

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's Review of)
the Alternative Rate Plan and Exemption) Case No. 11-5590-GA-ORD
Rules Contained in Chapter 4901:1-19 of the)
Ohio Administrative Code.)

ENTRY

The Commission finds:

- (1) Section 119.032, Revised Code, requires all state agencies to conduct a review, every five years, of their rules and to determine whether to continue their rules without change, amend their rules, or rescind their rules. At this time, the Commission is reviewing the alternative rate plan and exemption rules contained in Chapter 4901:1-19, Ohio Administrative Code (O.A.C.).
- (2) Section 119.032(C), Revised Code, requires that the Commission determine:
 - (a) Whether the rules should be continued without amendment, be amended, or be rescinded, taking into consideration the purpose, scope, and intent of the statute under which the rules were adopted;
 - (b) Whether the rules need amendment or rescission to give more flexibility at the local level;
 - (c) Whether the rules need amendment to eliminate unnecessary paperwork; and
 - (d) Whether the rules duplicate, overlap with, or conflict 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 that a rule has 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) In making its review, an agency is also required to consider the continued need for the rules, the nature of any complaints or comments received concerning the rules, and any factors that have changed in the subject matter area affected by the rules.
- (5) The Commission's Staff has evaluated the rules contained in Chapter 4901:1-19, O.A.C., and recommends amendments to and, in some instances, rescission of several rules as shown in the attachment to this entry. A summary of the proposals is as follows:
 - (a) Throughout the rules contained in Chapter 4901:1-19, O.A.C., Staff recommends various nonsubstantive changes intended to separate the rules pertaining to exemption applications and alternative rate applications in order to clarify the rules applicable to each type of application and make the rules more consistent with statutory requirements. Additionally, Staff recommends various nonsubstantive changes in order to simplify language and organization, and to enable more efficient and cost-effective service.
 - (b) Staff recommends the addition of new rules and amendments to rules throughout Chapter 4901:1-19, O.A.C., to address filing requirements and procedures related to applications to exit-the-merchant-function. The Commission is open to considering applications to exit-the-merchant-function and will seriously consider such applications that are just and reasonable.
 - (c) Staff proposes to amend Rule 4901:1-19-01, O.A.C., to delete the definitions of "four firm concentration ratio," "Herfindahl Hirschman index," and "Lerner index," because information

regarding these measures is no longer used by Staff. Additionally, Staff proposes to amend Rule 4901:1-19-01, O.A.C., to add several definitions of terms used in the new proposed rules regarding the exit-the-merchant-function.

- (d) Staff recommends amending Rules 4901:1-19-02, 4901:1-19-06, and 4901:1-19-07, O.A.C., to include language making the rules consistent with Amended Substitute House Bill 95 (Am. Sub. H.B. 95), which modified Chapter 4929, Revised Code.
 - (e) Staff recommends the addition of a new rule, Rule 4901:1-19-10, O.A.C., to provide for certain consumer protection requirements applicable to exemption and exit-the-merchant-function plans.
 - (f) Staff recommends amending Rule 4901:1-19-11, O.A.C., to provide that the Commission may impose temporary measures necessary for the provision of default commodity sales service under certain conditions, and that natural gas companies may request recovery of all costs reasonably incurred in complying with any such temporary measures imposed under the rule.
 - (g) Staff recommends the addition of a new rule, Rule 4901:1-19-13, O.A.C., to reflect that an alternative rate plan filed under Section 4929.05, Revised Code, that seeks to continue a previously approved alternative rate plan, shall be considered an application not for an increase in rates to be consistent with Am. Sub. H.B. 95 and Section 4929.051(B), Revised Code.
- (6) Staff's proposed changes to Chapter 4901:1-19, O.A.C., are posted at: www.puco.ohio.gov/puco/rules. To minimize the expense of this proceeding, the Commission will serve a paper copy of only this entry. All interested persons are directed to download the proposed rules from the above website or to contact the Commission's Docketing Division to request a paper copy.


