

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Review of the Energy)	
Shortage Emergency Rules Contained in Chapters)	
4901:5-17, 4901:5-19, 4901:5-21, 4901:5-23,)	Case No. 11-4624-AU-ORD
4901:5-25, 4901:5-29, 4901:5-33, 4901:5-35, and)	
4901:5-37 of the Ohio Administrative Code)	

**INITIAL COMMENTS OF
COLUMBUS SOUTHERN POWER COMPANY
AND OHIO POWER COMPANY**

INTRODUCTION

By entry dated August 17, 2011, the Commission initiated a review of the various rules of the Ohio Administrative Code related to energy emergencies and invited interested parties to file initial comments by September 16, 2011 and reply comments by October 6, 2011. The Commission stated that, in addition to the normal criteria for a 5-year rulemaking review found in R.C. 119.032(C), the proposed rules would also be reviewed to determine the impact that a rule has on small businesses; attempt to properly 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, are needlessly burdensome or that have had negative, unintended consequences or unnecessarily impeded business growth. Columbus Southern Power Company and Ohio Power Company (collectively "AEP Ohio") commend the Commission for pursuing these additional purposes and submit comments below in response to the Commission's invitation for input.

CHAPTER 4901:5-19, FUEL EMERGENCY

1 Proposed Rule 4901:5-19-01, Definitions

AEP Ohio supports the existence and use of a fuel source advisory council to monitor and advise the Commission on fuel supply or energy shortages and related matters. AEP Ohio suggests that the advisory council should be comprised of public utility industry representatives and should be consulted prior to declaration of any energy emergency. AEP Ohio feels that including public utility industry representatives on the advisory council would allow the Commission to be advised and kept informed by those parties who are most likely to have the most useful and current fuel supply and other related information.

With respect to the definition of “Priority use” contained in subdivision (J), AEP Ohio recommends modifying subdivisions (J)(11) and (J)(12) to ensure that there would be a sufficient amount of electric energy necessary for the *operation* of pipeline transmission and distribution facilities as well as the *operation* of coal mines and related facilities during an energy emergency. Many components of these facilities such as compression stations for pipelines and loading facilities for coal operations require electric energy in order to operate. Accordingly, AEP Ohio feels ensuring that these facilities receive a sufficient amount of electric energy to operate during an energy emergency will help in the prevention of unnecessary or avoidable damage to these facilities.

- **Recommended Rule Changes for Rule 4901:5-19-01¹**

(F) “Fuel source advisory council” means the advisory group **OF PUBLIC UTILITY INDUSTRY REPRESENTATIVES** formed by the chairperson of the commission to

¹ AEP Ohio’s recommended rule changes are set forth in redline format with added language shown in **bold underlined text** and recommended deletions shown as ~~strikethrough text~~.

monitor and advise the commission concerning fuel supply or energy shortages and related matter.

(J)(11) **THE OPERATION OF** Pipeline transmission and distribution facilities for natural gas, artificial or synthetic gas, propane, and petroleum fuels

(J)(12) **THE OPERATION OF** Coal mines and related facilities

2. Proposed Rule 4901:5-19-02, General Provisions

Subdivision (E) addresses an electric power producer's obligation to submit to commission staff a weekly report of electric supply adequacy "[i]n anticipation of an imminent energy emergency" but does not define when an energy emergency is determined to be imminent. As discussed in more detail below, some of the information called for in subdivisions (E) and (F) of this rule may contain confidential and proprietary information. Because companies should not be required to turn over this type of information outside the context of an energy emergency, AEP Ohio recommends requiring disclosure of the information contemplated by these subdivisions deleting the "only when an energy emergency is actually declared". A similar approach should be taken with respect to subdivision (G).

Subdivisions (E) and (F) impose a largely unqualified duty on electric power producers to provide staff with potentially confidential and proprietary information in connection with these rules. Examples include disclosing as part of the report called for by subdivision (E), the "fuel type(s) utilized by the unit" and the "typical fuel inventory in terms of megawatt hours for the unit". In addition, subdivision (F) calls for "the calculations and detailed description of all assumptions made" in compiling the report required under subdivision (E). While AEP Ohio understands that the information called for by these rules may be relevant to the Commission in making decisions relating to

electric supply adequacy, companies should not have to negotiate or litigate matters concerning the confidential and proprietary nature of their business data (which incidentally relates largely to unregulated activities) in the midst of an energy emergency. A reasonable balance may be struck simply by providing that the information submitted will be treated as confidential (subject to later determination by order). Such an approach will help ensure quick responses to information requests by staff.

