

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) 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.
- (3) Additionally, in accordance with Section 121.82, Revised Code, in the course of developing draft rules, the Commission must evaluate the rules against the business impact analysis (BIA). If there will be an adverse impact on businesses, as defined in Section 107.52, Revised Code, features must be incorporated into the draft rules to eliminate or adequately reduce any adverse impact, and the following process must be followed:
 - (a) The proposed revisions to the rules must be sent to the Common Sense Initiative Office (CSI).

- (b) CSI will review the proposed revisions and provide recommendations.
- (c) A memorandum responding to the recommendations of CSI and explaining why any recommendations were not included must be sent to CSI.

Pursuant to the statute, the Commission may not file the proposed rules for legislative review under Section 119.032, Revised Code, earlier than the sixteenth business day after the proposed revisions to the rules are submitted to CSI.

- (4) The Commission's Staff (Staff) evaluated the rules contained in Chapter 4901:1-19, O.A.C., and recommended amendments to and, in some instances, rescission of several rules.
- (5) By entry issued November 22, 2011, the Commission requested comments to assist in the review. Comments were filed by Vectren Energy Delivery of Ohio (Vectren) and The East Ohio Gas Company d/b/a Dominion East Ohio (Dominion), Duke Energy Ohio, Inc. (Duke), Columbia Gas of Ohio, Inc. (Columbia), the Ohio Gas Marketers Group (OGMG), the Ohio Consumers' Counsel (OCC), and Ohio Partners for Affordable Energy (OPAE). Reply comments were filed by Vectren and Dominion, Duke, Columbia, OGMG and the Retail Energy Supply Association (RESA), OCC, and OPAE.
- (6) Staff summarized the filed comments and made recommendations, which are attached to this entry as Attachment A. Additionally, Staff drafted the proposed rules with Staff's recommended changes, which are attached to this entry as Attachment B. Finally, Attachment C contains the BIA evaluation.
- (7) At this time, the Commission finds it appropriate to direct Staff to send its attached comment summary, recommendations, drafts of the proposed rules, and BIA evaluation to CSI for review and recommendations in accordance with Section 121.82, Revised Code.

It is, therefore,

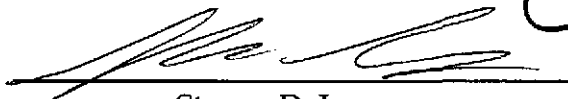
ORDERED, That Staff's comment summary, recommendations, drafts of the proposed rules, and BIA evaluation for Chapter 4901:1-19, O.A.C., be submitted to CSI in accordance with Section 121.82, Revised Code. It is, further,

ORDERED, That a copy of this Entry and the attachments be served upon all interested parties.

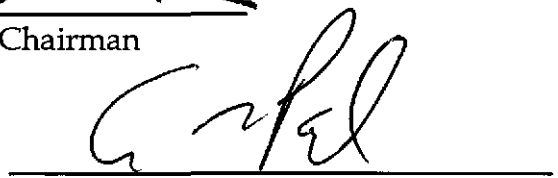
THE PUBLIC UTILITIES COMMISSION OF OHIO



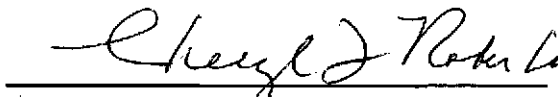
Todd A. Snitchler, Chairman



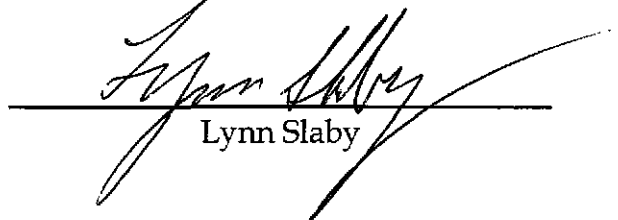
Steven D. Lesser



Andre T. Porter



Cheryl L. Roberto

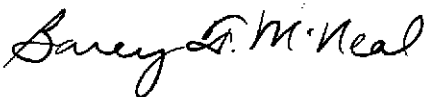


Lynn Slaby

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Entered in the Journal

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Barcy F. McNeal
Secretary

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

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

ATTACHMENT A
STAFF'S RECOMMENDATIONS AND SUMMARY OF COMMENTS

Staff evaluated the rules contained in Chapter 4901:1-19, Ohio Administrative Code (O.A.C.), and recommended amendments to and, in some instances, rescission of several rules. Thereafter, the Commission issued an entry on November 22, 2011, requesting comments to assist in the review of the rule. Comments were filed by Vectren Energy Delivery of Ohio (Vectren) and The East Ohio Gas Company d/b/a Dominion East Ohio (Dominion), Duke Energy Ohio, Inc. (Duke), Columbia Gas of Ohio, Inc. (Columbia), the Ohio Gas Marketers Group (OGMG), the Ohio Consumers' Counsel (OCC), and Ohio Partners for Affordable Energy (OPAЕ). Reply comments were filed by Vectren and Dominion, Duke, Columbia, OGMG and the Retail Energy Supply Association (RESA), OCC, and OPAЕ. Below, Staff has summarized the filed comments, as well as its recommendations. Please note that the rule numbers referenced throughout this attachment may not correspond to the rule numbers in Attachment B, because both Staff's November 22, 2011, proposal and the comments reference the proposed rule numbers attached to the November 22, 2011, entry.

