code.
- (G) "Certified territory" ~~has~~shall have the meaning set forth in division (A)(3) of section 4928.01 of the Revised Code.
- (H) "Competitive retail electric service" (CRES) has the meaning set forth in division (A)(4) of section 4928.01 of the Revised Code, and includes the services provided by retail electric generation providers, power marketers, power brokers, aggregators, and governmental aggregators.
- (I) "Commission" means the public utilities commission of Ohio.
- (J) "CRES provider" means a person or entity, under certification by the commission who supplies or offers to supply a CRES.
- (K) "Electric cooperative" ~~has~~shall have the meaning set forth in division (A)(5) of section 4928.01 of the Revised Code.

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- (L) "Electric distribution utility" (~~EDU~~) ~~has~~ shall have the meaning set forth in division (A)(6) of section 4928.01 of the Revised Code.
- (M) "Electric services company" ~~has~~ shall have the meaning set forth in division (A)(9) of section 4928.01 of the Revised Code.
- (N) "Electric utility" ~~has~~ shall have the meaning set forth in division (A)(11) of section 4928.01 of the Revised Code.
- (O) "Filing under seal" means personally delivering to the commission's docketing division a sealed envelope containing information intended to be kept proprietary and confidential. This action must be accompanied by the filing and docketing of a "motion for protective order," pursuant to rule 4901-1-24 of the Administrative Code.
- (P) "Governmental aggregator" ~~has~~ shall have the meaning set forth in division (A)(13) of section 4928.01 of the Revised Code.
- (Q) "Mercantile ~~commercial~~-customer" ~~has~~ shall have the meaning set forth in division (A)(19) of section 4928.01 of the Revised Code.
- (R) "Person" ~~has~~ shall have the meaning set forth in division (A)(24) of section 4928.01 ~~section 4928.01~~ of the Revised Code.
- (S) "Power broker" means a person, certified by the commission, who provides power brokerage.
- (T) "Power brokerage" means assuming the contractual and legal responsibility for the sale and/or arrangement for the supply of retail electric generation service to a retail customer in this state without taking title to the electric power supplied.
- (U) "Power marketer" means a person, certified by the commission, who provides power marketing services.
- (V) "Power marketing" means assuming the contractual and legal responsibility for the sale and provision of retail electric generation service to a retail customer in this state and having title to electric power provided at some point during the transaction.
- (W) "Retail electric generation provider" means a person, certified by the commission, who provides retail electric generation service in this state.
- (X) "Retail electric generation service" means the provision of electric power to a retail customer in this state through facilities provided by an electric distribution utility and/or a transmission entity in this state. The term encompasses the services performed by retail electric generation providers, power marketers, and power

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brokers, but does not encompass the service provided by an ~~EDU~~ electric utility pursuant to section 4928.14 or division (D) of section 4928.35 of the Revised Code.

(Y) "Service agreement" means the initial agreement and any amendments or supplements thereto entered into by the applicant and any provider of a service necessary to transport, schedule, and deliver CRES to the retail customer (~~E.G., e.g.,~~ transmission service, ancillary services, scheduling coordination, and distribution service).

(Z) "Small commercial customer" means a commercial customer that is not a mercantile ~~commercial~~ customer.

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

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4901:1-24-02 **Purpose and scope.**

Under the rules in this chapter:

- (A) Any electric utility, electric services company, electric cooperative, or governmental aggregator which intends to offer or provide a ~~CRES-competitive retail electric service (CRES)~~ to consumers in this state shall obtain a certificate to operate from the commission prior to commencing operations.
- (B) An electric cooperative or governmental aggregator that is a municipal electric utility which provides a customer both a CRES and a nonCRES through transmission or distribution facilities it ~~seley~~-solely or jointly owns or operates is not required to obtain a certificate.
- (C) Nothing contained in this chapter shall in any way preclude the commission from altering, amending, or waiving, in whole or in part, any of these rules.
- (D) These rules do not apply to a billing and collection agent if it is a fully independent agent, not affiliated with or otherwise controlled by an electric utility, electric services company, electric cooperative, or governmental aggregator subject to certification under section 4928.08 of the Revised Code, to the extent that the agent is under contract with such utility, company, cooperative, or aggregator solely to provide billing and collection for retail electric service on behalf of the utility, company, cooperative, or aggregator. Nothing in this rule exempts such utility, company, cooperative, or aggregator from liability for the acts of its billing and collection agents.