- (7) The Commission requests comments from interested persons to assist in the review required by Section 119.032(C), Revised Code, and Executive Order 2011-01K. Comments should be filed, via electronic filing or in hard copy, by December 22, 2011. Reply comments should be filed by January 23, 2012.

It is, therefore,

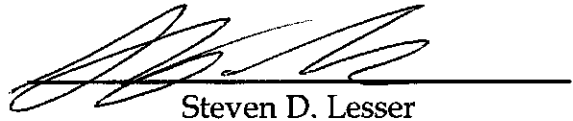
ORDERED, That all interested persons or entities wishing to file comments or reply comments with the Commission regarding the proposed rules do so no later than December 22, 2011, and January 23, 2012, respectively. It is, further,

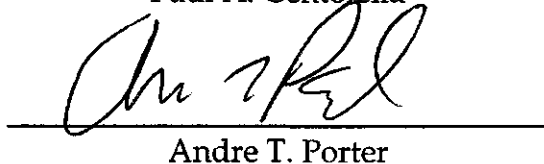
ORDERED, That a copy of this entry and the attachment, be served upon all regulated gas and natural gas companies, the Ohio Consumers' Counsel, the Ohio Gas Association, and the Ohio Oil and Gas Association.

THE PUBLIC UTILITIES COMMISSION OF OHIO


Todd A. Snitchler, Chairman


Paul A. Centolella


Steven D. Lesser

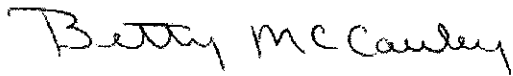

Andre T. Porter


Cheryl L. Roberto

MLW/sc

Entered in the Journal

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Betty McCauley

Betty McCauley
Secretary

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4901:1-19-01 Definitions.

- (A) "Alternative rate plan" means a method, alternate to the method provided in section 4909.15 of the Revised Code, for establishing rates and charges for a distribution service or for a commodity sales service or ancillary service that is not exempt pursuant to section 4929.04 of the Revised Code. Alternative rate plans may include, but are not limited to, methods that provide adequate and reliable natural gas services and goods in this state; minimize the costs and time expended in the regulatory process; tend to assess the costs of any natural gas service or goods to the entity, service, or goods that cause such costs to be incurred; afford rate stability; promote and reward efficiency, quality of service, or cost containment by a natural gas company; or provide sufficient flexibility and incentives to the natural gas industry to achieve high quality, technologically advanced, and readily available natural gas services and goods at just and reasonable rates and charges. Alternative rate plans also may include, but are not limited to, automatic adjustments based on a specified index or changes in a specified cost or costs.
- (B) "Affiliate", when used in relation to any entity, means another entity which controls, is controlled by, is under common control with, or shares common ownership, with the regulated entity.
- (C) "Alternative provider" means a seller, other than the applicant, who provides the same or functionally equivalent product.
- (D) "Ancillary service" means a service that is ancillary to the receipt or delivery of natural gas to consumers including, but not limited to, storage, pooling, balancing, and transmission.
- (E) "Choice-eligible customer" means a customer who is eligible, according to a natural gas company's tariffs, to choose the customer's retail natural gas supplier, and who is not enrolled in the percentage of income payment program or any successor program.
- (F) "Choice-ineligible customer" means a customer who is ineligible, according to a natural gas company's tariffs, to choose the customer's retail natural gas supplier, but who is not enrolled in the percentage of income payment program or any successor program.
- (G) "Commodity sales service" means the sale of natural gas to consumers, exclusive of any distribution or ancillary service.
- (H) "Comparable service" means any regulated service or goods whose availability, quality, price, terms, and conditions are the same as or better than those of the services or goods that the natural gas company provides to a person with which

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it is affiliated or which it controls, or, as to any consumer, that the natural gas company offers to that consumer as part of a bundled service that includes both regulated and exempt services or goods.