Rule 4901:1-19-01, O.A.C. - Definitions

I. General.

Staff's November 22, 2011, Proposal - In this section, Staff recommends the deletion of the definitions of "Four firm concentration ratio," "Herfindahl Hirschman index" (HHI), and "Lerner index," on the basis that Staff no longer uses these measures. Additionally, Staff proposes the addition of definitions for "Choice-eligible customer," "Choice-ineligible customer," "Competitive retail auction," "Default commodity sales service," "Exit-the-merchant-function," and "PIPP-enrolled customer."

Comments - Columbia states that it supports Staff's proposed deletions of "Four firm concentration ratio," "HHI," and "Lerner index" (Columbia at 1). OGMG also comments that it supports the deletions of these three definitions on the basis that

deletion of these fixed formulas will allow flexibility in the determination of whether a competitive market exists. OGMG argues that this flexibility furthers the goals of Executive Order 2011-01K of removing unnecessary requirements from administrative rules. (OGMG at 4.) In contrast, OCC comments that these three definitions should not be deleted from the proposed rules because these definitions contain recognized standards that would prove beneficial for evaluating the state of competitiveness of the market as a natural gas company contemplates an exit from the merchant function (OCC at 7-8). OPAE echoes OCC's concern and argues that the Commission should retain these definitions and use these tests to determine competition in the market (OPAE at 3).

In its reply comments, Duke voices its agreement with OGMG that deletion of the three definitions in order to allow flexibility in evaluating the existence of effective competition is the best approach (Duke Reply at 2). Columbia also expands its reasoning in its reply comments, arguing that the deletion of fixed formulas will allow Staff to maintain flexibility in determining market competition (Columbia Reply at 3).

Staff's June 27, 2012, Recommendation - Staff recommends adoption of its November 22, 2011, proposal.

II. Definitions Proposed by Commenters.

Comments - Duke comments generally that the proposed rules contain numerous references to the term "applicant." Consequently, Duke recommends the addition of the following definition:

["Applicant" means a] natural gas company, as defined in division (G) of section 4929.01 of the Revised Code, that has filed an application under either section 4929.04 or 4929.05 of the Revised Code, as applicable.

(Duke at 1-2.) Columbia echoes the concerns of Duke, stating that it is important that the new rules make clear that only a natural gas company may file an application to exit-the-merchant-function pursuant to Section 4929.04, Revised Code. Columbia recommends that the term "applicant" be defined as "a natural gas company that files any application described in Rule 4901:1-19-02." (Columbia at 2.) OGMG and RESA, in their reply comments, oppose the inclusion of a definition of "applicant." OGMG and RESA state that the definition of "applicant" is a policy decision that should be ultimately determined by interpretation and application of the Revised Code. (OGMG/RESA Reply at 6.)

Duke further proposes that definitions should be added for "competitive wholesale auction" and "competitive choice auction" to correspond with exemption approvals previously granted by the Commission pursuant to Section 4929.04, Revised Code.

Vectren and Dominion state that Chapter 4901:1-19, O.A.C., contains rules affecting both natural gas companies and natural gas retail suppliers, and that these entities should be defined. Vectren and Dominion propose that "natural gas company" should be defined as having the meaning set forth in Section 4929.01(D), Revised Code, and "retail natural gas supplier" should be defined as having the meaning set forth in Section 4929.01(N), Revised Code. (Vectren/Dominion at 3-4.)

OPAE argues that this rule should define the term "willing buyer" as "a customer who signs a contract with a retail natural gas supplier or receives commodity service through a governmental aggregation authorized under Revised Code Section 4929.26 or 4929.27." (OPAE at 4.) In its reply comments, Columbia states that it does not support OPAE's proposed addition of a definition for "willing buyer" because OPAE does not explain why such a definition is necessary (Columbia Reply at 2).

Staff's June 27, 2012, Recommendation - Staff believes it is reasonable to specify that the term "applicant" as used throughout this Chapter refers to a natural gas company, and, therefore, recommends that the Commission define this term. Staff does not recommend the adoption of the remaining definitions proposed by the commenters.

III. Paragraphs (E), (F).

Staff's November 22, 2011, Proposal - In these paragraphs, Staff recommends addition of definitions for the terms "Choice-eligible customer" and "Choice-ineligible customer." Columbia states that it supports Staff's proposed addition of these definitions (Columbia at 1).

Comments - OCC comments that, because Ohio policy favors the promotion of diversity of natural gas supplies and suppliers, the Commission should make the natural gas companies' default commodity sales service available to choice-eligible customers who affirmatively choose to participate in the default commodity sales service. Consequently, OCC recommends the addition of the following sentence to the definition of "Choice-eligible customer": "The Choice-eligible customer may also affirmatively choose (or opt-in) to be served by the natural gas company's default commodity sales service." (OCC at 5-6.) Columbia replies that it opposes OCC's proposal to modify the definition of "Choice-eligible customer" because, it asserts, OCC is attempting to substantively add to the requirements to be imposed upon a natural gas company. Columbia argues that it is inappropriate for the Commission to effect such drastic changes to the regulatory framework. Additionally, Columbia notes that it opposes allowing customers to affirmatively opt-in to a natural gas company's default commodity sales service because it would lead to unfavorable uncertainty for natural gas companies. (Columbia Reply at 2-3.)

Staff's June 27, 2012, Recommendation - Staff does not recommend the changes proposed by OCC.

IV. Paragraph (I).

Staff's November 22, 2011, Proposal - In this paragraph, Staff recommends the addition of a definition for "Competitive retail auction."