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4901:1-24-03 **General prohibitions.**

- (A) No person shall offer, contract, or provide a CRES-competitive retail electric service in this state without a valid certificate.
- (B) Nothing in this rule is intended to prohibit a person from conducting market research or advertisements designed solely to ascertain and raise customer awareness and/or improve name recognition.
- ~~(C) A CRES provider shall not contract with a residential customer for the provision of a CRES prior to being certified.~~

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4901:1-24-04

Application process.

- (A) An application for certification shall be made on forms supplied by the commission. The application forms shall provide for sufficient information to enable the commission to assess an applicant's managerial, financial, and technical capability to provide the service it intends to offer and its ability to comply with commission rules or orders adopted pursuant to Chapter 4928. of the Revised Code.
- (B) The applicant shall complete the appropriate application form (e.g., retail electric generation provider, aggregator/~~power~~, power broker, or governmental aggregator) in its entirety and supply all required attachments, affidavits, and evidence of capability specified by the form at the time an application is filed.
- (1) Retail electric generation providers, and power marketers shall file general, technical, managerial, and financial information as set forth in the application. This information includes but is not limited to:
- (a) Ownership and organizational descriptions.
 - (b) Managerial experience and capabilities and prior regulatory or judicial actions.
 - (c) Financial capability as depicted on publicly available information, balance sheets, and credit ratings.
 - (d) Technical ability and experience in scheduling and providing power under contract agreements.
- (2) Aggregators/~~power~~ and power brokers shall file general, managerial, and financial information as set forth in the application. This information includes but is not limited to:
- (a) Ownership and organizational descriptions.
 - (b) Managerial experience in providing aggregation services, financial capability as depicted on publicly available information, and applicable credit ratings.
- (3) Governmental aggregators shall file general information as set forth in the application. This information includes but is not limited to:
- (a) Copies of its operational plans.
 - (b) Descriptions of experience.

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- (C) An applicant for certification or certification renewal shall file a completed and notarized original application signed by a principal officer of the applicant and ten conformed copies, including all supporting attachments and affidavits, with the commission's docketing division.
- (1) The date that the commission's docketing division stamps an application received shall serve as the official filing date with the commission.
 - (2) In accordance with rule 4901:1-24-06 of this chapter, the commission may deny without prejudice any application that is not complete or does not include the attachments, documentation, and affidavits required by the application form.
 - (3) In accordance with this chapter, in instances where information and/or documentation required by these rules is not available at the time of filing an application, an applicant may substitute a notarized affidavit by an officer of the applicant stating that the applicant will file such information and/or documentation with the commission at least ten business days prior to offering or providing ~~CRES~~ any competitive retail electric service to a customer in this state. The affidavit shall be accompanied by an explanation as to why such information is not available for inclusion with the application.

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4901:1-24-06 **Application approval or denial.**

- (A) If the commission does not act upon an application within thirty days of the filing date, the application shall be deemed automatically approved pursuant to section 4928.08 of the Revised Code, on the thirty-first day after the official filing date.
- (1) Upon good cause shown, the commission, or an attorney examiner appointed by the commission, may suspend ~~its consideration of~~ an application.
- (2) If the commission, or an attorney examiner appointed by the commission has acted to suspend an application, the commission will:
- (a) Notify the applicant of the reasons for such suspension and may direct the applicant to furnish any additional information as the commission deems necessary to evaluate the application;
- (b) Act to approve or deny the application within ninety calendar days from the date that the application was suspended; ~~and~~
- (c) At its discretion, set the matter for hearing.
- (B) In evaluating an application, the commission will consider the information contained in the applicant's application, supporting attachments and evidence, and recommendations of its staff.
- (C) The commission will act to approve an application if it finds that both of the following are true:
- (1) The applicant is managerially, financially, and technically fit and capable of performing the service it intends to provide; ~~and~~
- (2) The applicant is managerially, financially, and technically fit and capable ~~to~~ comply of complying with all applicable commission rules and orders adopted pursuant to Chapter 4928. of the Revised Code.
- (D) When the commission approves an application, it will notify the applicant that its application has been approved and will issue the applicant a numbered certificate that specifies the service(s) for which the applicant is certified to provide and the dates for which the certificate is valid.
- (E) Unless otherwise specified by the commission, a CRES competitive retail electric service provider's initial or renewal certificate is valid for a period of two years, beginning and ending on the dates specified on the certificate.

