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The Public Utilities Commission of Ohio
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BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's Review of)
Ohio's Coal Research and Development Rate) Case No. 11-1203-GA-ORD
Rules Contained in Chapter 4901:1-12 of the)
Ohio Administrative Code.)

FINDING AND ORDER

The Commission finds:

- (1) Section 119.032, Revised Code, requires all state agencies, every five years, to conduct a review of each of its rules and to determine whether to continue its rules without change, amend its rules, or rescind its rules. In general, the rules contained in Chapter 4901:1-12, Ohio Administrative Code (O.A.C.), address coal research and development cost recovery.
- (2) Section 119.032(C), Revised Code, requires that the Commission determine each of the following:
 - (a) Whether the rule should be continued without amendment, be amended, or be rescinded, taking into consideration the purpose, scope, and intent of the statute under which the rule was adopted.
 - (b) Whether the rule needs amendment or rescission to give more flexibility at the local level.
 - (c) Whether the rule needs amendment to eliminate unnecessary paperwork.
 - (d) Whether the rule duplicates, overlaps with, or conflicts with other rules.
- (3) In addition, on January 10, 2011, the governor of the state of Ohio issued Executive Order 2011-01K, entitled "Establishing the Common Sense Initiative," which sets forth several factors to be considered in the promulgation of rules and the review of existing rules. Among other things, the Commission must review its rules to determine the impact on small businesses; attempt to balance the critical objectives of regulation and the cost of compliance by the regulated parties; and amend or rescind rules that are unnecessary, ineffective, contradictory,

redundant, inefficient, or needlessly burdensome, or that have had negative, unintended consequences, or unnecessarily impede business growth.

- (4) Following its review, the Commission's Staff recommended non-substantive edits to several rules contained in Chapter 4901:1-12, O.A.C. Staff further recommended a minor amendment of Rule 4901:1-12-08, O.A.C., to allow for public comment on issues relating to audit reports. The proposed amendment explained that, if issues remain unresolved following the public comment period, the Commission may then hold a hearing to address any unresolved issues.
- (5) The Commission issued an entry on March 16, 2011, requesting those persons or entities interested in making comments to file their comments in writing, or electronically, with the Commission's docketing division by April 15, 2011. No comments were filed in this docket.
- (6) In making the determinations required by Section 119.032(C), Revised Code, the Commission considered the matters set forth in the executive order and in Section 119.032(C), Revised Code, as well as the continued need for the rules; the nature of any complaints or comments received concerning these rules; and any relevant factors that have changed in the subject matter area affected by the rules. With these factors in mind, and upon consideration of the Staff's proposal, the Commission concludes that: no change should be made to Rules 4901:1-12-01, 4901:1-12-03, and 4901:1-12-06, O.A.C.; and Rules 4901:1-12-02, 4901:1-12-04, 4901:1-12-05, 4901:1-12-07, 4901:1-12-08, and 4901:1-12-09, O.A.C., should be amended. Therefore, Chapter 4901:1-12, O.A.C., as attached to this finding and order, should be adopted.

It is, therefore,

ORDERED, That attached amended Rules 4901:1-12-02, 4901:1-12-04, 4901:1-12-05, 4901:1-12-07, 4901:1-12-08, and 4901:1-12-09, O.A.C., be adopted and filed with the Joint Committee on Agency Rule Review, the Secretary of State, and the Legislative Service Commission in accordance with divisions (D) and (E) of Section 111.15, Revised Code. It is, further,

ORDERED, That attached existing Rules 4901:1-12-01, 4901:1-12-03, and 4901:1-12-06, O.A.C., be filed, without amendment, 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 five-year review date for Chapter 4901:1-12, O.A.C., shall be September 30, 2016. It is, further,

ORDERED, That a copy of this finding and order be served upon all regulated natural gas companies, the Office of Ohio Consumers' Counsel, the Ohio Coal Development Office, and all interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO


Todd A. Snitchler, Chairman


Paul A. Centolella


Steven D. Lesser

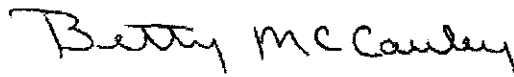

Andre T. Porter


Cheryl L. Roberto

JJT/sc

Entered in the Journal

MAY 19 2011



Betty McCauley
Secretary