- **Recommended Rule Changes for 4901:5-19-02**

(E) ~~In anticipation of an imminent energy emergency or~~ During a declared energy emergency, the commission may order all electric power producers having a generating capacity of fifty megawatts or more to submit to staff a weekly report of electric supply adequacy. Upon request of the chairman of the commission, the report of electric supply adequacy shall be submitted daily **THE INFORMATION CONTAINED IN THE REPORT WILL BE TREATED AS CONFIDENTIAL.** The report shall contain the following information: ***

(F) Upon request, each electric power producer shall submit to commission staff the calculations and a detailed description of all assumptions made in the reports required under paragraph (E) of this rule **THE INFORMATION CONTAINED IN THE REPORT WILL BE TREATED AS CONFIDENTIAL.**

(G) ~~In anticipation of an imminent energy emergency or~~ During a declared energy emergency, each electric provider and electric power producer shall be required to answer commission staff's questions, as well as to update its company's contact information with the commission.

CHAPTER 4901:5-21, COAL ALLOTMENT

1. Proposed Rule 4901:5-21-01, Definitions

AEP Ohio supports the existence and use of a fuel source advisory council to monitor and advise the Commission on fuel supply or energy shortages and related matters. AEP Ohio suggests that the advisory council should be comprised of public utility industry representatives and should be consulted prior to declaration of any energy

emergency. AEP Ohio feels that including public utility industry representatives on the advisory council would allow the Commission to be advised and kept informed by those parties who are most likely to have the most useful and current fuel supply and other related information.

- **Recommended Rule Changes for 4901:5-21-01**

(E) “Fuel source advisory council” means the advisory group **OF PUBLIC UTILITY INDUSTRY REPRESENTATIVES** formed by the chairperson of the commission to monitor and advise the commission concerning fuel supply or energy shortages and related matter.

CHAPTER 4901:5-23, COAL EMERGENCY

1. Proposed Rule 4901:5-23-01, Definitions

AEP Ohio supports the existence and use of a fuel source advisory council to monitor and advise the Commission on fuel supply or energy shortages and related matters. AEP Ohio suggests that the advisory council should be comprised of public utility industry representatives and should be consulted prior to declaration of any energy emergency. AEP Ohio feels that including public utility industry representatives on the advisory council would allow the Commission to be advised and kept informed by those parties who are most likely to have the most useful and current fuel supply and other related information.

- **Recommended Rule Changes for 4901:5-23-01**

(E) “Fuel source advisory council” means the advisory group **OF PUBLIC UTILITY INDUSTRY REPRESENTATIVES** formed by the chairperson of the commission to monitor and advise the commission concerning fuel supply or energy shortages and related matter.

CHAPTER 4901:5-25, GAS EMERGENCY

1. Proposed Rule 4901:5-25-01, Definitions

AEP Ohio supports the existence and use of a fuel source advisory council to monitor and advise the Commission on fuel supply or energy shortages and related matters. AEP Ohio suggests that the advisory council should be comprised of public utility industry representatives and should be consulted prior to declaration of any energy emergency. AEP Ohio feels that including public utility industry representatives on the advisory council would allow the Commission to be advised and kept informed by those parties who are most likely to have the most useful and current fuel supply and other related information.

- **Recommended Rule Changes for 4901:5-25-01**

(E) "Fuel source advisory council" means the advisory group **OF PUBLIC UTILITY INDUSTRY REPRESENTATIVES** formed by the chairperson of the commission to monitor and advise the commission concerning fuel supply or energy shortages and related matter.

2 Proposed Rule 4901:5-25-02, General provisions

Proposed Rule 4901:5-25(B) indicates that gas suppliers shall comply with the rules of this chapter during a critical situation. As proposed, this rule fails to take into consideration FERC's overriding jurisdiction in the area of interstate pipelines. AEP Ohio suggests modifying this rule to reflect FERC's authority in these areas.