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- (F) If the commission acts to deny, in whole or in part, an application, it will notify the applicant that its application, or parts of its application, has been denied, including the reason(s) for such denial.

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4901:1-24-07 **Regulatory assessments.**

- (A) In accordance with sections 4905.10, 4911.18, and division (F) of section 4928.06 of the Revised Code, each ~~CRES~~ competitive retail electric service (CRES) provider is subject to an annual assessment based upon its intrastate gross receipts or gross earnings (collectively "gross revenue") associated with the provision of each CRES for which it is certified to provide.
- (B) Each CRES provider that provides retail electric generation service shall, in the manner and on the date specified by the commission or its staff, file an annual report of the gross revenue derived from its intrastate sales of kilowatt-hours of electricity. For the purpose of the report, sales of kilowatt-hours of electricity are deemed to occur at the meter of a retail customer.
- (C) Each CRES provider that provides a CRES(s) in addition to, or other than, retail electric generation service shall, in the manner and on the date specified by the commission or its staff, file an annual report of the intrastate gross revenue derived from its provision of such service(s). For the purpose of the report, sales of kilowatt-hours of electricity are deemed to occur at the meter of a retail customer.
- (D) Each CRES provider shall maintain detailed records to support the information provided pursuant to paragraphs (B) and (C) of this rule. Such records and information are subject to audit by the commission.
- (E) In instances where a CRES provider underreports its gross revenue, the commission may, in computing an assessment made pursuant to paragraph (A) of this rule, include any gross revenues that were underreported in a prior year. The commission shall also, in addition to any other penalty under the Revised Code, assess the provider interest on the amount underreported at the rate stated in section 1343.01 of the Revised Code.
- (F) A governmental aggregator may authorize its electric services company, or a designated agent, to file, on its behalf, any report required by this rule.

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4901:1-24-08

Default of retail electric generation providers.

- (A) Pursuant to a tariff filed with the commission in accordance with rule 4901:1-10-29 of the Administrative Code, an EDU-electric utility may require a retail electric generation service provider to issue and maintain a financial instrument with the - EDU-electric utility to protect the EDU-electric utility in the event that the retail electric generation service provider fails, in whole or in part, to deliver contracted retail generation service to a customer for which the EDU-electric utility supplied to the customer in its capacity as default supplier.
- (B) An EDU-electric utility may require a retail electric generation service provider to furnish financial and other information contained in its tariff to determine the type and/or amount of the financial instrument required for compliance with paragraph (A) of this rule.
- (C) If a retail electric generation service provider fails to maintain sufficient financial security to protect an EDU-electric utility from default by the retail electric generation service provider, the EDU-electric utility may apply for relief at the commission. In accordance with rule 4901:1-24-12 of the Administrative Code, the commission, upon its own motion or upon complaint, may suspend, rescind, or conditionally rescind a retail electric generation service provider's certificate for failure to maintain sufficient financial security at any EDU-electric utility as required by this rule.

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4901:1-24-09

Certification renewal.

- (A) No less than thirty and no more than ~~one hundred twenty-sixty~~ calendar days prior to the expiration date indicated on the ~~CRES-competitive retail electric service~~ - provider's certificate, the provider shall file an application with the commission for certification renewal on forms supplied by the commission. If the provider files such renewal application less than thirty calendar days prior to the expiration date indicated on the certificate, the provider shall file a motion to extend the expiration date on its current certificate for an additional thirty calendar days. Such motion shall be deemed automatically approved, unless otherwise ruled upon by the commission or an attorney examiner within three business days of the filing of the motion.
- (B) The applicant shall, as instructed by the renewal form, update- the information supplied with an applicant's initial certification application.
- (C) The commission will act to approve, deny, or suspend an application for certification renewal pursuant to the same processes and timelines delineated in rule 4901:1-24-06 of the Administrative Code, except that, without limitation, the commission may also consider an applicant's complaint history and operational performance in this state.