Comments - Columbia states that it supports Staff's proposed addition of this definition (Columbia at 1). In their joint comments, Vectren and Dominion contend that the definition for "Competitive retail auction," fails to acknowledge the distinction between wholesale and retail competitive auctions. Vectren and Dominion propose the following changes to Staff's proposed definition:

(I) "Competitive retail auction" shall mean a competitive auction ~~bidding~~ process in which the obligation to provide commodity sales service to ~~retail~~ choice-eligible customers for a specified period is directly assigned to suppliers ~~through an auction process~~ and with which that supplier gains a direct retail relationship with the assigned customers ~~awarded and such customer's supply obligation is no longer the responsibility of the natural gas company.~~

(Vectren/Dominion at 2.) Duke notes that Staff's proposed definition of "Competitive retail auction" refers to "retail customers," whereas the proposed definition of "Exit-the-merchant-function" refers to "choice-eligible" customers. Duke states that these two definitions are analogous and recommends that both refer to "choice-eligible" customers. (Duke at 3.) OGMG argues that Staff's proposed definition of "Competitive retail auction" should be modified to include all the common forms of public procurement, so that a request for proposal or sealed bid could be used, as well as having an auctioneer call out the price (OGMG at 3-4).

OPAE comments that Staff's proposed definition is flawed due to its length and complexity and does not define an auction or its purpose. OPAE states that what is described is a standard service offer for customers who do not shop. Consequently, OPAE suggests changing the term from "Competitive retail auction" to "Standard service offer auction." (OPAE at 2.) Vectren and Dominion respond that, under their combined auction process, as well as Columbia's, suppliers bid to provide both standard choice offer and standard service offer commodity service. Consequently, Vectren and Dominion argue that a definition that reflects only a standard service offer auction inaccurately reflects the combined auction structure that is actually used. (Vectren/Dominion Reply at 3.) Columbia responds that it believes the definition of "competitive retail auction" is clearly worded as proposed by Staff and will be understandable by the general public (Columbia Reply at 2). OGMG and RESA reply that OPAE's proposal should be rejected because the market for retail natural gas in Ohio is truly competitive (OGMG/RESA Reply at 7).

Staff's June 27, 2012, Recommendation - Staff recommends that Duke, Vectren, and Dominion's recommendation to use the term "choice-eligible" customers in the definition for "Competitive retail auction" should be adopted for consistency purposes. Staff does not recommend the other changes proposed by the commenters.

V. Paragraph (L).

Staff's November 22, 2011, Proposal - In this paragraph, Staff recommends addition of a definition for the term "Default commodity sales service."

Comments - Columbia states that it supports Staff's proposed addition of this definition (Columbia at 1). Vectren and Dominion argue that Staff's proposed definition should more accurately reflect the service currently provided by the companies. Vectren and Dominion propose the following changes to Staff's proposed definition:

(L) "Default commodity sales service" means wholesale commodity sales service supplied by a natural gas company to choice-eligible customers ~~who have not chosen their~~ not currently served by a retail natural gas supplier, choice-ineligible customers, or PIPP-enrolled customers.

(Vectren/Dominion at 2-3.)

OCC reiterates its comment that the Commission should make the natural gas companies' default commodity sales service available to choice-eligible customers who affirmatively choose to participate in the default commodity sales service. Consequently, OCC recommends the following revisions to this definition:

(L) "Default commodity sales service" means commodity sales service supplied to choice-eligible customers who have not chosen their retail natural gas supplier prior to an approved natural gas company's exit from the merchant function, as well as choice-eligible customers who affirmatively choose to be served by the natural gas company's default commodity sales service after an approved natural gas company exit from the merchant function, choice-ineligible customers, or PIPP enrolled customers. The opportunity to be served by the natural gas company's default commodity sales service is not foreclosed by the customer's prior participation in choice. The choice-eligible customer has the option to move between choice and default commodity sales service.

(OCC at 5-6.)

OPAE argues that, as proposed by Staff, this definition is not understandable by the general public and that the term should be changed to "standard service offer" for

clarity (OPAE at 2). In its reply comments, Columbia states that Staff's proposed definition for "Default commodity sales service" is appropriate and that OPAE's proposal does not comport with the Commission's previous definitions of "standard service offer" (Columbia Reply at 2).

Staff's June 27, 2012, Recommendation - Staff does not recommend any of the commenters' proposed changes.

VI. Paragraph (N).

Staff's November 22, 2011, Proposal - In this paragraph, Staff recommends addition of a definition for the term "Exit-the-merchant-function."

Comments - Columbia comments that, if the Commission adopts the proposed exit-the-merchant-function rules, those rules should apply to both a natural gas company's choice-eligible and choice-ineligible customers; consequently, Columbia proposes that this distinction be deleted from the definition (Columbia at 2).

OCC recommends the following addition to the definition of "exit-the-merchant-function":

(N) "Exit-the-merchant-function" means the complete transfer of the obligation to supply default commodity sales service for choice-eligible customers, who have not affirmatively chosen (or opted-in) to be served by the natural gas company's default commodity sales service, from a natural gas company to retail natural gas suppliers without the occurrence of a competitive retail auction.

(OCC at 6.) Vectren and Dominion respond that OCC's proposal to require choice-eligible customers to "opt in" to the default commodity service is inconsistent with a full exit of the merchant function as it stifles the development of a fully-competitive market, and is contrary to state policy set forth in Section 4929.02, Revised Code (Vectren/Dominion Reply at 2-3).