- (I) "Competitive retail auction" shall mean a competitive bidding process in which the obligation to provide commodity sales service to retail customers is directly assigned to suppliers through an auction process and with which that supplier gains a direct retail relationship with the customers awarded and such customer's supply obligation is no longer the responsibility of the natural gas company.
- (J) "Consumer" means any person or association of persons purchasing, delivering, storing, or transporting, or seeking to purchase, deliver, store, or transport, natural gas, including industrial consumers, commercial consumers, and residential consumers, but not including natural gas companies.
- (K) "Control" (including the terms "controlling," "controlled by," and "under common control with") includes, but is not limited to, the possession, directly or indirectly, of the authority to direct or cause the direction of the management or policies of a company. A voting interest of ten per cent or more creates a presumption of control.
- (L) "Default commodity sales service" means commodity sales service supplied to choice-eligible customers who have not chosen their retail natural gas supplier, choice-ineligible customers, or PIPP enrolled customers.
- (M) "Distribution service" means the delivery of natural gas to a consumer at the consumer's facilities, by and through the instrumentalities and facilities of a natural gas company, regardless of the party having title to the natural gas.
- (N) "Exit-the-merchant-function" means the complete transfer of the obligation to supply default commodity sales service for choice-eligible customers from a natural gas company to retail natural gas suppliers without the occurrence of a competitive retail auction.
- ~~(f) "Four firm concentration ratio" means a measure of market concentration consisting of the sum of the market shares of the four largest firms in the market.~~
- ~~(K) "Herfindahl-Hirschman index (HHI)" means a measure of market concentration which is calculated by summing the squares of the individual market shares of all suppliers in a relevant market.~~
- ~~(L) "Lerner index" is a measure of market power which is calculated as: $L = (P - C)/P$, where L is the Lerner index for a given firm and P and C are price and marginal~~

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~~cost, respectively, at that firm's profit-maximizing output.~~

- (O) "Market" means the set of all actual and potential buyers and sellers of a particular product.
- (P) "PIPP-enrolled customer" means a customer who is enrolled in the natural gas utility's percentage of income payment plan program or any successor program.
- (Q) "Product" means commodity sales and/or ancillary goods or services.
- (R) "Reasonably available alternatives" means buyers have access to a product that is available soon enough, priced low enough, with quality high enough, under comparable terms and conditions to permit its substitution as an alternative.
- (S) "Relevant market" means the market for the product that is the subject of the application for exemption or alternative rate making.
- (T) "Transmission" means the act or process of transporting the commodity in bulk from a source or sources of supply to principal parts of the system or to other utility systems.

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4901:1-19-02 Purpose and scope.

- (A) This chapter governs the filing, consideration, and implementation of an application made pursuant to section 4929.04 of the Revised Code, to exempt any commodity sales service or ancillary service of a natural gas company from all provisions of: Chapter 4905. of the Revised Code with the exception of section 4905.10; Chapter 4909. and Chapter 4935., with the exception of sections 4935.01 and 4935.03; sections 4933.08, 4933.09, 4933.11, 4933.123, 4933.17, 4933.28, ~~4933.31~~, and 4933.32 of the Revised Code; and from any rule or order issued under those chapters or sections, including the obligation under section 4905.22 of the Revised Code, to provide the commodity sales service or ancillary service, subject to divisions (D) and (E) of section 4929.04 of the Revised Code.
- (B) This chapter also governs the filing and consideration of an application by a natural gas company to exit the merchant function.
- (C) This chapter also governs the filing and consideration of an application made pursuant to section 4929.05 of the Revised Code, by a natural gas company to request approval of an alternative rate plan. The applicant has the burden to document and demonstrate in its alternative rate plan filing that the applicant is in compliance with section 4905.35 of the Revised Code, which prohibits unjust, unreasonable, or preferential rates, that the applicant is in substantial compliance with the state's natural gas regulatory and economic policy specified in section 4929.02 of the Revised Code, ~~and that the applicant will continue to be in substantial compliance with section 4929.02 of the Revised Code, after implementation of its alternative rate plan,~~ and that the alternative rate plan is just and reasonable.
- (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.

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4901:1-19-03 Filing requirements for exemption applications filed pursuant to section 4929.04 of the Revised Code.

