

necessitate corresponding modifications to many of Staff's proposed rules in the above-captioned proceeding.

- (3) Upon consideration of SB 221 and the various comments that were previously received pursuant to the pending five-year rule review, the Staff reconsidered its proposed rules contained in Chapters 4901:1-9, 4901:1-10, 4901:1-21, 4901:1-22, 4901:1-23, 4901:1-24, and 4901:1-25, O.A.C., and recommended revisions to its previously issued proposed rules, as well as additional modifications consistent with SB 221. On July 23, 2008, the Commission issued an entry requesting comments from interested persons to assist in the review of Staff's proposed modifications.
- (4) On November 5, 2008, the Commission issued a finding and order (F&O) adopting modifications to Chapters 4901:1-9, 4901:1-10, 4901:1-21, 4901:1-22, 4901:1-23, 4901:1-24, and 4901:1-25, O.A.C., after consideration of Staff's recommendations, SB 221, and the various comments that were filed by interested parties.
- (5) Section 4903.10, Revised Code, provides that any party who has entered an appearance in a Commission proceeding may apply for rehearing with respect to any matters determined by filing an application within 30 days after the entry of the order upon the journal of the Commission.
- (6) Applications for rehearing of the November 5, 2008, F&O were filed on December 5, 2008, by Northeast Ohio Public Energy Council (NOPEC), Dominion Retail, Inc. (Dominion), Industrial Energy Users-Ohio (IEU), Ohio Home Builders Association, Inc. (OHBA), jointly by Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (FirstEnergy), jointly by Columbus Southern Power Company and Ohio Power Company (AEP), and collectively by the Ohio Consumer and Environmental Advocates (OCEA). These parties raised a number of assignments of error associated with the rules that the Commission adopted on November 5, 2008. By entry dated December 17, 2008, we granted rehearing for further consideration of the matters specified in the applications for rehearing. In this entry, the Commission will address the assignments of error raised, which we believe warrant modification to the rules that we have

adopted or where further clarification or discussion is needed. To the extent an allegation of error is raised that is not directly addressed herein or not incorporated in the rule modifications that we adopt, it has been rejected. Consideration of the applications for rehearing will be addressed under the seven rule chapters set forth below.¹

- (7) Before addressing the applications for rehearing, the Commission wishes to make a correction to the attachment to the F&O that contained the revised rules. The Commission inadvertently included in the attachment Rule 4901:1-05-10, O.A.C. We hereby remove that rule from the attachment of rules to be adopted in this proceeding. In addition, based upon recent modifications to various Chapters of the O.A.C., regarding the waiving of Commission rules, the Commission shall modify the chapters under review in this proceeding to comport with the rule waiver provisions in those chapters. Lastly, we have corrected certain rules in Chapters 4901:1-10 and 4901:1-21, O.A.C., to reflect the citation of Section 4928.52, Revised Code, instead of Section 4928.54, Revised Code.

Chapter 4901:1-9: Electric Utilities

- (8) Rule 09-01 sets forth the definitions for terms used in this chapter, including Rule 09-07 on electric line extensions. OHBA and AEP request that the Commission revise the definition of "Premium service" set forth in Rule 09-01(I). AEP argues that premium service should include the recovery of tree trimming and right-of-way expenses incurred on property other than the customer's property as part of a line extension project. OHBA contends that AEP's suggestion lacks clarity and should not be implemented. The Commission finds that AEP's proposed amendment to the definition of "Premium service" is not warranted. Tree trimming and right-of-way expenses are not types of premium services, but are expenses that may arise during the installation of both standard line extensions and premium services. The definition is not attempting to define costs of premium services, but the projects that constitute premium services. OHBA requests that the Commission modify the definition to remove "underground

¹ Hereafter, the Commission will refer to specific rules by their last four numbers instead of the full code section being discussed in each subsection of the Entry on Rehearing.

construction" as a premium service. It argues that many communities now require that new electric lines be placed underground and that failure to include underground construction within the \$5000 per new build costs paid by the electric utility under Rule 09-07(D) conflicts with, and all but eliminates, the benefits that the Commission attempted to bestow upon customers and homebuilders in prior proceedings. AEP and FirstEnergy argue that underground facilities have been and should remain premium services and that customers or municipalities that request or require underground facilities should not seek to shift the burden of paying for these costs from the cost causer to the entire base of customers. AEP also argues that, under Columbus Southern Power Company's current tariffs, the customer only pays the cost of underground facilities to the extent that such cost exceeds the cost of construction of standard facilities. From the arguments presented, we are not persuaded that a change is warranted in our definition of "Premium Service." We still believe that the installation of underground facilities should be deemed a premium service. We emphasize, however, that a party requesting the premium service is only responsible for the incremental cost of such premium service as set forth in paragraph D of Rule 09-07.

- (9) In its rehearing application, IEU requests that the Commission address in its rules how and when electric utilities may be permitted to impose additional charges for alternative feed service (AFS), sometimes referred to as backup delivery points. IEU argues that the Commission should address whether or not AFS should be included in the definition of "Premium service." AEP argues that the definition of "Premium service" should not include AFS. It contends that all charges for AFS should be included in tariffs as a separate additional monthly charge to the customer because it involves more than just the cost of dedicated local facilities. It may include reservation fees to cover the associated costs with the distribution station and line facilities whose capacity is no longer available for use for other customers. FirstEnergy argues that the definition of "Premium service" includes "any customer request that is in excess of the standard construction and requirements necessary to provide electric service to the customer." FirstEnergy believes that, to the extent an AFS is not necessary to provide electric service to the customer but a customer nevertheless

requests such an alternative feed, the alternative feed constitutes a premium service. From the comments received, we believe that there may be circumstances where installation costs associated with AFS could be considered premium services as part of a line extension, and, therefore, recoverable pursuant to our line extension rules. However, there may be other circumstances where installation and other ongoing costs, such as reservation fees, may be considered in a separate monthly charge. Therefore, the Commission finds that changes to the rule to specifically single out the cost of AFS service is not warranted, and the recovery of such costs should be considered on a company-by-company basis and may also vary on the nature of the project. The Commission wishes to make clear, however, that each electric utility shall ensure that there will be no double recovery of costs to install AFS in the establishment of policies to recover installation costs through line extensions or the establishment of an ongoing AFS tariff charge, if applicable.

- (10) Rule 09-07 sets forth the requirements associated with the construction of electric line extensions. AEP requests modifications to Rule 09-07(C), which provides that binding cost estimates for line extensions be given to customers within 45 days from the request and that the cost estimate be valid for 90 days. AEP argues that the 45-day clock should not start to run until the customer approves the plan and should be reset if the customer makes subsequent changes. Further, AEP asserts that Rule 09-07(C)(3) should be clarified to read as follows:

All firm cost estimates shall be valid for ninety calendar days *and are* subject to *change based upon* obtaining necessary rights of way and to conditions beyond the reasonable control of the electric utility. (change emphasized)

OHBA argues that AEP's suggested changes would unnecessarily complicate the rule. The Commission finds that the language modifications set forth above help clarify the rule and should be adopted. However, with respect to the other modifications requested by AEP, we find that our rule is sufficiently flexible and need not be changed.