OPAE argues that the supply of natural gas to consumers is a public utility function and that the obligation to supply natural gas to consumers cannot be transferred from the public utility natural gas company to the non-public utility retail supplier. Consequently, OPAE argues that this definition should be deleted from the rules because it does not comport with Ohio law. (OPAE at 3.) Dominion and Vectren respond to OPAE's assertion that Section 4929.04(E), Revised Code, permits the Commission to issue an "order exempting any or all of a natural gas company's commodity sales service or ancillary service" from most provisions in Title 49, Revised Code. Additionally, Dominion and Vectren state that this argument by OPAE concerning the Commission's authority to grant an exemption order has previously

been rejected by the Ohio Supreme Court in *Ohio Partners for Affordable Energy v. Pub. Util. Comm.*, 115 Ohio St.3d 208, 2007-Ohio-4790. (Vectren/Dominion Reply at 2.) In its reply comments, OGMG echoes Dominion and Vectren's assertion that Section 4929.04, Revised Code, allows the Commission to permit a natural gas company to exit-the-merchant-function. Additionally, OGMG and RESA note that the exit-the-merchant-function, as provided for in the Commission's rules, corresponds with the General Assembly's policy to reduce or eliminate the need for regulation of natural gas services. (OGMG/RESA Reply at 2-3.)

Staff's June 27, 2012, Recommendation - Staff does not recommend the changes proposed by the commenters.

VII. Paragraph (P).

Staff's November 22, 2011, Proposal - In this paragraph, Staff recommends addition of a definition for the term "PIPP-enrolled customer." Columbia states that it supports Staff's proposed addition of this definition (Columbia at 1).

Comments - Vectren and Dominion comment that the definition of a percentage of income payment plan (PIPP)-enrolled customer should mean a customer enrolled in a natural gas company's PIPP program, and recommend the following change to the proposed definition: "PIPP-enrolled customer" means a customer who is enrolled in the natural gas company's ~~utility's~~ percentage of income payment plan program or any successor program (Vectren/Dominion at 3-4).

Staff's June 27, 2012, Recommendation - Staff recommends that the Commission adopt Vectren and Dominion's proposed change in terminology.

Rule 4901:1-19-02, O.A.C. - Purpose and Scope

I. General.

Staff's November 22, 2011, Proposal - In this rule, Staff recommends that language be added to reflect that the chapter has been amended to govern the filing and consideration of applications to exit-the-merchant-function by natural gas companies. Additionally, Staff recommends amendments to make the language of this rule consistent with Am. Sub. H.B. 95.

II. Paragraphs (A), (B).

Staff's November 22, 2011, Proposal - In Paragraph (B), Staff proposes language to clarify that this rule has been amended to govern the filing and consideration of an application to exit-the-merchant-function by a natural gas company.

Comments - Vectren and Dominion state that Staff's addition of Paragraph (B) should be incorporated into Paragraph (A), which refers to filings of applications under Section 4929.04, Revised Code, since an application to exit-the-merchant-function would also be pursuant to Section 4929.04, Revised Code. Additionally, Vectren and Dominion argue that Paragraph (A) should specify that such an application would be filed by a natural gas company. (Vectren/Dominion at 4.) Columbia states that it supports Paragraph (B), but only in the event the new rules make clear that a natural gas company is the only company permitted to file under this rule (Columbia at 3).

OGMG comments that it supports Staff's proposed amendment to Paragraph (B) because it is important that the proposed rules establish a discrete administrative process to exit-the-merchant-function (OGMG at 5). In its reply comments, OCC states that it agrees an administrative process is important (OCC Reply at 3).

OPAE states that Paragraph (B) should be deleted because the Commission has no authority to consider an application by a public utility natural gas company to exit-the-merchant-function (OPAE at 4). In its reply comments, Columbia voices its disagreement with OPAE's characterization of the exit-the-merchant-function provision and the Commission's authority (Columbia Reply at 3).

Staff's June 27, 2012, Recommendation - Staff does not recommend the organization proposed by Vectren and Dominion; however, Staff agrees with Vectren and Dominion that paragraph (B) should specifically refer to Section 4929.04, Revised Code. Staff does not recommend the deletion proposed by OPAE because Staff opines that the Commission has authority to consider an application by a public natural gas utility to exit the merchant function under Section 4929.04, Revised Code. .

III. Paragraph (C).

Staff's November 22, 2011, Proposal - In this paragraph, Staff recommends the addition of language reflecting the requirement that an applicant filing an alternative rate plan must demonstrate that it is just and reasonable in accordance with Am. Sub. H.B. 95.

Comments - Vectren and Dominion note that Am. Sub. H.B. 95 was intended to relieve companies of burdensome rate case filings, and, consequently, argue that the following sentence should be added to the end of Staff's proposed Paragraph (C):

The requirement that an applicant document and demonstrate that the alternative rate plan is just and reasonable does not require the applicant to make the demonstrations required in R.C. 4909.18(A)-(D) and Appendix A to 4901-7-01, Ohio Administrative Code, for base rate proceedings.

(Vectren/Dominion at 4.) Similarly, Columbia recommends that language be added to the end of proposed Rule 4901:1-19-02(C), O.A.C., in order to clarify that, after Am. Sub. H.B. 95, under Columbia's interpretation, a natural gas company that makes an application for an alternative rate plan is not required to make the showings required in a base rate proceeding under Sections 4909.15(A) through (D), Revised Code, and Appendix A to Rule 4901-7-01, O.A.C. (Columbia at 3.)

Staff's June 27, 2012, Recommendation - Staff does not recommend the changes proposed by the commenters.

IV. Paragraph (D).

Staff's November 22, 2011, Proposal - In this paragraph, Staff recommends addition of language explicitly providing that the Commission may waive any requirement of the chapter that is not mandated by statute.