(A) Notice of intent.

The applicant shall notify the commission staff by letter addressed to the directors of the utilities department and the service monitoring and enforcement department of its intent to file an application at least thirty calendar days prior to the expected date of filing.

(B) Form of an application:

- (1) All testimony and exhibits supporting the application shall be filed with the application.
- (2) The applicant shall provide a copy of its application and supporting testimony to the office of the consumers' counsel and each party of record in its previous alternative rate plan or rate case proceeding. Such copies may be provided either in hard copy or by electronic service. An applicant shall have available one copy of its application in each principal business office and on its web page for public inspection.
- (3) An exemption application shall be designated by the commission's docketing division using the acronym EXM.

(C) Exhibits to an exemption application.

- (1) The applicant shall provide a detailed description of each commodity sales service(s) and/or ancillary service(s) for which the applicant is requesting an exemption.
- (2) If the applicant is proposing to implement an auction for provision of default commodity sales service, the applicant shall provide a detailed description of how the proposed auction is consistent with the Commission's previous precedent in which such auctions were authorized.
- (3) The applicant shall fully demonstrate that it is in substantial compliance with the policy of this state specified in section 4929.02 of the Revised Code. The applicant shall also include a detailed discussion as to how the approval of the proposed exemption(s) will promote such policy.
- (4) The applicant shall provide a discussion showing that the requested exemption(s) does not involve undue discrimination for similarly situated customers. The applicant shall provide a description of the internal process for addressing customer complaints and inquiries. The applicant shall also include the name of a contact person to work with the commission staff. This

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person shall have the authority to resolve customer complaints and inquiries received by commission staff. The applicant shall also provide clear and accurate, written materials related to service and product offerings which promote effective customer choice and the provision of adequate customer service.

- (5) The applicant shall include a detailed discussion of why the applicant believes it is currently subject to effective competition in the provision of each commodity sales service or ancillary service for which it is requesting an exemption and/or a detailed discussion of why the applicant believes the customers in the relevant market currently have reasonably available alternatives to each commodity sales service or ancillary service for which it is requesting an exemption. Detailed discussions shall include all supporting documentation which shall include empirical data.
- (6) The applicant shall submit a proposed separation plan to ensure to the maximum extent practicable that operations, resources, and employees involved in providing marketing or exempt commodity sales services or ancillary services are operated and accounted for separate from nonexempt operations. The applicant shall provide a detailed discussion of its proposed separation plan and address how the proposed separation plan satisfies each item presented below or, alternatively, why these are not applicable.
- (7) The applicant shall submit a proposed code of conduct which governs both the applicant's adherence to the state policy specified in sections 4905.32 and 4929.02 of the Revised Code, and its sharing of information and resources between those employees involved in the provision or marketing of exempt commodity sales services or ancillary services, and those employees involved in the provisioning or marketing of nonexempt commodity sales services or ancillary services.
- (8) The applicant shall provide one scored copy each of all proposed tariff schedules where applicable (schedule E-1) which have all proposed changes underscored and current tariff schedules to which changes are proposed (schedule E-2). Identify each page with "schedule E- , page of " in the upper right hand corner of the schedule.
- (9) The applicant shall provide the rationale underlying the proposed changes to the tariff (schedule E-3). Changes common to multiple rate forms need only be discussed once. Reference the appropriate current or proposed rate schedules to which the rationale is applicable. Use the proper schedule and page number.
- (10) The applicant shall provide a description of all dockets in which there are

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special arrangements with customers pursuant to section 4905.31 of the Revised Code, which customers may be affected by the application.

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4901:1-19-04 Procedures for exemption applications filed pursuant to section 4929.04 of the Revised Code.

- (A) During the processing of the application, the commission may dismiss any application which does not substantially comply with the filing requirements of rule 4901:1-19-03 of the Administrative Code.
- (B) After notice and a period for public comment, the commission shall conduct a hearing upon an application by a natural gas company with fifteen thousand or more customers for an exemption of any commodity sales service or ancillary service. The commission may, upon its own motion, conduct a hearing upon such an application by a natural gas company with fewer than fifteen thousand customers.
- (C) Discovery shall be served no later than twenty calendar days prior to hearing unless a different deadline has been specified in an order of the commission for the purposes of a specific proceeding.