- (11) With respect to paragraph (D) of Rule 09-07, AEP requests that the line extension 50-month payment plan option not apply to developers of single and multi-family homes. AEP argues that the developers likely will have transferred ownership of the property long before the 50-month payment option ends. OHBA does not believe that the change is warranted inasmuch as most line extension costs per lot will be less than \$5,000, which is the amount for which the electric utility is responsible. FirstEnergy requests that paragraph (D) of Rule 09-07 be modified so that residential line extensions require a partial upfront payment, to prevent overbuilding and encourage responsible decision making, and that the extended payment plan be eliminated. The Commission finds that most of the modifications to paragraph (D) of Rule 09-07 that were requested by AEP and FirstEnergy are not warranted. The Commission has already placed a cap on the amount of line extension costs for which the electric utility is responsible and the extended payment plan already includes a carrying charge. However, the Commission finds that the extended payment plan should be limited to residential line extensions requested by individual homeowners, and not developers of homes and multifamily projects, inasmuch as they are unlikely to own those properties for the life of the extended payment plan and can recover the costs of the line extensions through the sale or rent of the properties. Thus, the Commission has modified Rule 09-07(D)(1)(c) and (2)(c) accordingly.
- (12) Paragraph (E)(2) of Rule 09-07 provides a non-exclusive list of costs associated with line extensions that are eligible for recovery in an electric utility's distribution base rate proceeding. AEP argues that carrying costs associated with that portion of line extension costs not collected upfront from the customer should be added to the list of recoverable costs. The Commission sees no reason that line extension costs should be treated differently than other costs that are incurred by the electric utility and recovered through distribution rates. Therefore, we will not adopt AEP's proposed modification.
- (13) Paragraph (F) of Rule 09-07 provides refunds to line extension customers, if additional customers connect within fifty months of completion of the line extension. FirstEnergy argues that it is too burdensome to monitor and account for new customers that connect to line extensions and requests the elimination of

the refund provision. The Commission finds that the refunds are appropriate and, therefore, will not adopt FirstEnergy's proposed revision.

Chapter 4901:1-10: Electric Service and Safety Standards (ESSS)

- (14) Rule 10-01 contains the definitions for Chapter 4901:1-10, O.A.C. FirstEnergy argues that the definition of "Major event" should include transmission outages because the Institute of Electric and Engineers (IEEE) included transmission outages when it developed its "2.5 Beta" methodology. The Commission believes transmission outages should be excluded in order to obtain a clear understanding (uncluttered by transmission outages) of distribution system reliability.

OCEA also takes issue with the definition of "Major event," arguing that the definition is overly complicated. It recommends that major events should be based on uncontrollable factors and the percentage of customers affected. The Commission believes that the IEEE major event methodology provides a statistically valid procedure for calculating performance on a normalized basis, which gives each electric utility fair consideration of its particular size, geography, and system design. By contrast, OCEA bases its recommended definition on the often subjective criteria involving whether the outage was due to factors under the electric utility's control and an arbitrary percentage of customers affected. Accordingly, we find it unnecessary to modify this definition.

- (15) FirstEnergy also argues that Rule 10-01 should include a definition for "transmission owner" inasmuch as this term is used several places throughout the chapter. It recommends that transmission owner be defined as "any entity owning transmission facilities that are not subject to the jurisdiction of the Federal Energy Regulatory Commission" (FERC). The Commission disagrees with FirstEnergy's recommended definition. If we were to adopt FirstEnergy's definition of "transmission owners," entities such as American Transmission Systems, Inc. (ATSI) would no longer be required to file reports under Rules 10-26 and 10-27. The Commission added the term "transmission owners" to Rules 10-26 and 10-27 because of SB

221's revision to the statutory definition of "Electric utility" set forth in Section 4928.01, Revised Code. The change to Rules 10-26 and 10-27 was made to ensure that transmission entities, such as ATSI and Ohio Valley Electric Corporation, that own transmission facilities, file reports required by Rules 10-26 and 10-27.

- (16) With respect to Rule 10-10, which prescribes performance standards for distribution system reliability, OCEA recommends that Rule 10-10 include: (a) additional performance standards for service restoration time and outage frequency; (b) a requirement that if an electric utility misses performance standards for two consecutive years, the electric utility would be required to file a remedial action plan and Staff would file its findings and proposed enforcement measures within sixty days after the electric utility's filing of an action plan; and (c) a requirement for customer credits if the electric utility does not timely restore service for sustained outages caused by lack of sufficient maintenance or if the customer experiences more than three momentary interruptions in any month resulting from inadequate vegetation management. The Commission does not believe that these additional performance standards are warranted. The Commission notes that OCEA has presented no supporting data or any other rationale for the performance-levels standards that it proposes, and we see no connection between these interruption standards and the standard-setting criteria prescribed in Rule 10-10. Because of this disconnect, we believe that there could be confusing situations where the electric utilities may comply with one set of standards while simultaneously being out of compliance with the other set. For these reasons, the Commission will not adopt OCEA's recommended set of service interruption standards. We also disagree with OCEA's recommended enforcement measures, which appear to require a case to be opened for every missed standard, thereby restricting Staff's enforcement flexibility.

With regard to OCEA's customer-credits proposal, there is no specific time period that would constitute untimely restoration for an individual customer; nor does it state what criteria would be used to determine whether a particular customer's outage was due to "insufficient maintenance." Further, the Commission finds that OCEA's proposal fails to consider the

fact that most electric utilities are not able to identify the timing or cause of every momentary interruption affecting individual customers. Accordingly, the Commission finds OCEA's recommendation to be unworkable and that electric utility compliance with the standards can be achieved through other less complicated means. OCEA also recommends that the electric utilities be required to provide Staff a monthly report of major events in order to qualify for the major event exclusion. We find that OCEA's recommendation is unnecessary. The newly adopted version of this rule already requires a publicly filed annual report including data on each major event. We see no need to repeat such reporting twelve times a year.

- (17) FirstEnergy objects to the requirement in Rule 10-10(B)(7) that the current reliability targets be considered the standards during the period before new standards are approved by the Commission. FirstEnergy argues that the current targets were not intended to serve as minimum standards for purposes of this rule and are, therefore, inappropriate for use as minimum standards. As support for its position, FirstEnergy refers to the Commission's March 18, 2003, Entry on Rehearing in Case No. 02-564-EL-ORD, *In the Matter of the Commission's Review of its Electric Service and Safety Standards*, where the Commission concluded that the failure of the electric utility to meet approved targets would not constitute a violation of Rule 10-10. FirstEnergy requests that the existing form of the rule continue to apply until new minimum performance standards are approved. Upon reconsideration, the Commission finds that modification to Rule 10-10(B)(7) is warranted to delete the requirement that the electric utilities' current reliability performance targets be used as the minimum performance standards for purposes of Rule 10-10. Instead, unless the Commission orders otherwise, the currently approved targets, under their current terms and conditions, shall remain in effect until new performance standards are approved by the Commission pursuant to Rule 10-10 or until March 31, 2010, whichever occurs first. If new standards are not approved by March 31, 2010, the electric utility's current targets shall continue in effect as standards for the purpose of the electric utility's compliance with Rule 10-10 until new performance standards are authorized and become effective pursuant to Rule 10-10. To ensure the timely approval of new standards,

however, we will order the electric utilities to file their proposed new standards within sixty days following the effective date of this chapter.