Comments - Columbia states that it supports proposed Paragraph (D) (Columbia at 3). OCC, however, recommends that the proposed rules incorporate the standard "good cause shown," as well as specific factors to be taken into consideration when determining whether good cause has been shown, in order to promote a thoughtful and complete consideration of the public interest. OCC also recommends that the rule direct applicants to work with Staff regarding potential waiver requests and that specific timeframes for the filing of waivers be established in the rule. (OCC at 9-10.) In its reply comments, Columbia states that it disagrees with OCC's recommendations and supports Staff's proposal to simplify the standard the Commission uses in deciding whether to waive a requirement. Additionally, as to the additional procedural requirements recommended by OCC, Columbia states that these proposals would unnecessarily complicate and burden the waiver process and do not comport with the spirit of Am. Sub. H.B. 95, which sought to streamline and simplify the alternative rate plan application process. (Columbia Reply at 4.) In their reply comments, OGMG and RESA similarly argue that OCC's proposed additions are unnecessary and will cause additional burdens for applicants (OGMG/RESA Reply at 8).

Staff's June 27, 2012, Recommendation - Staff does not recommend the changes proposed by OCC.

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

I. General.

Staff's November 22, 2011, Proposal - In this rule, Staff recommends substantive changes to Paragraph (C) in order to require an applicant to provide a detailed description of each commodity sales service and/or ancillary service for which the

applicant is requesting an exemption. These changes also require an applicant to provide a detailed description of how a proposed auction is consistent with the Commission's previous precedent where the applicant is proposing to implement an auction for provision of default commodity sales service. Additionally, Staff recommends removal of the requirement that exhibits to an exemption application contain detailed discussions of effective competition required to demonstrate the degree of competitive behavior in the market.

II. Paragraph (B).

Comments - This rule requires an applicant to have available a copy of its application in each principal business office. Vectren and Dominion state that they have multiple business locations in Ohio and that it is duplicative and unnecessary to require each business location to house a copy of its exemption application. Consequently, Vectren and Dominion recommend that this paragraph be revised to require one copy of the application at the applicant's principal business office, not each principal business office. (Vectren/Dominion at 5.)

Staff's June 27, 2012, Recommendation - Staff recommends the Commission adopt the recommendation of Vectren and Dominion on the basis that it would be consistent with the goals of Executive Order 2011-01K and Section 121.82, Revised Code. However, if the Commission adopts this recommendation, Staff recommends that applicants should then be required to provide a copy of the application to any person upon request.

III. Paragraph (C)(2).

Staff's November 22, 2011, Proposal - Staff proposes, in Paragraph (C)(2), that an exemption applicant should be required to explain how a proposed auction structure is consistent with the Commission's previous precedent.

Comments - Vectren and Dominion state that Staff's proposal is unnecessary because nothing in Chapter 4929, Revised Code, requires auction processes to be consistent among local distribution companies and consistency may not be desirable in all instances. For these same reasons, Vectren and Dominion propose deletion of the reference to "default" commodity sales service in Paragraph (C)(2). (Vectren/Dominion at 5-6.)

OGMG comments that the exhibits filed should include competitive procurement by live auction or other common forms of taking bids and that applicants should not be tied strictly to what has been done in the past. OGMG suggests that applicants be permitted to design a bid using the best industry practice. (OGMG at 6.) Vectren and Dominion reply that "best industry practice" is too subjective a standard in the context of natural gas commodity auctions (Vectren/Dominion Reply at 4). Additionally, OGMG suggests that the phrase "is consistent with the Commission's previous

precedent in which such auctions were authorized” should be deleted and replaced with “best industry practice” because many of the auction rules in place today were the product of stipulations, which arguably do not contain precedent. Further, OGMG suggests that Staff’s proposed language allows precedent that may be outdated and inferior to new practices. (OGMG at 6.)

OPAE also argues that the approval of a stipulation and recommendation is not considered Commission precedent, and that this section should include language specifying that “the Commission’s previous precedent” does not include orders in which the Commission rules on stipulations and recommendations (OPAE at 4). In its reply comments, Columbia states that OPAE’s statement is overbroad because parties to a stipulation are free to decide whether or not to include language in a stipulation prohibiting later use of the stipulation as precedent. Consequently, Columbia states that a blanket rule prohibiting consideration of any stipulation as precedent is inappropriate. (Columbia Reply at 5.)

Staff’s June 27, 2012, Recommendation - Staff believes the commenters have made valid points and recommends the Commission incorporate clarifying language regarding previous precedent and stipulations into the rule. Further, Staff recommends the Commission adopt OGMG’s suggestion that applicants be permitted to design a bid using best industry practice.

IV. Paragraph (C)(4).

Staff’s November 22, 2011, Proposal - In this rule, Staff recommends that an applicant must provide a discussion showing that the requested exemption does not involve undue discrimination for similarly-situated customers.

Comments - OPAE argues that the word “undue” should be removed from the first sentence so as not to imply that a public utility may discriminate among similarly situated customers unless the discrimination rises to a level considered “undue.” Additionally, OPAE recommends modification of the last sentence as follows:

The applicant shall also provide clear and accurate, [sic] written materials related to service and product offerings, including data on the reduction in costs provided to customers through market-based offers compared to regulated rates or rates set through a standard service offer during the prior five years, which promote effective customer choice and the provision of adequate customer service for willing buyers.