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4901:1-24-10 **Material changes to business operations.**

(A) Competitive retail electric service (CRES) providers shall inform the commission of any material change to the information supplied in a certification or certification renewal application within thirty calendar days of such material change.

(1) A CRES provider shall file such notice under the docket number assigned to the CRES provider's initial certification or certification renewal application.

(2) After notice and an opportunity for a hearing, the commission may suspend, rescind, or conditionally rescind a CRES provider's certificate if it determines that the material change will adversely affect the CRES provider's fitness or ability to provide the services it is certified to provide.

(B) Material changes to the information contained in or supplied with a certification or certification renewal application include, but are not limited to, the following:

(1) Any significant change in ownership (being an ownership interest of five per cent or more) of the applicant or CRES provider .

(2) An affiliation or change in affiliation with an ~~EDU~~electric utility in this state.

(3) Retirement or other long-term changes to the operational status of generation resources relied upon by the provider to provide retail electric generation service.

(4) Revocation, restriction, or termination of any interconnection or service agreement with a transmission entity or ~~EDU~~electric utility relied upon by a CRES provider to provide retail electric generation service.

(5) The applicant or CRES provider's bond rating falls below "BBB-" as reported by Standard & Poors", ~~Duff & Phelps~~, or ~~Fitch IBCA~~ or below "Baa3" as reported by ~~"Moody's investors service"~~Investors Service.

(6) The applicant or CRES provider has or intends to file for reorganization, protection from creditors, or any other form of bankruptcy with any court.

(7) Any judgment, finding, or ruling by a court or regulatory agency that could affect a CRES ~~providers~~provider's fitness or ability to provide service in this state.

(8) Any change in the contact person, business address, or telephone/fax number for ~~commission~~staff use in investigating complaints.

(9) Any change in the contact person, business address, or telephone/fax number for ~~commission~~staff use in investigating regulatory or emergency matters.

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- (10) Any change in the business address, or toll-free telephone/fax number for customer service and complaints.

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4901:1-24-11 **Transfer or abandonment of a certificate.**

- (A) A competitive retail electric service (CRES) provider shall not transfer its certificate to any person without prior commission approval.
- (1) A CRES provider may apply for commission approval to transfer its certificate by filing a certificate transfer application.
 - (2) A transfer application shall be automatically approved on the thirty-first day after filing, unless the commission acts to suspend or reject the application.
- (B) A CRES provider shall not abandon the service(s) it provides under a certificate without filing an abandonment application and without commission approval. The CRES provider shall fulfill the terms of all existing contracts with customers or assign such contracts to another CRES provider prior to abandoning service.:
- (1) Abandonment applications shall be filed at least ninety calendar days prior to the effective date ~~that on which~~ the CRES provider will cease providing service. The application shall include copies of any notices provided pursuant to paragraphs (B)(2), (B)(3), and (B)(4) of this rule.;
 - (2) At least ninety calendar days prior to abandoning service, a CRES provider shall provide written notice to each ~~EDU~~-electric utility in whose certified territory the CRES provider operates of its intent to cease providing service.
 - (3) At least ninety calendar days prior to abandoning service, a CRES provider shall provide written notice to its customers of its intent to abandon service. Such notice shall provide instructions to the customers on how they may obtain replacement service(s) and identify the commission's toll-free and TTY-~~TDD~~ telephone numbers.
 - (4) The CRES provider shall also provide notice of its abandonment on each billing statement rendered to customers beginning at least ninety calendar days prior to the effective date of the abandonment and continuing to provide such notice on all subsequent billing statements until the service is abandoned.
 - (5) If the commission does not act upon the application within ninety calendar days of the filing date, the application shall be deemed automatically approved on the ninety-first day after the official filing date.

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4901:1-24-12

Certification suspension, rescission, or conditional rescission.