- (18) OCEA argues that the Commission should retain the requirement to report MAIFI, the index which represents the average number of momentary interruptions per customer, to serve as an indicator of vegetation management performance and to monitor adequate service to business and small customers. FirstEnergy opposes OCEA's request and argues that MAIFI is dependent upon the equipment utilized to perform the measurement and that significant infrastructure costs would be required to ensure uniform and reliable MAIFI measurements. FirstEnergy also argues that, although MAIFI is calculated by many electric utilities across the United States, there are no metrics to compare performance or methods to determine acceptable levels. Further, FirstEnergy maintains that current industry practice favors measuring reliability through other measures, such as SAIDI. In our F&O, the Commission set forth its decision to remove the MAIFI standard from Rule 10-11. In addition to our findings in the F&O, we believe that continuing the MAIFI requirement, as OCEA suggests, would create expectations for accurate MAIFI measurements that the electric utilities are currently unable to provide. We further believe it would be imprudent for the electric utilities to make investments to improve MAIFI accuracy without taking the time to consider integrating such improvements with other potential programs such as an automated metering infrastructure and/or distribution automation. However, as we directed in our F&O, the Staff will continue to monitor the ability of the electric utilities to accurately measure and report MAIFI and to review that data to make recommendations with respect to momentary interruptions and its impact on customers.
- (19) FirstEnergy requests that the Commission delete paragraph (G) of Rule 10-11, which creates a rebuttable presumption that a violation of the rule has occurred if a circuit remains on the Rule 10-11 worst performing circuits report for three consecutive years. FirstEnergy argues that the rule fails to specify what provision of the rule has been violated and that it could create a misallocation of resources by having the electric

utility take action to remove the circuit from the list instead of providing reasonable justifications as to why the circuit has been on the list for three consecutive reporting periods. We are not persuaded by FirstEnergy's arguments. The rebuttable presumption should remain a requirement because we consider it important for the electric utility to either remove the circuit from the worst performing list before the third year report or rebut the presumption that a rule violation has occurred. We do agree, however, that this provision needs to be clarified by prefacing it with the following requirement: "Electric utilities shall take sufficient remedial action to cause each listed circuit to be removed from the list within two years."

- (20) Paragraph (G) of Rule 10-12 provides that, as part of the information to be provided to new customers, the electric utility shall notify the customers of their ability to obtain a list of available CRES providers and the customer class(es) they are actively seeking to serve. The rule that actually requires the electric utility to maintain the list of CRES providers is Rule 10-24(G). FirstEnergy argues that it may not know whether a particular CRES provider is actively seeking a particular class of customers. The Commission notes that the "actively seeking" language is not new and is existing language in Rule 10-24(G). What is new is that we included this requirement in the list of information provided to customers as part of Rule 10-12(G). Although we will keep the "actively seeking" language in Rule 10-12(G), we have modified the rule to limit its scope to CRES providers that are actively seeking residential customers in the electric utility's service territory.
- (21) Rule 10-14 addresses the establishment of credit for electric customers. The Commission in its F&O revised this rule so that it did not apply to residential customers inasmuch as the provisions for the establishment of credit for electric residential customers were to be incorporated into Chapter 4901:1-17, O.A.C. However, the provisions for the establishment of credit for electric residential customers were not included in recent revisions to Chapter 4901:1-17, O.A.C. Accordingly, we have modified Rule 10-14 to retain provisions for the establishment of credit for electric residential customers.

- (22) With regard to Rule 10-16(B)(3), FirstEnergy suggests that electric utilities should be able to disconnect service without notice to consumers that commit a fraudulent act. The rule as adopted allows for disconnection of service without notice when the consumer tampers with the electric utility's property. The Commission does not believe that it is appropriate to expand this rule to include fraudulent acts as defined in this chapter. We first note that Rule 10-20(C) requires a disconnection notice be provided prior to disconnection of service for a fraudulent act. We also believe that due process may be applied differently in the case of a safety issue than in the event of a suspected fraudulent act. In the event of a suspected fraudulent act, there may be no safety issue, as there is with tampering, so we are inclined to provide the opportunity for the customer or consumer to dispute the accusation, before suffering disconnection. Therefore, the Commission will not adopt FirstEnergy's suggestion.
- (23) FirstEnergy points out that in Rule 10-24(E)(4), the rule incorrectly cites to Rule 4901:1-10-03. The Commission has modified Rule 24(E)(4) to correct the citation error.
- (24) NOPEC has raised a concern with Rule 10-32(D), which addresses switching customer accounts to and from governmental aggregations. NOPEC believes that any "minimum stay," that limits a customer's ability to switch electric service between the electric utility and a CRES provider, should not be applied to governmental aggregations. NOPEC contends that such limitations are contrary to the legislature's intent to encourage large-scale governmental application. NOPEC argues that additional language should be added to the rule to state that "there should be no limitation on when during the year a customer may switch from the electric utility to a governmental aggregation." FirstEnergy opposes NOPEC's request, arguing that the switching of governmental aggregation customers should be treated the same as other CRES customers as provided for in Rule 10-32(D). The Commission finds that this rule is not the appropriate place to determine whether or not an electric utility should have "minimum stay" provisions in its tariffs for a particular group of customers. We note that we recently addressed the issue of minimum stay for residential and small commercial customers

in our December 19, 2008, Opinion and Order in FirstEnergy's electric security plan proceeding, Case No. 08-935-EL-SSO (FE ESP Case), and declined to adopt a minimum stay provision. We believe that a determination on these issues is best done on a case-by-case basis in individual electric utility tariff proceedings.

- (25) NOPEC also submits that a new provision should be added to Rule 10-32 to require the electric utility to purchase 100 percent of the accounts receivable of a large-scale governmental aggregator's CRES provider. NOPEC argues that this would ensure that CRES customers are not charged twice for uncollectible bad debt expense by those electric utilities that have a bad debt surcharge that is paid by all of their customers. Dominion also supports the purchase of 100 percent of CRES accounts receivable. FirstEnergy argues that it should not have to purchase 100 percent of CRES providers' accounts receivables and that the Commission has addressed the issue by changing the payment priority in Rule 10-33(H) to make CRES providers' arrears the highest priority. The Commission has already considered the issue of purchasing CRES accounts receivable by electric utilities in the past and resolved the issue by amending Rule 10-33(H) so that partial payments are first applied to amounts past due to the CRES provider, which should reduce the CRES provider's bad debt expense. With regard to the issue of whether the electric utilities' uncollectible expense charges should be bypassable by CRES customers, the matter is best considered on a case-by-case basis, as we did in the FE ESP Case.

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

- (26) NOPEC submits that the definition of "Governmental aggregation program" contained in Rule 21-01(T) of this chapter and Rule 4901:1-10-01(P), O.A.C., is unreasonable because it limits large-scale governmental aggregation contracts to three years. NOPEC argues that it may be more advantageous to enter into contracts for generation for more than three years to obtain favorable long-term rates. In defining "Governmental aggregation programs" the Commission determined that these programs should not have a term of not less than one year nor longer than three years because of the provision in Section

4928.20(D), Revised Code, that gives the customer the ability to opt out of the program every three years. We find that NOPEC has misinterpreted our definition. The rule does not prohibit governmental aggregators from entering into generation contracts with suppliers for more than three years. The rule only requires that customers have the ability to opt out every three years. Accordingly, no change in our definition of "Governmental aggregation program" is required.

- (27) Dominion has raised an issue with regard to Rule 21-09(C)(3), which requires each CRES provider to submit a proposal to Staff on how it plans on incorporating the use of renewable energy credits (RECs) within its annual and quarterly environmental disclosures. Dominion argues that this requirement goes beyond the scope of the disclosure requirements set forth in Section 4928.64, Revised Code, which are intended to provide customers with CRES provider's generation mix and environmental characteristics. The Commission believes that Dominion has misinterpreted the purpose of paragraph (C)(3) of Rule 21-09. The intent of this provision is to require CRES providers to submit to Staff proposals on how they intend to recognize any use of RECs in their environmental disclosures. It is not intended to require the CRES provider to use RECs as part of alternative energy resource requirements pursuant to Section 4928.64, Revised Code, only that they have a Staff-approved plan in the event that they use any RECs. What the rule is requiring is that each CRES provider submits a proposal to Staff of how it would recognize in its environmental disclosure data any RECs it might purchase or sell. To clarify our intent, we have added the word "any" before the term "renewable energy credits."