(OPAE at 5.) Vectren and Dominion respond that this information requested by OPAE would not provide meaningful data about the value consumers place on competition and choice because these are very different pricing mechanisms. Further, Vectren and Dominion note that such a comparison would not take into account a customer’s

preference for a particular pricing mechanism. (Vectren/Dominion Reply at 3-4.) Columbia responds that it opposes OP&E's recommended language because such a showing may not be feasible. Columbia specifies that, after a market rate is adopted, there may no longer be a regulated rate with which the market can be compared and, even if it did exist, it may not be a fair comparison. (Columbia Reply at 5.) O&MG and RESA reply that OP&E's recommendation is illogical as it would compare apples and oranges, and a comparison of the two rates over a five-year period should have no bearing on whether an exemption application should be approved. Additionally, O&MG and RESA reply that OP&E's suggestion that "undue" be deleted from "undue discrimination" would also place an unreasonably high burden on applicants that is inconsistent with Ohio law and the Commission's general rules. (O&MG/RESA Reply at 10.)

Staff's June 27, 2012, Recommendation - Staff does not recommend the modifications proposed by OP&E for the reasons set forth in the reply comments.

V. Paragraph (C)(5).

Staff's November 22, 2011, Proposal - In this paragraph, Staff recommends that an applicant be required to include a detailed discussion of why the applicant believes it is currently subject to effective competition and to include supporting documentation, including empirical data. Staff proposes eliminating several specific criteria to be included in the detailed discussion.

Comments - Vectren and Dominion argue that Staff should not have eliminated all of the specific requirements because some high-level criteria are necessary. Vectren and Dominion propose that this paragraph include specific criteria including: (1) the degree to which customers are able to switch between sellers; (2) the degree to which customers have readily available information about the market; and (3) the degree to which customers and suppliers are able to enter or leave the market. (Vectren/Dominion at 6-7.) In its reply comments, Duke states that it supports the approach suggested by Vectren and Dominion on the basis that it would allow substantial flexibility and permit an applicant and the Commission to use their best judgment to determine what factors may be important (Duke Reply at 1-2). OCC responds that Vectren and Dominion's proposed high level criteria were offered without supporting citations (OCC Reply at 7).

O&MG states that it supports Staff's proposed concept for Paragraph (C)(5); however, it believes that Staff's provision should be augmented to establish the criteria generally accepted by the public, as proof that a competitive market exists. O&MG suggests that additional factors be added, including but not limited to: (1) a significant number of customers in the service area are shopping; (2) a significant number of competitors are making service offers; (3) a diversity of retail natural gas supplies, products, and

services exist; and (4) the existence of no major barriers for entry for new competitors. OGMG further proffers that, if an applicant presents data demonstrating that these four factors exist, there should be created a rebuttable presumption that a competitive market exists. (OGMG at 7-8.) In its reply comments, OCC argues that OGMG has not provided support for these factors as being generally accepted by the public as proof that a competitive market exists. Additionally, OCC argues that OGMG has provided no guidance for the criteria or how the factors would be applied. Finally, OCC responds that there should be no rebuttable presumption and the burden of proof should be retained by the applicant. (OCC Reply at 4-5.)

Staff's June 27, 2012, Recommendation - Staff does not recommend adoption of the high-level criteria proposed by Vectren, Dominion, and OGMG on the basis that Staff believes a more flexible approach is appropriate.

Comments - OCC recommends that the changes to the proposed rules incorporate the requirements from the existing Commission rules, such as relying on the HHI, four firm concentration ratio, and the Lerner index, because concern over the competitiveness of the relevant market should be an important consideration for the Commission in contemplating a natural gas company's exit-the-merchant-function plan. Additionally, OCC argues that its own analysis indicates that there are concerns as to how competitive markets are for customers, because only a small handful of choice suppliers control the vast majority of the choice market. OCC suggests that language be included that requires detailed discussion of the degree of competitive behavior in the relevant market; the degree to which the product is of substantially the same quality provided by any or all of the sellers; the degree to which buyers and sellers are readily able to enter or leave the market and switch between sellers and buyers; the degree to which buyers and sellers have readily available information about the market; how and to what degree the product is available in the relevant market from alternative providers; affiliations between suppliers; and all data and calculations necessary to measure market concentration or market power in the relevant market. (OCC at 12-14.)

Vectren and Dominion reply that the HHI and Lerner index may or may not prove useful for any particular company, but emphasize that the point is that other measures may be useful in measuring effective competition as well, and that the Commission should have the discretion to determine the appropriate measure on a case-by-case basis (Vectren/Dominion Reply at 4). Columbia similarly states, in its reply comments, that OCC's recommendations should not be adopted because Staff appropriately recommended that the Commission be permitted to consider other empirical data in making its market competitiveness determination (Columbia Reply at 4). OGMG and RESA reply that, while OCC's proposed points would be excellent cross-examination questions, the proposal is too prescriptive and places too high of a burden on the applicant in the initial filing (OGMG/RESA Reply at 10).

Staff's June 27, 2012, Recommendation - Staff does not recommend adoption of the language proposed by OCC on the basis that a more flexible approach will allow the Commission to determine appropriate measures on a case-by-case basis.

Comments - OPAE again comments that market-based offers should be compared to regulated rates or standard service offer rates and the Commission should have this price information before it in an application. Consequently, OPAE recommends inclusion of the following language prior to the last sentence in Paragraph (C)(5):

In order to establish whether the commodity sales service is subject to effective competition, the applicant must file data necessary to conduct the analysis under Rule 4901:1-19-01(J), (K), and (L). The applicant should also provide the information necessary to establish that at least fifty percent of publicly available monthly commodity sales service offers made by retail natural gas suppliers to willing buyers were lower in price than the monthly standard service offer of the applicant.