- (A) After notice and the opportunity for a hearing, the commission may, upon its own motion or upon complaint, suspend, rescind, or conditionally rescind a competitive retail electric service (CRES) provider's certificate, in whole or in part, for good cause shown.
- (B) If the commission suspends a CRES provider's certificate, the commission will notify the CRES provider of the reasons and effective dates for such suspension and specify the actions, including associated time frames, that the CRES provider must take in order to have the suspension lifted.
- (C) If the commission suspends a CRES provider's certificate, the CRES provider shall continue to provide all services it is obligated to provide under contract to its existing customers but it shall not advertise, offer, or contract to provide any new CRES to existing customers nor advertise, offer, or contract to provide any CRES to potential customers during the suspension, unless the commission orders otherwise.
- (D) If the commission conditionally rescinds a CRES provider's certificate, it will delineate the specific conditions that the CRES provider must meet and establish a date by which the conditions must be met in order for the CRES provider to avoid permanent rescission of its certificate. If, in the commission's sole discretion, the CRES provider does not meet the condition(s) set forth by the commission on or before the specified date, the provider's certificate will be rescinded. The CRES provider shall continue to provide all services it is obligated to provide under contract to its existing customers, but it shall not advertise, offer, or contract to provide any new CRES to existing customers nor advertise, offer, or contract to provide any CRES to potential customers during the pendency of the conditional rescission.
- (E) If the commission rescinds a CRES provider's certificate, it will notify the CRES provider of the reasons for and effective date of such rescission.
- (F) Upon the effective date specified by the commission, a CRES provider whose certificate has been rescinded shall cease providing all CRES for which it is no longer certified to provide.
- (G) Prior to the effective date of the certificate rescission, a CRES provider that provides retail electric generation service to customers shall cooperate fully with each EDU-electric utility in whose certified territory it provides such service to ensure that its customers will be served by another CRES provider or by the EDU-electric utility on and after the effective date of the certificate rescission.
- (H) Prior to the effective date of the certificate rescission, a CRES provider whose certificate has been rescinded shall provide a written notice to each of its customers

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that indicates that the CRES provider's certificate has been rescinded and specifies the date(s) it will cease to provide service. Such notice shall also inform customers that, if they do not choose an alternative provider, they will be served by their ~~EDU~~electric utility and shall provide instructions on how they can obtain service from an alternative CRES provider.

(I) Reasons that the commission may suspend, rescind, or conditionally rescind a CRES provider's certificate include, but are not limited to:

- (1) A CRES provider's failure to timely pay any assessment made pursuant to sections 4905.10, 4911.18, or division (F) of section 4928.06 of the Revised Code.
- (2) A CRES provider's failure to timely file an annual report of its intrastate gross receipts and sales of kilowatt-hours of electricity pursuant to sections 4905.10, 4911.18, or division (F) of section 4928.06 of the Revised Code as directed by commission rule or order.
- (3) A finding by the commission that a CRES provider has materially underreported its intrastate gross receipts and/or sales of kilowatt-hours on reports required by rule 4901:1-24-07 of this chapter.
- (4) A finding by the commission that any information reported to the commission subsequent to granting a certificate adversely affects a CRES provider's fitness or capability to provide any service covered by its certificate.
- (5) A finding by the commission that a CRES provider deliberately omitted information or knowingly provided false information on a certification or certification renewal application, including supporting attachments.
- (6) A finding by the commission that a CRES provider has provided a CRES to a customer without being certified by the commission to provide such service.
- (7) A finding by the commission that a CRES provider has violated any applicable commission rule or order adopted pursuant to Chapter 4928. of the Revised Code.
- (8) A finding by the commission that a CRES provider has failed to consent to the jurisdiction of the courts of this state or has failed to designate an agent to accept service of process pursuant to section 4928.09 of the Revised Code.
- (9) A finding by the commission that a CRES provider has engaged in an anticompetitive act.
- (10) A finding that a CRES provider has failed to maintain appropriate default security or has otherwise failed in a material way to adhere to requirements

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contained in an ~~EDU'S~~electric utility's tariff governing supplier requirements approved by the commission.

- (11) A finding by the commission that a CRES provider has failed to comply with state laws or rules designed to protect consumers in this state.