Chapter 4901:1-22: Interconnection

- (28) Upon its own review, the Commission finds that Rule 22-03 requires modification to reflect the appropriate statutory citation used in the rule as division (B)(4) of Section 4928.67, Revised Code. Further, the Commission has modified Rule 22-04(E)(1) to reflect the appropriate citation for the definition of self-generator as division (A)(32) of Section 4928.01, Revised Code.

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

- (29) OCEA urges the Commission to include language in Rules 23-01, 23-02, and 23-04 that would provide for public input, including public hearings and comments, regarding an investigation of an electric utility's or CRES provider's compliance with Chapters 4901:1-21 and/or 4901:1-10, O.A.C. OCEA also proposes the establishment of a public process for any notices of probable noncompliance issued by Staff or any settlements filed. OCEA argues that to do otherwise could cause public mistrust, provides incomplete enforcement, and prevents those harmed from expressing their experiences with services of the electric utilities. This argument was made by OCEA and addressed by the Commission in its F&O. As we stated, Staff conducts numerous investigations to determine if electric utilities and/or other jurisdictional entities are compliant with the Commission's rules and regulations. These investigations include ongoing review of the Commission's customer complaint data contained in the Commission's customer management system, as well as direct contact with customers or local government officials. If the daily activities of Staff required public input, or if each investigation required a hearing, Staff's performance would be hindered, limiting the monitoring and investigatory work that Staff could accomplish. As stated previously, the rules, as adopted, appropriately balance the Commission's objectives of providing transparency, fairness, and accountability.

Chapter 4901:1-24: Certification of CRES Providers

- (30) The Commission has modified Rule 24-01(X), which defines "Retail electric generation service." FirstEnergy correctly recognized that the statutory references in the definition need to be modified to reflect newly enacted Sections 4928.141, 4928.142, and 4928.143 of the Revised Code.

Chapter 4901:1-25: Market Monitoring

- (31) Dominion has raised an issue with regard to the quarterly reports submitted to Staff by CRES providers regarding monthly sales of generation to customers. Dominion argues that the requirement places an unnecessary administrative burden on CRES providers that operate in numerous jurisdictions. Dominion requests that Rule 25-02(A)(3) be

modified to provide for annual reporting. The Commission believes that the reports should remain quarterly. Most of the burden of providing the report is in capturing and maintaining the monthly data that would be required, whether reported annually or quarterly. More importantly, quarterly reporting provides bidders in competitive procurements with more information to gauge migration risk and thereby assists bidders to make price appropriate bids.

- (32) Rule 25-02(A)(5) sets forth the confidential treatment of information contained in reports provided to the Commission and/or Staff pursuant to Rule 25-02. FirstEnergy argues that 25-02(A)(5) should be modified to provide confidential treatment of information provided pursuant to Rule 25-02(A)(3) similar to the other information provided pursuant to this rule. The Commission agrees and has revised Rule 25-02(A)(5) to correct this oversight as well as to simplify the language of the rule.
- (33) Rule 25-02(B) requires an entity that owns electric transmission or distribution facilities to provide information to the Commission regarding the operation of, and constraints on, its electric system. The Commission has amended this rule so that these reports are filed semiannually rather than quarterly. The Commission also notes that, despite significant efforts by the Staff, the reports required by Rule 25-02(B) have either not been timely or have not been forthcoming at all. The Commission hereby reminds entities that they are required to file these reports. It is not the Staff's responsibility to arrange for such reports to be submitted, rather it is the entities' responsibility to either produce or cause to be produced such reports. The Commission expects that a full and complete report be provided in the second quarter of each year, and that an update or supplemental report be provided in the fourth quarter of each year. The Commission will be closely monitoring compliance with this rule on a going forward basis.
- (34) Upon further review and consideration of Chapter 4901:1-25, O.A.C., the Commission finds that certain modifications, in addition to the changes made above, are appropriate. We have made the following changes:

- a) Modified certain of the definitions and designations of entities subject to this chapter to more closely follow the terms used in SB 221 and Chapter 4901:1-22, O.A.C., involving electric interconnection standards.
- b) Added to Rule 25-02(A)(1)(f) the ability of entities to provide the Commission with certain FERC quarterly reports through an interlink.
- c) Clarified the scope of the information about customer interconnection applications that is to be provided to the Commission and interconnection applicants pursuant to Rules 25-02(A)(2)(c) and (d).

CONCLUSION:

The Commission finds that, based on the arguments raised by various parties on rehearing, the rules adopted by the Commission on November 5, 2008, should be modified as set forth in this Entry on Rehearing. Attached is a copy of the rules modified on rehearing.

The Commission notes that the rules being adopted by this order are over 50 pages. While the Commission finds that a hard copy of this Entry on Rehearing should be served upon all stakeholders, we believe that, rather than mail hard copies of the rules to the stakeholders, it would be prudent and more efficient to provide a web address where the attachment can be accessed. Accordingly, interested entities can access the attachment by going to the Commission's web site at www.puco.ohio.gov/PUCO/Rules, and clicking on the link to Amended Chapters 4901:1-9, 4901:1-10, 4901:1-21, 4901:1-22, 4901:1-23, 4901:1-24, and 4901:1-25. If an entity has questions regarding how to access the attachment or does not have access to the internet, it may contact the Commission's Docketing Division at (614) 466-4095, Monday through Friday between the hours of 7:30 a.m. and 5:30 p.m.

ORDER:

It is, therefore,

ORDERED, That the attached modified rules are hereby adopted. It is, further,

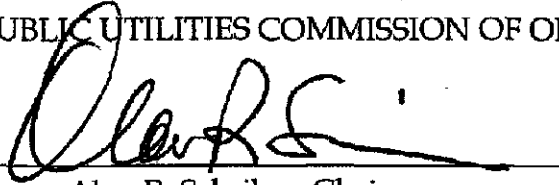
ORDERED, That Chapters 4901:1-9, 4901:1-10, 4901:1-21, 4901:1-23, 4901:1-24, 4901:1-25, and Rules 4901:1-22-01, 4901:1-22-02, 4901:1-22-03, and 4901:1-22-04, O.A.C., as modified by this Entry on Rehearing, be refiled with the Joint Committee on Agency Rule Review, the Secretary of State, and the Legislative Service Commission in accordance with divisions (D) and (E) of Section 111.15, Revised Code. It is, further,

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

ORDERED, That the electric utilities with tariffs on file with this Commission file applications to revise their tariffs to be consistent with the rules adopted herein, within sixty days of the effective date of these rules. It is, further,

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

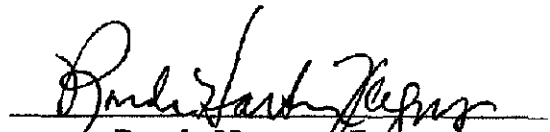
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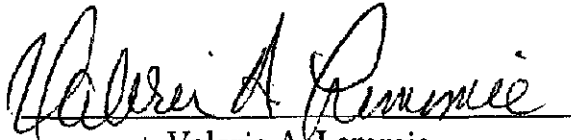
Alan R. Schriber, Chairman



Paul A. Centolella



Ronda Hartman Fergus



Valerie A. Lemmie

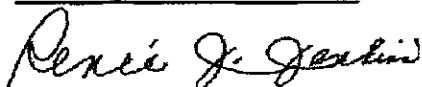


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Secretary

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4901:1-9-01 Definitions.