(OPAE at 6.) OCC states in its reply comments that OPAE's proposal is a reasonable way to analyze the competitiveness of the market at the point in time that a utility files an application to exit-the-merchant-function; however, OCC argues that the quality of this analysis is lost once the utility's exit has occurred. Consequently, OCC advocates that an objective measure, such as the HHI test, should be retained. (OCC at 8-9.)

Staff's June 27, 2012, Recommendation - Staff does not recommend the changes proposed by OCC or OPAE on the basis that Staff no longer uses the fixed formulas, but favors a flexible approach.

VI. Paragraph (C)(6).

Staff's November 22, 2011, Proposal - In this paragraph, Staff supports the submission of proposed separation plans.

Comments - OPAE argues that, as proposed, this rule could cause confusion that the regulated utility is somehow involved with the retail natural gas supplier. OPAE proposes that, for clarity, the following sentence should be added to this rule: "Affiliated retail natural gas suppliers cannot use any portion of the name of the regulated entity, nor can any portion of the regulated entity's name be licensed and used by a non-affiliated retail natural gas supplier." (OPAE at 7.) In their reply comments, Vectren and Dominion respond that, not only is the Commission's authority to regulate intellectual property in this manner questionable, but this issue is currently being addressed in *In re Ohio Consumers' Counsel v. Interstate Gas Supply, Inc.*, Case No. 10-2395-GA-CSS (10-2395), and is not germane to the above-captioned proceeding (Vectren/Dominion Reply at 7). In its reply comments, Duke echoes the reply by Vectren and Dominion that the Commission does not have statutory authority on which

to base such a rule. Further, Duke points out that it is an unreasonable assumption to suggest that similar names are, by definition, confusing. (Duke Reply at 3.) Columbia replies that OPAE's proposal is beyond the scope of this rulemaking and that the issues in OPAE's proposal are already at issue in 10-2395 (Columbia Reply at 5-6). OGMG and RESA also reply that OPAE's recommendation is outside the scope of this rule, and state that the issue is better addressed in the Commission's future review of the gas marketer rules in Chapter 4901:1-29, O.A.C. (OGMG/RESA Reply at 11).

Staff's June 27, 2012, Recommendation - Staff does not recommend adoption of the language proposed by OPAE on the basis that it is not appropriately addressed in this rule at this time.

VII. Paragraph (C)(10).

Staff's November 22, 2011, Proposal - Staff supports this provision which requires an applicant to provide a description of all dockets in which there are special arrangements pursuant to Section 4905.31, Revised Code.

Comments - Vectren and Dominion recommend that the reference to special arrangements in Section 4905.31, Revised Code, be removed, because whether a natural gas company provides the commodity or allows suppliers to competitively bid to provide the commodity should not affect the distribution contracts. Vectren and Dominion propose that, in place of the reference to Section 4905.31, Revised Code, Staff should insert "involving natural gas commodity service." (Vectren/Dominion at 7.) OCC replies that it is not clear if special arrangements under Section 4905.31, Revised Code, impact only distribution service. OCC urges the Commission to provide for the possibility that a special arrangement under Section 4905.31, Revised Code, could impact natural gas commodity service. OCC recommends the following modification:

The applicant shall provide a description of all dockets in which there are special arrangements with customers that impacts [sic] natural gas commodity service pursuant to section 4905.31 of the Revised Code, or otherwise, which customers may be affected by the application.

(OCC Reply at 10.)

OPAE argues that it is inappropriate to impose the costs of subsidies for certain customers onto other customers. Consequently, OPAE argues that this rule should include language that the application must request authority to terminate special arrangements that shift costs onto other customers. (OPAE at 7.) Duke replies that it supports Vectren and Dominion's comment that the special arrangements referenced by the proposed rule relate only to distribution service, and state that an applicant should be required to list and describe dockets in which there are special arrangements involving commodity service (Duke Reply at 3-4).

Staff's June 27, 2012, Recommendation - Staff recommends that a combination of the recommendations set forth by Vectren, Dominion, Duke, and OCC should be adopted and that references to Section 4905.31, Revised Code, should be replaced with references to only such special arrangements involving natural gas commodity service. In response to OPAE's comment, Staff notes that cost-shifting is considered in the Commission's review of exemption applications.

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

I. General.

Staff's November 22, 2011, Proposal - In this section, Staff recommends separation of the rules pertaining to procedure for exemption applications from the rules pertaining to alternative rate applications, which were previously combined, in order to clarify the rules applicable to exemption applications and make the rules more consistent with statutory requirements.

Comments - Columbia states that it supports Staff's proposed revisions to this rule (Columbia at 4).

II. Paragraph (B).

Staff's November 22, 2011, Proposal - Staff supports the due process requirements set forth in this paragraph.

Comments - OPAE argues that the Commission should make hearings mandatory regardless of the size of the utility and that, thereafter, the Commission should conduct a hearing upon the application (OPAE at 7). In its reply comments, Columbia states that OPAE's suggestion is contrary to Section 4929.04, Revised Code, and also wastes resources in those instances where the Commission determines it can develop an adequate record without a costly and time-consuming hearing (Columbia Reply at 6).

Staff's June 27, 2012, Recommendation - Staff does not recommend adoption of OPAE's proposed changes on the basis that Section 4929.04(A), Revised Code, provides that hearings are mandatory where a natural gas company has 15,000 or more customers, and are discretionary where a natural gas company has fewer than 15,000 customers.

Rule 4901:1-19-05, O.A.C. - Filing requirements and procedures for applications to exit the merchant function

I. General.

Staff's November 22, 2011, Proposal - Staff recommends addition of this new section in order to set forth filing requirements and procedures for applications to exit-the-merchant-function, which are now covered by this rule.