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

In addition to penalties specified in rule 4901:1-24-12 of the Administrative Code, any person subject to certification under section 4928.08 of the Revised Code that fails to comply with any rule in this chapter or with sections 4928.01 to 4928.10 of the Revised Code or any commission order ~~adopted~~ issued thereunder may be subject to, ~~after notice and the opportunity for a hearing,~~ any and all of remedies available under the law, including but not limited to the following:

- (A) Forfeiture to the state of not more than ~~one~~ ten thousand dollars for each failure. Each day's continuance of the violation is a separate offense;
- (B) Rescission of a customer contract; ~~and,~~
- (C) Restitution or damages to the customer/consumer.

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4901:1-25-01 Definitions.

As used in this chapter:

- (A) "Affiliate" ~~has~~shall have the meaning set forth in rule 4901:1-20-16 of the Administrative Code.
- (B) "Aggregation service" means the act of combining the electric load of multiple customers for the purposes of supplying or arranging for the supply of competitive retail electric generation service to those customers.
- (C) "Aggregator" means a person who provides aggregation service.
- (D) "Certified competitive electric cooperative" means a not-for-profit electric light company that both is or has been financed in whole or in part under the "Rural Electrification Act of 1936," 49 Stat. 1363, 7 U.S.C. 901, and owns or operates facilities in this state to generate, transmit, or distribute electricity, or a not-for-profit successor of such company, which has been certified by the commission to be a competitive retail electric service provider in accordance with the provisions of section 4928.08 of the Revised Code.
- (E) "Commercial customer" means a nonresidential, nonindustrial customer.
- (F) "Commission" means the public utilities commission of Ohio (~~PUCO~~).
- (G) "Competitive retail electric service" (CRES) ~~has~~shall have the meaning set forth in division (A)(4) of section 4928.01 of the Revised Code.
- (H) "Customer" for the purpose of this chapter ~~has~~shall have the same meaning as it has in the distribution tariff of the electric ~~distribution~~-utility serving the customer.
- (I) "Electric distribution utility" (~~EDU~~) ~~has~~shall have the meaning set forth in division (A)(6) of section 4928.01 of the Revised Code.
- (J) "Electric utility" ~~has~~shall have the meaning set forth in division (A)(11) of section 4928.01 of the Revised Code.
- (K) "Electric services company" ~~has~~shall have the meaning set forth in division (A)(9) of section 4928.01 of the Revised Code.
- (L) "Governmental aggregator" ~~has~~shall have the meaning set forth in division (A)(13) of section 4928.01 of the Revised Code. In accordance with division (F) of section 4928.20 of the Revised Code, a governmental aggregator is not a public utility engaging in the wholesale purchase and resale of electricity, and provision of the aggregation service is not a wholesale utility transaction.

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- (M) "Independent power producer" means, ~~for the purposes of this chapter,~~ an owner of generation who sells at least a portion of the electric energy from that generation at retail.
- (N) "Industrial customers" means establishments categorized under standard industrial classification-~~(SIC)~~ codes 01 through 39, or the associated 1997 North American Industry Classification System-~~(NAICS)~~ codes 11, 21, 23, 31, 32, and 33.
- (O) "Interconnection service customer" shall have the same meaning as it has in paragraph (M) of rule 4901:1-22-02 of the Administrative Code.
- ~~(P)~~(P) "Ohio certificate number" means the authorized identification number of an approved certification to provide a ~~competitive retail electric service~~ CRES as granted to the provider by ~~this the~~ the commission in accordance with the provisions of section 4928.08 of the Revised Code.
- ~~(P)~~(Q) "Power marketer" means a person, certified by the commission, who provides power marketing services.
- ~~(Q)~~(R) "Power marketing" means assuming the contractual and legal responsibility for the sale and provision of competitive retail electric generation service to a retail customer in this state and having title to electric power at some point during the transaction.
- ~~(R)~~(S) "Reporting entity" means, ~~for the purposes of this chapter,~~ the electric ~~distribution~~ utility or the certified competitive retail electric service provider filing market monitoring information on a regularly scheduled basis as required by the commission.
- ~~(S)~~(T) "Residential customers" means customers who consume electricity at private residences, whether owned or rented, including single family homes, multifamily housing units that are individually metered, and mobile homes only for personal use. Institutional housing, such as school dormitories, hospitals, and military barracks are included in the commercial sector.
- ~~(T)~~(U) "Special contract customer" means a customer taking bundled service under a contract approved by the commission ~~pursuant to section 4905.31 of the Revised Code prior to January 1, 2001.~~
- ~~(U)~~(V) "Street lighting and other customer" means a customer purchasing electric generation service for purposes of street and highway lighting.
- ~~(V)~~(W) "Standard offer" ~~during an electric utility's market development period,~~ means a standard service offer filed with the commission by an ~~EDU~~ electric utility under section 4909.18 of the Revised Code, of all ~~competitive retail electric services~~ CRES

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necessary to maintain essential electric service to consumers, including a ~~firm~~-supply of electric generation service priced in accordance with the schedule containing the electric utility's unbundled generation service component.