(A) As used in this chapter:

- (1) "Contribution in aid of construction" means any amount of money or property contributed to an electric utility to the extent that the purpose of the contribution is to provide for line extensions for new or expanded customer loads.
- (2) "Commission" means the public utilities commission of Ohio.
- (3) "Cost estimate" means the detailed projected expenditure, including material costs and overhead, equipment costs and overhead, labor costs and overhead, and all taxes associated with each major material and service component, required for a line extension. It shall also separately identify any incremental costs associated with providing premium services.
- (4) "Customer" means any individual, corporation, company, co-partnership, association, joint venture, or government entity who has requested the construction of an electric line extension from the electric utility.
- (5) "Electric utility" shall have the meaning set forth in division (A)(11) of section 4928.01 of the Revised Code.
- (6) "Line extension" means the provision of facilities (including, but not limited to, poles, fixtures, wires, and appurtenances) necessary for delivering electrical energy from the point of origin to one or more of the customer's points of delivery. Facilities provided by the electric utility to maintain, protect, upgrade, or improve its overall distribution system (even if necessary due to a customer's load addition) are not considered part of a line extension.
- (7) "Multifamily installation" means any line extension to a new residential dwelling that will have two or more dwelling units, where each unit has a separate account for electric service.
- (8) "Point of origin" means the point where a line extension under this rule connects with and receives energy from any existing transmission or distribution equipment. The point of origin shall be the nearest practical point to the customers to be served by the line extension at which the appropriate voltage level is available.
- (9) "Premium service" includes, but is not limited to, customer-requested oversizing of facilities, underground construction, three-phase residential service, and any customer request that is in excess of standard construction and requirements necessary to provide electric service to the customer.

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(B) The commission may, upon an application or a motion filed by a party, waive any requirement of this chapter, other than a requirement mandated by statute, for good cause shown.

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4901:1-9-07

Rules, regulations, and practices for the construction of electric line extensions.

(A) Applicability

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

(B) Tariff requirements

- (1) Each electric utility shall have on file with the commission an approved tariff schedule for the provision of line extensions consistent with the requirements of this rule.
- (2) In the event that provisions are required to implement circumstances not addressed in this rule, the electric utility shall address those circumstances in its application, but shall make its best efforts to maintain consistency with the rules herein.
- (3) Upon the filing of an application to establish or modify line extension tariffs, the commission may fix a time and place for hearing if the application appears to be unjust or unreasonable. The burden of proof to show that the proposals in the application are just and reasonable shall be upon the electric utility.

(C) Cost estimates

- (1) Within ten business days of a request, the electric utility shall provide a nonbinding good faith cost estimate for the line extension project.
- (2) Within forty-five calendar days of a request, the electric utility shall provide a binding firm cost estimate for the line extension project. Under the circumstance where the electric utility requires further relevant information, the electric utility shall contact the customer and shall provide a binding firm cost estimate no more than ten calendar days from the receipt of the required information.
- (3) All firm cost estimates shall be valid for ninety calendar days and are subject to change based upon obtaining necessary rights of way and to conditions beyond the reasonable control of the electric utility.

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

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

(D) Line extension charges

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

(a) The electric utility shall be responsible for all costs, excluding the incremental costs of premium services (the sum of the electric utility's cost to provide the premium installation minus the electric utility's cost of a standard, single-phase installation), up to five thousand dollars.

(b) The customer shall be responsible for the incremental costs of premium services prior to the start of construction.

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

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

(a) The electric utility shall be responsible for all costs, excluding the incremental costs of premium services (the sum of the electric utility's cost to provide the premium installation minus the electric utility's cost of a standard, single-phase installation), up to twenty-five hundred dollars per unit.

(b) The customer shall be responsible for the incremental costs of premium services prior to the start of construction.

(c) The customer shall make arrangements with the electric utility for the payment of the non-premium line extension costs that exceed twenty-five hundred dollars per unit.

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

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- (a) The electric utility shall be responsible for sixty per cent of the total cost of the line extension, excluding the incremental costs of premium services (the sum of the electric utility's cost to provide the premium installation minus the electric utility's cost to install, in accordance with good utility practice, a standard line extension to the project).
- (b) The customer shall be responsible for forty per cent of the total cost of the line extension plus the incremental costs of premium services prior to the start of construction.
- (c) If a substation is required as part of the line extension project to a customer, the customer shall be given the option of building (pursuant to all applicable electrical standards), owning, and maintaining such substation.

(E) Electric utility cost recovery for line extensions

- (1) The payment for premium services and for the cost of residential construction in excess of the limits of five thousand dollars for single-family residences and twenty-five hundred dollars per unit for multifamily residences shall be considered as contribution in aid of construction (CIAC) and shall be grossed-up by the effect of applicable taxes. The total CIAC payment (including the tax gross-up) shall be accounted for according to applicable accounting standards.
- (2) All other costs associated with line extensions, including, but not limited to, the costs of necessary technical studies, operation and maintenance costs, and capital costs shall be eligible for recovery in the next distribution rate proceeding, in accordance with traditional ratemaking standards.
- (3) Line extension costs and the recovery of such costs shall not be included in the recovery of any costs associated with infrastructure and modernization of the electric utility's distribution system for which the electric utility may seek recovery under division (B)(2)(h) of section 4928.143 of the Revised Code.

(F) Future customers

- (1) Any customer who paid to the electric utility a CIAC, other than for premium services, may be entitled to a refund of a portion of the CIAC paid in accordance with the following:
 - (a) If any new customer, within fifty months of the completion of a line extension project for which a party has paid to the electric utility a CIAC, utilizes all or part of the facilities for which the CIAC has been paid, the party who paid the CIAC may be entitled to a refund which represents a pro rata portion of the original CIAC calculated to equitably share the CIAC

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

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

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

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

(A) The rules in this chapter:

- (1) Apply to investor-owned ~~EDUs~~ electric utilities, as defined in this chapter, and transmission owners, ~~as defined in this chapter~~;
- (2) Are intended to promote safe and reliable service to consumers and the public, and to provide minimum standards for uniform and reasonable practices.

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

- (1) The commission's own motion;
- (2) Formal or informal commission resolution of a complaint;
- (3) The application of any ~~EDU~~ electric utility.

(C) The commission may, upon an application or a motion filed by a party, waive any requirement of ~~Chapter 4901:1-10 of the Administrative Code~~ this chapter, other than a requirement mandated by statute, for good cause shown ~~or upon its own motion~~.

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

- (1) Providing adequate service and facilities as prescribed by the commission;
- (2) Complying with the laws of this state.

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

(F) When an ~~EDU~~ electric utility and/or transmission owner in a complaint proceeding under section 4905.26 of the Revised Code demonstrates compliance with the relevant service or performance standard of this chapter, excluding rule 4901:1-10-27 of the Administrative Code, a rebuttable presumption is created that the electric utility is providing adequate service regarding that standard. Such presumption applies solely to the specific standard addressed by the commission for the time

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period at issue in the complaint proceeding. No such presumption is created merely by compliance with any reporting requirement of this chapter. In addition, to the extent the service and performance standards in this chapter are based on system-wide data, no such rebuttable presumption is applicable to complaints regarding the adequacy of service provided either to individual customers or consumers or to any segment of the system of an electric utility and/or transmission owner.