- **Recommended Rule Changes for 4901:5-25-02**

(B) Each gas supplier shall comply with the rules of this chapter, **UNLESS OTHERWISE ORDERED BY FERC** and orders of the commission during a critical situation that has adversely affected, or may adversely affect, the operation or reliability of electric service.

CHAPTER 4901:5-29, HEATING OIL AND PROPANE EMERGENCY

1 Proposed Rule 4901:5-29-01, Definitions

AEP Ohio supports the existence and use of a fuel source advisory council to monitor and advise the Commission on fuel supply or energy shortages and related matters. AEP Ohio suggests that the advisory council should be comprised of public utility industry representatives and should be consulted prior to declaration of any energy emergency. AEP Ohio feels that including public utility industry representatives on the advisory council would allow the Commission to be advised and kept informed by those parties who are most likely to have the most useful and current fuel supply and other related information.

- **Recommended Rule Changes for 4901:5-29-01**

(D) "Fuel source advisory council" means the advisory group **OF PUBLIC UTILITY INDUSTRY REPRESENTATIVES** formed by the chairperson of the commission to monitor and advise the commission concerning fuel supply or energy shortages and related matter.

CHAPTER 4901:5-33 TRANSPORTATION FUEL EMERGENCY

1 Proposed Rule 4901:5-33-01, Definitions

AEP Ohio supports the existence and use of a fuel source advisory council to monitor and advise the Commission on fuel supply or energy shortages and related matters. AEP Ohio suggests that the advisory council should be comprised of public utility industry representatives and should be consulted prior to declaration of any energy emergency. AEP Ohio feels that including public utility industry representatives on the advisory council would allow the Commission to be advised and kept informed by those

parties who are most likely to have the most useful and current fuel supply and other related information.

- **Recommended Rule Changes for 4901:5-33-01**

(E) “Fuel source advisory council” means the advisory group **OF PUBLIC UTILITY INDUSTRY REPRESENTATIVES** formed by the chairperson of the commission to monitor and advise the commission concerning fuel supply or energy shortages and related matter.

CHAPTER 4901:5-35 APPLICATION FOR ASSIGNMENT UNDER STATE SET-ASIDE SYSTEM

1. Proposed Rule 4901:5-35-01, Definitions

AEP Ohio supports the existence and use of a fuel source advisory council to monitor and advise the Commission on fuel supply or energy shortages and related matters. AEP Ohio suggests that the advisory council should be comprised of public utility industry representatives and should be consulted prior to declaration of any energy emergency. AEP Ohio feels that including public utility industry representatives on the advisory council would allow the Commission to be advised and kept informed by those parties who are most likely to have the most useful and current fuel supply and other related information.

- **Recommended Rule Changes for 4901:5-35-01**

(E) “Fuel source advisory council” means the advisory group **OF PUBLIC UTILITY INDUSTRY REPRESENTATIVES** formed by the chairperson of the commission to monitor and advise the commission concerning fuel supply or energy shortages and related matter.

CHAPTER 4901:5-37, EMERGENCY REPORTING BY ELECTRIC ENTITIES

2 Proposed Rule 4901:5-37-02, General Provisions

Proposed Rule 4901:5-37-02(B) indicates that electric entities shall comply with the rules of this chapter during a critical situation. As proposed, this rule fails to take into consideration FERC's overriding jurisdiction in the area of wholesale markets and transmission services. AEP Ohio suggests modifying this rule to reflect FERC's authority in these areas.

- **Recommended Rule Changes for 4901:5-37-02**

(B) Each electric entity shall comply with the rules of this chapter, **UNLESS OTHERWISE ORDERED BY FERC** and orders of the commission during a critical situation that has adversely affected, or may adversely affect, the operation or reliability of electric service.

CONCLUSION

For the foregoing reasons, AEP Ohio recommends the above changes be adopted by the Commission in finalizing its rule review.

Respectfully submitted,

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Summary: Comments electronically filed by Mr. Matthew J Satterwhite on behalf of Columbus Southern Power Company and Ohio Power Company