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4901:1-19-05 Filing requirements and procedures for applications to exit the merchant function.

(A) Notice of intent

The applicant shall notify the commission staff by letter addressed to the directors of the utilities department and the service monitoring and enforcement department of its intent to file an application at least thirty calendar days prior to the expected date of filing.

(B) Form of an application

- (1) All testimony and exhibits supporting the application shall be filed with the application.
- (2) The applicant shall provide a copy of its application and supporting testimony to the office of the consumers' counsel and each party of record in its previous exemption proceeding. Such copies may be provided either in hard copy or by electronic service. An applicant shall have available one copy of its application in each principal business office and on its web page for public inspection.
- (3) An exit-the-merchant-function application shall be designated by the commission's docketing division using the acronym EMF.

(C) Exhibits to an exit-the-merchant-function application

- (1) The applicant shall demonstrate that the retail natural gas suppliers providing default commodity sales service to the natural gas company's choice-eligible customers have done so reliably for at least two consecutive heating seasons through a competitive retail auction process.
- (2) The applicant shall provide details of the actual assignment and transfer of choice-eligible customers to retail natural gas suppliers for default commodity sales service.
- (3) The applicant shall provide an accounting of the costs to implement the exit-the-merchant-function plan.
- (4) The applicant shall provide a plan for customer education regarding the exit-the-merchant-function plan, which shall include efforts to encourage customers to choose retail natural gas suppliers before the company fully exits the merchant function.
- (5) The applicant shall demonstrate that the application satisfies Section 4929.04, Revised Code, and is just and reasonable.

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- (D) The applicant may request recovery of its reasonable costs of exiting the merchant function.
- (E) The commission shall order such procedures as it deems necessary, consistent with these rules, in its consideration of an application to exit the merchant function.
- (F) Review of the application
 - (1) The burden of proof shall be on the applicant to show that the application satisfies Section 4929.04, Revised Code, and is just and reasonable.
 - (2) Any party opposing an exit-the-merchant-function plan may present evidence to the Commission that the application to exit the merchant function does not meet the criteria in division (F)(1) of this rule. Any such showing of a failure to meet the criteria shall rebut the presumption that permitting an applicant to exit the merchant function satisfies the requirements of division (F)(1) of this rule, and no exit from the merchant function shall be granted.

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4901:1-19-06 Filing requirements for alternative rate plan applications filed pursuant to section 4929.05 of the Revised Code.

(A) Notice of intent

The applicant shall notify the commission staff by letter addressed to the directors of the utilities department and the service monitoring and enforcement department of its intent to file an application at least thirty calendar days prior to the expected date of filing.

(B) Form of an application

- (1) All testimony supporting the application shall be filed with the application.
- (2) An applicant shall provide a copy of its plan to the office of the consumers' counsel and each party of record in its previous alternative rate plan or rate case proceeding. Such copies may be provided either in hard copy or by electronic service. An applicant shall have available one copy of its plan in each principal business office and on its web page or public inspection.
- (3) An alternative rate plan application shall be designated by the commission's docketing division using the acronym ALT.

(C) Exhibits to an alternative rate plan application

- (1) Pursuant to section 4929.05 of the Revised Code, to determine just and reasonable rates under section 4909.15 of the Revised Code applicants shall submit the exhibits described in divisions (A) to (D) of section 4909.18 of the Revised Code, and standard filing requirements pursuant to rule 4901-7-01 of the Administrative Code, (SFRs), when filing an alternative rate case unless otherwise waived by rule 4901:1-19-03 of the Administrative Code.