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4901:1-25-02 **Market monitoring - reporting requirements.**

(A) Pursuant to sections 4905.04, 4905.05, and 4905.06 of the Revised Code, each electric distribution utility and pursuant to division (F) of section 4928.06 of the Revised Code, each electric utility, electric services company, electric cooperative, and governmental aggregator subject to certification under section 4928.08 of the Revised Code shall submit market monitoring data to the commission or its staff, on forms to be issued by the commission, as follows:

(1) Each electric distribution utility, electric utility, competitive retail electric service provider (electric services company, marketer, broker, nongovernmental aggregator, and independent power producer), certified competitive electric cooperative and certified governmental aggregator shall file a quarterly report which contains information that includes, but is not limited to, the following:

(a) Entity name.

(b) Business address.

(c) Name and title of the person responsible for submitting the market monitoring data required by this rule.

(d) Authorized signature.

(e) The address, telephone number, fax number, and e-mail address of the person responsible for customer enrollment.

(f) Those reporting entities that file quarterly transaction reports with the federal energy regulatory commission (FERC), should submit a copy of its current FERC quarterly transaction report to this the commission in the same form that it filed the report with the FERC.

(g) Appended to a reporting entity's first quarterly report for each calendar year, a copy of, or an internet link to, the reporting entity's most recent securities and exchange commission form 10-K or the 10-K of the controlling owner of the reporting entity.

~~The information contained in the report filed with the commission pursuant to paragraph (A)(1) of this rule is public information.~~

(2) Each electric distribution utility shall file on a quarterly basis monthly data related to ~~nonecompetitive~~ electric generation services. The information contained in this report shall include, but not be limited to, the following:

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- (a) For those customers for whom the entity provides generation service: The number of customers, the amount of sales in MWHmegawatt hours, and the amount of billed revenues. The reporting entity shall report this data by rate schedule and by class (residential, commercial, industrial, or street lighting/other) and by subclass, if applicable separately for standard offer customers and for special contract customers.
- (b) Monthly system peak data identifying the number of MWmegawatts, the peak day of the month, the peak day of the week, and the peak hour of the month.
- (c) Information about generation resources connected to its distribution system ("distributed generation"). This information shall be reported quarterly, as an attachment to the electric utility's market monitoring report. The report shall include the data as of the end of the quarter covered by the report. The report shall include the following information:
 - (i) A list of generating units.
 - (ii) A statement of whether each generating unit is owned by an end use customer, by the electric utility, by an affiliate of the electric utility, or by a nonaffiliated entity that is not an end use customer.
 - (iii) A statement of whether or not the generator is dispatched by the control area operator or by the owner.
 - (iv) The nameplate capacity of the generator, in megawatts or kilowatts.
 - (v) The fuel type used by each generating unit.
 - (vi) The type of generating unit (e.g., fuel cell, turbine, diesel, photovoltaic, etc.).
- (d) Notice to staff of any and all completed applications by entities seeking to become interconnection service customers, where such applications have not yet resulted in interconnection (that is, applications that are under consideration). The required notice shall be in the form of a narrative report attached to the quarterly market monitoring report that is required by rule 4901:1-25-02 of the Administrative Code. The narrative report shall include the following information:
 - (i) Name and contact information of the electric utility employee who is directly responsible for processing the application and/or interacting with the applicant.

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(ii) Description of each interconnection request in terms of the amount and type of generation for which interconnection is being sought, and the location of the proposed interconnection.

(iii) Identification of any and all conditions being imposed upon the applicant by the electric utility for approval of each request, and the electric utility's assessment of options that may be available for meeting such conditions.