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

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4901:1-10-10

Distribution system reliability.

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

(B) Service reliability indices and minimum performance standards.

(1) The service reliability indices are as follows:

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

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

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

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

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

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

(a) A proposed methodology for establishing reliability standards.

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

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

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

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

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- (b) Each electric utility shall periodically (no less than every three years) conduct a customer perception survey. The survey results shall also be used as an input to the methodology for calculating new performance standards. The survey shall be paid for by the electric utility and shall be conducted under staff oversight. The objective of the survey is to measure customer perceptions, including, but not limited to, economic impacts of disruptions in electric service, and expectations of electric service reliability in terms of the service reliability indices defined in paragraph (B)(1) of this rule.
- (c) Performance data during major events and transmission outages shall be excluded from the calculation of the indices, proposed standards, and any revised performance standards, as set forth in paragraph (B) of this rule.
- (5) A complete set of work papers must be filed with the application. Work papers must include, but are not limited to, any and all documents prepared by the electric utility for the application, a list of assumptions used in establishing its proposed methodology, and a narrative or other justification for its proposed methodology and each resulting performance standard.
- (6) Unless otherwise ordered by the commission, legal director, deputy legal director, or attorney examiner, the following procedural schedule shall apply:

 - (a) Upon the filing of an application, the commission, legal director, deputy legal director, or an attorney examiner will schedule a technical conference. The purpose of the technical conference is to allow interested persons an opportunity to better understand the electric utility's application. The electric utility will have the necessary personnel in attendance at this conference so as to explain, among other things, the filing, the work papers and the manner in which methodologies and resulting performance standards were devised. The conference will be held at the commission offices.
 - (b) Within twenty calendar days after the technical conference, any person may file comments.
 - (c) Within thirty calendar days after the technical conference, the commission's staff may file comments.
 - (d) Within fifty calendar days after the technical conference, any person may file a response to the comments.
 - (e) If it appears to the commission that the proposals in the application may be unjust or unreasonable, the commission shall set the matter for hearing and shall publish notice of the hearing in accordance with section 4909.10 of the Revised Code. At such hearing, the burden of proof to show that the

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

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

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

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

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

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

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

(a) Data excluding major events and transmission outages.

(b) Data for major events only.

(c) Data for transmission outages only.

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

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

(D) Except as otherwise provided in paragraph (E) of this rule, if the annual performance of an electric utility does not meet the electric utility's performance standard for any

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index, the electric utility shall submit an action plan to the director of the service monitoring and enforcement department, by March thirty-first of the same year.

(1) The action plan shall include the following:

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

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

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

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

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

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4901:1-10-11 Distribution circuit performance.

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

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

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

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

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

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

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

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

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

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

(a) The circuit identification number.

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

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

(d) The circuit ranking value.

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

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

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

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

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

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

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

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

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

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

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- (I) An action plan, including the start and completion dates of all remedial action taken or planned, to improve circuit performance to a level that removes the circuit from the report submitted pursuant to paragraph (C) of this rule within the next two reporting periods. If the electric utility does not believe remedial action is necessary, then the electric utility must state the rationale for not taking any remedial action.
- (D) If the director of the service monitoring and enforcement department believes that an action plan submitted pursuant to paragraph (C)(3)(I) of this rule is insufficient or unreasonable, the director shall provide written notice to the electric utility within forty-five calendar days of the submittal, otherwise the report is deemed approved. Should no agreement be reached between the electric utility and the director of the service monitoring and enforcement department on a modified action plan, within thirty calendar days following the rejection of the action plan, the electric utility shall apply to the commission for a hearing. At such hearing, the burden of proof to show that the modified action plan is just and reasonable shall be upon the electric utility.
- (E) Each electric utility shall submit the reports required by this rule, on electronic media, in a format prescribed by the commission or its staff.
- (F) Electric utilities shall take sufficient remedial action to cause each listed circuit to be removed from the list within two years. The inclusion of a given circuit in the report under paragraph (C) of this rule for three consecutive reporting periods shall create a rebuttable presumption of a violation of this rule.

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

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

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

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

~~(2) A statement that:~~

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

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

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

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

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

~~(3) A description of the following customer rights:~~

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- (a) ~~When~~The circumstances under which the EDU demands electric utility may demand and/or holds hold security deposits; and,
- (b) ~~For~~The circumstances under which customers may obtain deferred payment plans and low-income assistance plans; and information concerning those plans.
- (4) The toll-free telephone number(s) for the "one-call" or "call-before-you-dig" protection service(s) to locate underground utility facilities;.
- (5) An explanation of what each applicant must do to receive service from that ~~company; and~~ electric utility.
- (6) Information explaining when a customer will be charged for the cost of modifying service, installing a meter, and/or providing facilities necessary to serve that customer.
- (C) A statement notifying customers that, ~~when EDU electric utility~~ employee(s) or agent(s) seek access to the customer's and/or landlord's premises, the customer or landlord may request the employee/agent to show photo identification and to state the reason for the visit.
- (D) ~~Availability~~A statement concerning the availability of rate information, which shall include:
 - (1) A statement that the ~~EDU's electric utility's~~ rates and tariffs are available for review at the ~~company's electric utility's~~ office, on the company's electric utility's website, and on the commission's website; and,
 - (2) A statement that, upon inquiry by a customer regarding rates or energy efficiency, the ~~EDU shall electric utility will~~ disclose to the customer the existence and availability of the ~~company's electric utility's~~ alternative rates or any energy efficiency programs.
- (E) ~~Customers~~A statement that customers may review a copy of the electric service and safety standards on the commission's website or obtain a copy from the commission upon request.
- (F) Information on privacy rights, which shall include:
 - (1) A statement that the ~~EDU electric utility~~ is prohibited from disclosing a customer's account number without the customer's written consent, ~~except for the EDU's consumer credit evaluation, collection, and credit reporting; for a CRES provider's credit collections and reporting; for participants in programs funded by the universal service fund, such as the percentage of income payment~~

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

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

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

(c) Governmental aggregation.

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

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

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

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

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

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

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

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

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- (H) ~~Return to standard offer. Customers~~ A statement that customers returning to the EDU's electric utility's standard offer service due to default, abandonment, slamming, or certification rescission of a CRES provider will not be liable for any costs associated with the switch.
- (I) Notice Information concerning notice of a change in the customer's supplier of electric service.
- (1) ~~If~~ A statement that, if a change in a residential or small commercial customer's ~~CRES provider~~ electric services company is initiated, the ~~EDU shall~~ electric utility is required to send the customer a notice confirming the change.
 - (2) ~~The~~ A statement that the customer has a right to cancel any change in its supplier of electric service within seven calendar days after the notice has been sent by calling the ~~EDU~~ electric utility at the telephone number on the notice.
- (J) Slamming.—Information explaining the procedures customers must follow if they believe their generation and/or transmission service has been switched without their consent. This explanation shall include, at a minimum, the following information:
- (1) If a customer participates in the percentage of income payment plan or in a governmental aggregation, the customer's supplier of generation and/or transmission ~~supplier services~~ appearing on the customer's bill may be a company other than the ~~EDU~~ electric utility.
 - (2) If the customer's electric bill reflects a supplier of electric service not chosen by the customer, the customer should call the commission to initiate a slamming investigation; ~~and,~~
 - (3) If the ~~commission~~ staff determines that the customer's service was changed without proper authorization:
 - (a) The customer ~~shall~~ will be switched back to the customer's previous supplier of electric service without charge to the customer;.
 - (b) The customer's account ~~shall~~ will be credited for any switching fees resulting from the customer being ~~slammed; and, switched without proper authorization.~~
 - (c) The customer ~~shall~~ will be credited or reimbursed for any charges in excess of what the customer would have paid absent the unauthorized change in electric service provider; ~~excluding the distribution charges.~~
- (K) Actual Information concerning actual meter readings.