The applicant may use up to nine months of forecasted data for its unadjusted test year operating income statement. However, the forecasted data shall use the corporate budget which has been approved by the highest level of officers of the applicant and is utilized to manage and operate the applicant on a day-to-day basis. Adjustments the applicant believes are necessary to make the corporate budget more appropriate for ratemaking purposes are to be presented on schedule C-3 of its filing requirements. Failure to use the corporate budget as the basis of the forecasted portion of the test year may result in the commission finding that the application is deficient. The applicant may request to file a two month update to provide actual financial data and significant changes in budgeted data (to be fully documented). Such a request shall be filed no later than the filing of the application.

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- (2) In addition to the requirements of appendix A to rule 4901-7-01 of the Administrative Code, the applicant shall provide the following information. This additional information shall be considered to be part of the standard filing requirements for a natural gas company filing an alternative rate plan. The applicant shall have the burden of proof to document, justify, and support its plan.
- (a) The applicant shall provide a detailed alternative rate plan, which states the facts and grounds upon which the application is based, and which sets forth the plan's elements, transition plans, and other matters as required by these rules. This exhibit shall also state and support the rationale for the initial proposed tariff changes for all impacted natural gas services.
 - (b) The applicant shall fully justify any proposal to deviate from traditional rate of return regulation. Such justification shall include the applicant's rationale for its proposed alternative rate plan, including how it better matches actual experience or performance of the company in terms of costs and quality of service to its regulated customers.
 - (c) If the alternative rate plan proposes a severing of costs and rates, the applicant shall compare how its proposed alternative rate plan would have impacted actual performance measures (operating and financial) during the most recent five calendar years. Include comparisons of the results during the previous five years if the alternative rate plan had been in effect with the rate or provision that otherwise was in effect.
 - (d) If the applicant has been authorized to exempt any services, the applicant shall provide a listing of the services which have been exempted, the case number authorizing such exemption, a copy of the approved separation plan(s), and a copy of the approved code(s) of conduct.
 - (e) The applicant shall provide a detailed discussion of how potential issues concerning cross-subsidization of services have been addressed in the plan.
 - (f) The applicant shall provide a detailed discussion of how the applicant is in compliance with section 4905.35 of the Revised Code, and is in substantial compliance with the policies of the state of Ohio specified in section 4929.02 of the Revised Code. In addition, the applicant shall also provide a detailed discussion of how it expects to continue to be in substantial compliance with the policies of the state specified in section 4929.02 of the Revised Code, after implementation of the alternative rate plan. Finally, the applicant shall demonstrate that the alternative rate

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plan is just and reasonable.

(g) The applicant shall submit a list of witnesses sponsoring each of the exhibits in its application.

(3) To the extent the applicant is seeking alternative forms of rate setting than that found in section 4909.15 of the Revised Code, the applicant should detail those commitments to customers it is willing to make to promote the policy of the state specified in section 4929.02 of the Revised Code. The extent of commitments specified should be dependent upon the degree of freedom from section 4909.15 of the Revised Code requested by the applicant.

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4901:1-19-07 Procedures for alternative rate plan applications.

- (A) The following procedures and timelines shall be used to determine the date of acceptance for an application. The procedures and timelines are consistent with those contained in chapter II, paragraph (A)(4)(b) of appendix A to rule 4901-7-01 of the Administrative Code, used to determine the date of a rate case application's acceptance by the commission.
- (1) The commission staff will inform the applicant by letter within thirty calendar days of the staff's determination whether the application as originally filed is in technical compliance, substantially in compliance or fails to substantially comply with the filing requirements. The letter will indicate any defects or deficiencies with the filing requirements.
 - (2) If the application is in technical compliance, the application shall be deemed to have been filed as of the date the original application was filed.
 - (3) If the application is in substantial compliance, the applicant shall file its response to the commission staff's letter within fourteen calendar days. If the applicant's response places the application in technical compliance, the application shall be considered as having been filed as of the date the original application was filed.
 - (4) If the application does not substantially comply, the application shall be considered as having been filed as of the date upon which the supplemental information rendering the application in technical compliance with the filing requirements was filed.
- (B) Commission entry accepting alternative rate plan application
- (1) The commission shall consider supplemental information docketed by the utility in determining the completeness of the filing.
 - (2) During the processing of the application, the commission may dismiss any application which does not substantially comply with the filing requirements of rule 4901:1-19-06 of the Administrative Code.
 - (3) Provided the applicant has complied with paragraph (A)(3) of this rule, if the commission issues no entry within sixty calendar days, the application shall be considered in compliance with the filing requirements and as having been filed as of the date of the original docketing of the application for purposes of calculating the time periods provided in sections 4909.42 and 4929.07 of the Revised Code.
- (C) The commission staff will file a written report which addresses, at a minimum, the reasonableness of the current rates pursuant to section 4909.15 of the