(iv) Description of the status of each application in terms of process steps that have been completed, process steps that remain to be completed, and any progress or lack thereof in addressing issues.

The status of each completed application shall be updated in subsequent quarterly narrative reports by describing any modifications to the application, any meetings that may have occurred, and any correspondence or communications that have occurred between the electric utility and the applicant.

The electric utility shall provide a copy of the section of the quarterly report that describes the status of a completed application to the entity applying to become an interconnection service customer.

~~The information contained in the report filed with the commission pursuant to paragraph (A)(2) of this rule is public information.~~

(3) Each certified competitive retail electric service provider, a certified competitive electric cooperative, and certified governmental aggregator shall submit to - ~~commission~~ staff on a quarterly basis monthly data related to competitive electric generation services. The reporting entity shall submit this information separately for each electric distribution utility's service territory in which it does business. The information contained in this report shall include, but not be limited to, the following:

(a) Identity of the reporting entity. If the reporting entity is a CRES provider or is reporting on behalf of a CRES provider, the reporting entity should include the CRES certificate number.

(b) For those customers for whom the entity provides generation service: The number of customers, the amount of sales in MWH megawatt hours. The reporting entity shall report this data by rate schedule class (residential, commercial, industrial, or street lighting/other) and by subclass, if applicable.

(c) For those customers for whom the entity provides generation service, total billed revenues. The reporting entity shall report this data by rate schedule

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class (residential, commercial, industrial, or street lighting/other) and by subclass, if applicable.

~~The information contained in the report submitted to commission staff pursuant to paragraph (A)(3) of this rule is confidential information.~~

- (4) Each aggregator and certified governmental aggregator shall submit to - ~~commission staff~~ on a quarterly basis monthly data related to aggregation activity. The reporting entity shall submit this information separately for each electric distribution utility's service territory in which it does business. The information contained in this report shall include, but not be limited to, the following:

- (a) The identity of the aggregator including its CRES certificate number.
- (b) The electric distribution utility's service territory for which the report is being made.
- (c) The name of each aggregated group.
- (d) The number of customers by class in each aggregated group.
- (e) The total number of customers in each aggregated group.
- (f) The total number of all customers by class.
- (g) The total number of customers.

~~The information contained in the report submitted to commission staff pursuant to paragraph (A)(4) of this rule is confidential information.~~

- (5) The information contained in the reports provided to the commission and/or staff pursuant to paragraph (A) of this rule shall be treated in the following manner:

- (a) Any information filed pursuant to paragraph (A)(1) of this rule shall be deemed to be public information.
- (b) Any information filed pursuant to paragraphs (A)(2)(a) to (A)(2)(c) of this rule shall be deemed to be public information.
- (c) Any information filed pursuant to paragraph (A)(2)(d) of this rule shall be deemed to be confidential information, unless and until the applicant may make, or agree to make, such information public.
- (d) Any information submitted pursuant to paragraph (A)(4) of this rule shall be deemed to be confidential information.

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- (B) Pursuant to Chapter 4935. and division (E) of section 4928.02 of the Revised Code, any entity that owns or has an affiliate that owns electric transmission or distribution facilities shall provide or cause to be provided to the commission and to ~~commission~~ staff cost-effective and efficient access to information regarding the operation of the transmission or distribution systems of electric utilities to assist in determining the existence and extent of a transmission constrained area, and to information that may assist the commission or ~~commission~~ staff in determining the impact of transmission constraints on the price of a competitive retail electric service. Each entity that owns or that has an affiliate that owns electric transmission or distribution facilities shall provide or cause to be provided to the commission and ~~commission~~ staff a report of any denials of service for either transmission or distribution service due to constraints in the transmission or distribution system, the amounts of energy curtailed or denied, the duration of these curtailments or denials, and the reasons why the service was denied. These reports shall be provided to the commission and to ~~commission~~ staff with the quarterly report filed pursuant to paragraph (A)(1) of this rule.
- (C) Nothing in this rule shall limit the ability of the commission, or ~~commission~~ staff, to collect additional data from any electric distribution utility or any electric utility, electric services company, electric cooperative, or governmental aggregator subject to certification under section 4928.08 of the Revised Code in carrying out the commission's responsibilities under Chapter 4928. of the Revised Code.