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- (1) ~~Customers may have the option for an actual meter reading, depending on when the EDU most recently read the meter.~~ A statement that the electric utility is required to obtain an actual meter reading when the customer initiates or terminates electric service with the EDUelectric utility, if the meter has not been read within the preceding sixty days.
- (2) A statement that, if the meter has not been read within the preceding thirty-three to fifty-nine days, the electric utility is required to inform the customer, when the customer contacts the electric utility to initiate or terminate service, of the option to have an actual meter read, at no charge.
- (2)(3) ~~The~~ A statement that the customer may request two actual meter reads per calendar year, at no charge, if the customer's usage has been estimated for more than two of the consecutively preceding billing cycles or if the customer has reasonable grounds to believe that the meter is malfunctioning.

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

- (A) Each ~~EDU~~electric utility shall establish written procedures to determine creditworthiness of applicants and customers for service based solely on the customer's or applicant's creditworthiness. These procedures shall be submitted in current form to the ~~commission~~ staff upon request.
- (B) Upon request, each ~~EDU~~electric utility shall provide applicants/customers with the following information:
- (1) Their credit history with that company; ~~and,~~
 - (2) A copy of this rule, the commission's website and the ~~local/toll-free~~ and TDD/TTY numbers of the commission's public interest call center.
- (C) An applicant shall be deemed creditworthy if one of the following criteria is satisfied:
- (1) The ~~EDU~~electric utility verifies that the applicant is a creditworthy property owner or verifies the applicant's creditworthiness in accordance with legally accepted practices to verify credit. Verification for residential applicants shall include, but not be limited to, consideration of the applicant's employer and length of service, reference letters, and substantive credit cards;
 - (2) The applicant had a prior account with the ~~EDU~~electric utility for the same class of service within two years before the date of application, unless during the final year of prior service one of the following occurred:
 - (a) The company disconnected applicant for nonpayment; ~~,~~
 - (b) ~~Applicant~~ The applicant failed to pay ~~his/her~~ its bill by the due date at least two times; ~~or,~~
 - (c) The company disconnected the applicant for a fraudulent practice, tampering, or unauthorized reconnection; ~~,~~
 - (3) The applicant furnishes a reasonably safe guarantor, who is a customer of that ~~EDU~~electric utility, to secure payment of bills in an amount sufficient for a sixty-day supply for the service requested; ~~or,~~
 - (4) The applicant makes a cash deposit as set forth in this rule.
- (D) Unless otherwise provided in paragraph ~~(G)~~(H) of this rule, when an ~~EDU~~electric utility fails to demand security within thirty calendar days after initiation of service, it may not require security for that service.

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

- (1) An ~~EDU~~electric utility may require an applicant who fails to establish creditworthiness to make a deposit. The amount of the deposit shall not exceed one hundred thirty per cent of the estimated annual average monthly bill for the customer's tariffed service for the ensuing twelve months.
- (2) Upon the customer's request, the amount of the deposit paid is subject to adjustment, when the deposit paid differs by twenty per cent or more from the deposit which would have been required, based upon actual usage for three consecutive billing periods while taking into account seasonal variations in usage.

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

- (1) The reason(s) for its decision;
- (2) Options available to establish credit (including a guarantor to secure payment);
- (3) The ~~applicant/customer may~~applicant/customer's right to contest the company's electric utility's decision and show to demonstrate creditworthiness;
- (4) The applicant/customer may ~~contest~~appeal the ~~commission's public interest center~~electric utility's decision to the staff.
- (5) The commission's website and the local/toll-free and ~~FDD/TTY~~telephone numbers of the commission's ~~public interest call~~center.

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

(G) Deposit to reestablish creditworthiness for tariffed service.

- (1) An ~~EDU~~electric utility may require a customer to make an initial or additional deposit on an account, as set forth in this rule, to reestablish creditworthiness for tariffed service based on the customer's credit history on that account with that ~~company~~electric utility.
- (2) A deposit may be required if the customer ~~has~~meets one of the following criteria:
 - (a) ~~Not~~The customer has not made full payment or payment arrangements by the due date on which the bill becomes past due for two consecutive bills; during the preceding twelve months.

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- (b) ~~Received—~~The customer has been issued a disconnection notice for nonpayment on two or more occasions during the preceding twelve months;
~~or,~~
 - (c) ~~Had—~~The customer has had service disconnected for nonpayment, a fraudulent practice, tampering, or unauthorized reconnection during the preceding twelve months.
- (H) Upon acceptance of a deposit, each ~~EDU—electric utility~~ shall furnish a receipt to the applicant or customer which shows:
- (1) The name of the applicant;
 - (2) The address of the premises currently served or to be served;
 - (3) The billing address for service;
 - (4) The amount of the deposit;
 - (5) A statement as to the interest rate to be paid and the length of time the deposit must be held to qualify for interest;~~and,~~
 - (6) The conditions for refunding the deposit.
- (I) Each ~~EDU—electric utility~~ shall:
- (1) Review each nonresidential account after the first two years of service for which a deposit is being held, and shall promptly refund the deposit or credit the nonresidential customer's account, plus interest accrued, if during the preceding twenty-four months, both of the following are true:
 - (a) The customer's service was not disconnected for nonpayment, a fraudulent practice, tampering, or unauthorized reconnection;~~and,~~
 - (b) The customer had not more than three past due bills.
 - (2) Upon customer request, but not more than annually, review each nonresidential account after the first two years of service for which a deposit is being held, and shall promptly refund the deposit or credit the customer's account, plus interest accrued, if during, with regard to the preceding twelve months, both of the following are true:
 - (a) The customer's service was not disconnected for nonpayment, a fraudulent practice, tampering, or unauthorized reconnection;~~and,~~
 - (b) The customer had not more than two past due bills.

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

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

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

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

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

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

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

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

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

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

(M) Residential service guarantors.

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

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

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

- (a) Transfer the balance owed by the customer, not to exceed the amount for sixty days service, to his/her guarantor's account; and
- (b) Disconnect service under the guaranty, if the guarantor fails to pay the customer's balance within thirty days after notice of the customer's default or fails to make other payment arrangements acceptable to the ~~EDU~~electric utility.

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

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

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

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

(C) Customer education and marketing practices.

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

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

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

(3) An identification and explanation of:

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

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

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

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

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

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(E) Customer specific information.

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

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

(b) Participation in the home energy assistance program, the emergency home energy assistance program, and programs funded by the universal service fund, pursuant to section 4928.52 of the Revised Code, such as the percentage of income payment plan programs.

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

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

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

(a) Completing a customer credit evaluation.

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

(c) Participation in the home energy assistance program, the emergency home energy assistance program, and programs funded by the universal service fund, pursuant to section 4928.52 of the Revised Code, such as the percentage of income payment plan programs.

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The electric utility must use the consent form set forth in paragraph (E)(3) of this rule.