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Revised Code.

(D) At its discretion, the Commission may require a hearing to consider the application. If the commission, at its discretion, requires local public hearings, such hearings shall be held in accordance with the criteria set forth in section 4903.083 of the Revised Code.

(E) Intervention shall be governed by section 4903.221 of the Revised Code and rule 4901-01-11 of the Administrative Code.

(F) Objections

(1) Objections may be filed to the staff report and/or to the applicant's application. The applicant may file objections to the staff report. The staff may file objections to the applicant's application for issues (other than the review of the reasonableness of the current rates) relating to the proposed alternative rate plan to the extent the issue is not addressed in the staff report. Intervenors may file objections to the staff report and/or the application. Objections may be accompanied by supporting direct testimony as deemed appropriate.

(2) The applicant, any intervenor, or the commission staff may file a motion to strike objections to the staff's written report within ten calendar days after the deadline for the filing of the objections.

(3) Objections must be filed with the commission and served on all parties within thirty calendar days after the filing of the report.

(4) Intervenors shall segregate their objections into two areas:

(a) Objections to the staff report for issues discussed in the staff report and any other issues relating to the review of the reasonableness of the current rates; and

(b) Objections to the applicant's application for issues relating to the applicant's proposed alternative rate plan to the extent the issue was not addressed in the staff report.

(G) Discovery shall be that time period applicable to general rate proceedings, paragraph (B) of rule 4901-1-17 of the Administrative Code. Any motions or requests to change the timing of discovery shall be fully supported. Except as otherwise provided herein, discovery shall proceed according to Chapter 4901-1 of the Administrative Code.

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4901:1-19-08 Notice of intent to implement the exemption, exit-the-merchant function plan or alternative rate plan (or withdraw the application).

- (A) Within thirty calendar days after the date of issuance of a commission order granting approval of an exemption under section 4929.04, an exit-the-merchant function plan, or alternative rate plan under section 4929.05 of the Revised Code, or within twenty calendar days after the issuance of a rehearing entry pursuant to section 4903.10 of the Revised Code, whichever is later, the applicant shall either:
- (1) File with the commission a notice of the applicant's intention to implement the exemption application, exit-the-merchant-function plan, or alternative rate plan as directed by the commission in its order, and a copy of the applicant's revised rate schedules.
 - (2) Withdraw the exemption application, exit-the-merchant-function plan, or alternative rate plan if the commission modifies or does not approve as filed the application.
- (B) If the applicant files a notice of intent to implement the exemption application, exit-the-merchant-function plan, or alternative rate plan as approved by the commission, it shall serve that notice on all parties to the proceeding which authorized the exemption, exit-the-merchant-function plan, or alternative rate plan.
- (C) Failure to file a notice of intent to implement the exemption, exit-the-merchant-function plan, or alternative rate plan as ordered by the commission within thirty calendar days of that order will be deemed a withdrawal of the exemption application.
- (D) If the applicant withdraws its alternative rate plan application request pursuant to section 4929.07 of the Revised Code, the rates and charges found under section 4929.05 of the Revised Code, by the commission to be just and reasonable pursuant to section 4909.15 of the Revised Code, shall be effective as of the date the applicant files final rate schedules containing those rates and charges.

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4901:1-19-09 Implementation of an exit-the-merchant-function plan.