- (3) ~~The EDU must obtain the customer's signature on the consent form prior to releasing the customer's account number or social security number. The consent form shall be on a separate piece of paper and shall be clearly identified on its face as a release of personal information and all text appearing on the consent form shall be in at least 16-point-sixteen-point type. The following statement shall appear prominently on the consent form, just prior to the signature, in type darker and larger than the type in surrounding sentences: "I realize that under the rules and regulations of the public utilities commission of Ohio, I may refuse to allow (name of the EDUelectric utility) to release the information set forth above. By my signature, I freely give (name of the EDUelectric utility) permission to release the information designated above." The information that the EDU electric utility seeks to release shall be specified on the form. Forms requiring a customer to circle or to check off preprinted types of information to be released may not be used.~~

- (4) Nothing in this rule prohibits the commission from accessing records or business activities of an electric utility, as provided for in paragraph (B) of rule 4901:1-10-03 of the Administrative Code.

(F) Customer load pattern information. An EDU electric utility shall:

- (1) Upon request, timely provide ~~twelve-twenty-four~~ months of a customer's usage history ~~and twenty-four months of a customer's~~, payment history, detailed consumption data, if available, and time differentiated price data, if applicable, to the customer; without charge.
- (2) Provide generic customer load pattern information, in a universal file format, to other electric service providers on a comparable and nondiscriminatory basis;.
- (3) Provide customer-specific information to CRES providers on a comparable and nondiscriminatory basis as prescribed in paragraph (E) of rule 4901:1-10-29 of the Administrative Code, unless the customer objects to the disclosure of such information;.
- (4) Prior to issuing any eligible-customer lists and at least four times per calendar year, provide all customers clear written notice, in billing statements or other communications, of their right to object to being included on such lists. Such notice shall include instructions for reporting such objection. This notice shall read as follows:

"We are required to include your name, address, and usage information on a list of eligible customers that is made available to other competitive retail electric service providers. If you do not wish to be included on this list, please call (

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~~company-electric utility~~ telephone number) or write (~~company~~electric utility address). If you have previously made a similar election, your name will continue to be excluded from the list without any additional action on your part. If you previously decided not to be included on the list and would like to reverse that decision, please call or write us at the same telephone number and address. An election not to be included on this list will not prevent (electric utility name) from providing your information to governmental aggregators."

In addition, the ~~EDU~~electric utility may offer its customers the option of contacting the ~~company-electric utility~~ by electronic means and, if it does so, the electric utility shall add their-its electronic mail address or web site to the above notice.

(5) If a customer reports ~~such objection objects~~ as provided in paragraphs (F)(3) and (F)(4) of this rule, the ~~EDU~~electric utility shall not release such information unless and until the customer affirmatively indicates that the information may be released.

(G) Each ~~EDU~~electric utility shall develop, update, and maintain a list of certified CRES providers that are actively seeking residential customers within the ~~EDU's~~ electric utility's service territory. Where CRES providers are actively seeking residential customers, the ~~EDU~~electric utility shall provide such lists to:

- (1) All of its customers quarterly ~~for the remainder of the market development period;~~
- (2) All applicants for new service and customers returning to standard offer service; ~~and,~~
- (3) Any customer upon request.

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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, upon an application or a motion by a party, waive any requirement of Chapter 4901:1-21 of the Administrative Code this chapter, other than a requirement mandated by statute, 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~~ this chapter 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 in~~ this chapter supersede any inconsistent provisions, terms, and conditions of ~~the each~~ 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~~ 4928.52 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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4901:1-21-09

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 any 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 4928.52 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 4928.52 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~~ 4928.52 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 service~~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~~ 4928.52 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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4901:1-21-17 **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 4928.52 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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4901:1-22-03 **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)~~ (B)(4) 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)~~ (A)(32) of section 4928.01 of the Revised Code, ~~or a small generating facility~~

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~~with a 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.
- (D) The commission may, upon an application or a motion filed by a party, waive any requirement of this chapter, other than a requirement mandated by statute, for good cause shown.

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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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4901:1-24-01 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 1.59 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 brokers, but does not encompass the service provided by an ~~EDU~~ electric utility

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pursuant to ~~section 4928.14~~ sections 4928.141, 4928.142, and 4928.143 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 ~~solely~~ 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.~~ The commission may, upon an application or a motion filed by a party, waive any requirement of this chapter, other than a requirement mandated by statute, for good cause shown.
- (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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4901:1-25-01 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 the meaning set forth in division (A)(6) of section 4928.01 of the Revised Code.~~
- ~~(J)~~ (I) "Electric utility" ~~has~~ shall have the meaning set forth in division (A)(11) of section 4928.01 of the Revised Code.
- ~~(K)~~ (J) "Electric services company" ~~has~~ shall have the meaning set forth in division (A)(9) of section 4928.01 of the Revised Code.
- ~~(L)~~ (K) "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)~~(L) "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)~~(M) "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.

(N) "Interconnection applicant" shall have the same meaning as "applicant" in paragraph (A) of rule 4901:1-22-01 of the Administrative Code.

(O) "Interconnection application" shall have the same meaning as "application" in paragraph (B) of rule 4901:1-22-01 of the Administrative Code.

~~(O)~~(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 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.

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~~(V)(W)~~ "Standard service 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 ~~4909.18-4928.141~~ of the Revised Code, of all ~~competitive retail~~
~~electric services~~ CRES necessary to maintain essential electric service to consumers,
including a firm supply of electric generation service ~~priced in accordance with the~~
~~schedule containing the 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~~ Each electric utility, and each 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 certified electric service provider services company (electric services company, power marketer, power 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, or an internet link to, 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 ~~MWH~~ megawatt 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 service offer customers and for special contract customers.
- (b) Monthly system peak data identifying the number of ~~MW~~ megawatts, the peak day of the month, the peak day of the week, and the peak hour of the month.
- (c) Information about generation resources owned by retail customers and connected to its distribution system, regardless of the voltage at which they are interconnected; all generation resources connected at a distribution voltage, which were interconnected as a result of an interconnection application; and all resources owned by the utility and interconnected at a distribution voltage, which but for such ownership would have been subject of an interconnection application by an interconnection application. This information shall be reported annually, as an attachment to the electric utility's fourth quarter market monitoring report. The report shall include the data as of the end of the calendar year. 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 interconnection applications by interconnection applicants 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 this rule. The narrative report shall include the following information:

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- (i) Name and contact information of the electric utility employee who is directly responsible for processing the interconnection application and/or interacting with the interconnection applicant.
- (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) Copies of any and all written notices required by paragraphs (B)(4) and (B)(5) of rule 4901:1-22-04 of the Administrative Code.
- (iv) Description of the status of each interconnection 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 interconnection application shall be updated in subsequent quarterly narrative reports by describing any modifications to the interconnection application, any meetings that may have occurred, and any correspondence or communications that have occurred between the electric utility and the interconnection applicant.

The electric utility shall provide to each interconnection applicant a copy of the section of the quarterly report required by paragraph (A)(2)(d) of this rule, which contains information describing that interconnection applicant's interconnection application.

~~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 services company, 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 including their competitive retail electric service (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,

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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 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 certified 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 paragraphs (A)(1) and (A)(2)(a) to (A)(2)(c) of this rule shall be deemed to be public information.
- (b) Any information filed pursuant to paragraphs (A)(2)(d), (A)(3), and (A)(4) of this rule shall be deemed to be confidential information, unless and until the interconnection applicant or customer owner may make, or agree to make, such information public.

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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 semiannually with the second and fourth quarterly-report reports 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.
- (D) The commission may, upon an application or a motion filed by a party, waive any requirement of this chapter, other than a requirement mandated by statute, for good cause shown.