- (A) A natural gas company that has an approved exit-the-merchant-function plan shall continue to supply default commodity sales service for choice-ineligible customers and PIPP-enrolled customers after the company's choice-eligible customers have been transferred to retail natural gas suppliers pursuant to the approved plan.
- (B) A natural gas company that has an approved exit-the-merchant-function plan shall retain the company's distribution and balancing functions, including safety, but shall not be responsible for supplying default commodity sales service to any choice-eligible customer.

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**4901:1-19-10 Consumer protection for exemption and
exit-the-merchant-function plans.**

Retail natural gas suppliers assigned a choice-eligible customer shall:

- (A) Not charge that customer any more than the company's posted standard variable rate, which the company shall submit to the commission and which the commission shall post on its web site.
- (B) Not charge that customer a termination fee if the customer chooses another retail natural gas supplier.
- (C) Not require that the customer remain a customer of that retail natural gas supplier for a minimum period of time.
- (D) Keep the assigned customers' personal, billing, account number and usage information confidential except to the host distribution utility.

*****DRAFT - NOT FOR FILING*****

4901:1-19-11 Abrogation or modification of an order granting an exemption or alternative regulation plan.

- (A) The commission may, upon its own motion or upon the motion of any person adversely affected by such exemption or alternative rate regulation authority, including the natural gas company operating under the plan, and after notice and hearing pursuant to division (A) of section 4929.08 of the Revised Code, modify or abrogate any order granting an exemption or authority under section 4929.04 and 4929.05 of the Revised Code, where both of the following conditions exists:
- (1) The commission determines that the findings upon which the order was based are no longer valid and that the modification or abrogation is in the public interest.
 - (2) The modification or abrogation is not made more than eight years after the effective date of the order, unless the affected natural gas company consents.
- (B) The commission shall order such procedures as it deems necessary, consistent with these rules, in its consideration for modifying or abrogating an order granting an exemption and alternative rate plan.
- (C) If the commission has issued an order approving an exemption under section 4929.04 of the Revised Code, the natural gas company will not be required to provide default commodity sales service through a purchased gas adjustment clause unless, upon the commission determines that market conditions are not competitive or that the physical supply of natural gas commodity has been compromised by unforeseen circumstances, the commission may issue orders or directives imposing temporary measures necessary for the provision of default commodity sales service and shall set an expedited hearing on the orders or directives. Any such orders or directives shall be drawn as narrowly as possible to accomplish the purpose of protecting the public on an interim basis. The commission shall take all possible steps to ensure that the temporary measures remain in place only long enough to remedy noncompetitive market conditions or resumption of the ordinary function of the physical supply of natural gas commodity. A natural gas company may request recovery of all costs reasonably incurred by the company in complying with any temporary measures imposed under this section.

*****DRAFT - NOT FOR FILING*****

4901:1-19-12 Progress reports for alternative rate plans.

The commission may require the applicant to provide progress reports during the term of its authorized alternative rate plan. The commission shall order such procedures as it deems necessary, consistent with these rules, regarding such progress reports, including the frequency, form and content of such reports.

*****DRAFT - NOT FOR FILING*****

4901:1-19-13 Continuation of an alternative rate plan.

An alternative rate plan filed by a natural gas company under section 4929.05 of the Revised Code that seeks authorization to continue a previously approved alternative rate plan shall be considered an application not for an increase in rates.

*****DRAFT - NOT FOR FILING*****

4901:1-19-14 Compliance provision.

Nothing in these rules limits the ability of the commission and/or its staff to obtain whatever information deemed appropriate to monitor the compliance with a commission order issued under Chapter 4929. of the Revised Code or to carry out its responsibilities under Title 49 of the Revised Code.

*****DRAFT - NOT FOR FILING*****

4901:1-19-15 Assessment of costs and enforcement.

The commission may, in its discretion, assess the costs of hearing or investigation on a non-consenting applicant or any other party pursuant to section 4903.24 of the Revised Code. The commission shall also prescribe on a case-by-case basis such costs, restrictions, or other enforcement measures as it deems necessary for any utility failing to comply with rules 4901:1-19-01 to 4901:1-19-15 of the Administrative Code.