Comments - Columbia asserts that the proposed rule should make clear that a natural gas company's decision to exit-the-merchant-function is completely voluntary. Consequently, Columbia recommends addition of the following as a new paragraph to the rule:

Nothing in this rule shall be construed to place any obligation or requirement upon a natural gas company to exit the merchant function or to authorize the commission or any other company or entity to seek to compel or require the natural gas company to apply to exit the merchant function or actually exit the merchant function.

(Columbia at 4-5.)

Staff's June 27, 2012, Recommendation - Staff believes that the rules governing applications to exit-the-merchant-function make it sufficiently clear that the process is voluntary, and, therefore, does not recommend adoption of Columbia's proposed language.

Comments - Vectren and Dominion propose that, in addition to the exhibits set forth in Paragraphs (C)(1) through (C)(5), the Commission should adopt a new exhibit to the exit-the-merchant-function application: "The applicant shall provide details of a proposed plan to meet its continuing obligation to provide default commodity sales service." Vectren and Dominion recommend this additional requirement because natural gas companies existing in the merchant function will still remain obligated to provide default commodity sales service to certain choice-eligible customers. (Vectren/Dominion at 10-11.)

OCC comments that, under the rules as proposed, natural gas customers are losing the option of retail auction service provided by their natural gas company, and all of these customers must become the customers of choice suppliers. Consequently, OCC also recommends additional requirements under Paragraph (C), which OCC argues will support the application and analyze the state of the market at the time the application is filed. Specifically, OCC argues that applicants should be required to demonstrate compliance with the policy of the state set forth in Section 4929.02, Revised Code; provide a detailed discussion showing that the request to exit the merchant function

does not involve undue discrimination for similarly-situated customers; and provide a detailed discussion of why the applicant believes it is currently subject to effective competition. (OCC at 16-19.)

Columbia, in its reply comments, argues that OCC's proposed requirements unnecessarily complicate and burden the process and conflict with the intent of Am. Sub. H.B. 95 to streamline and reduce the paperwork necessary to file an alternative rate plan. Consequently, Columbia does not support OCC's recommended changes. (Columbia Reply at 6.) In its reply comments, OGMG points out that the Commission's ultimate goal in reviewing the rules is to eliminate or amend overly burdensome, costly, and redundant rules in accordance with Section 119.032(C), Revised Code, and Executive Order 2011-01K. OGMG states that OCC's proposed additional procedural steps and evidentiary requirements attempt to make applications to exit-the-merchant-function more burdensome, while increasing costs and expenses for all parties. OGMG states that, to the extent procedural safeguards or evidentiary requirements are deemed necessary, the Commission retains the flexibility to implement such procedures on a case-by-case basis. (OGMG at 5-6.) In its reply comments, OPAE maintains that the exiting the merchant function is contrary to Ohio law; however, OPAE argues that, if the Commission chooses to adopt these provisions, it should adopt the recommendations set forth by OCC aimed to protect consumers (OPAE Reply at 2).

Staff's June 27, 2012, Recommendation - Staff does not recommend the changes proposed by the commenters on the basis that they are unnecessary, due to the fact that the Commission has the authority to require such information, in the event such information is necessary in a given case.

II. Paragraph (A).

Staff's November 22, 2011, Proposal – Staff supports the requirement that an applicant file notice of its intent to file an application to exit the merchant function.

Comments - In this paragraph concerning notice of intent, OCC states that, because the filing of an application to exit-the-merchant-function should only be filed by a natural gas company, this language should be modified to specify that an applicant filing a notice of intent "can only be the natural gas company seeking to exit-the-merchant-function in its service territory" (OCC at 14.)

Staff's June 27, 2012, Recommendation - Staff does not recommend OCC's proposed change on the basis that it is unnecessary.

III. Paragraph (B)(2).

Staff's November 22, 2011, Proposal – Staff supports this rule, which provides the copies of an application must be available.

Comments - Vectren and Dominion again argue that the companies should not be required to house a copy of an exit-the-merchant-function plan at each business location, but only at their principal business office (Vectren/Dominion at 8).

Staff's June 27, 2012, Recommendation - For the reasons stated previously, Staff believes that Vectren and Dominion's proposed change is reasonable and recommends its adoption.

IV. Paragraph (C)(1).

Staff's November 22, 2011, Proposal - In this paragraph, Staff recommends requiring an applicant to demonstrate that retail natural gas suppliers providing default commodity sales service to choice-eligible customers have done so reliably for at least two years through a competitive retail auction process.

Comments - Vectren and Dominion argue that applicants should not be required to demonstrate supplier reliability through a competitive retail auction for the previous two years, but should be permitted to use other options to show reliable service. Consequently, Vectren and Dominion recommend deletion of "default" and "through a competitive retail auction process" from this paragraph. (Vectren/Dominion at 8-9.)

Staff's June 27, 2012, Recommendation - Staff does not recommend the commenters' proposed changes on the basis that Staff has already recommended a method through which applicants may demonstrate supplier reliability.

V. Paragraph (C)(2).

Staff's November 22, 2011, Proposal - In this paragraph, Staff recommends that an applicant be required to provide details of the actual assignment and transfer of the customer.

Comments - Vectren and Dominion argue that, the term "actual" should be deleted and replaced with "proposed," since the actual assignments of customers will not happen at the time the application is filed. Further, Vectren and Dominion argue that "default" should be deleted from "default commodity sales service" for the same reasons it should be deleted from Paragraph (C)(1). (Vectren/Dominion at 9.)

OCC again argues that choice-eligible customers should be provided with the opportunity to affirmatively choose or opt-in to the default commodity sales service in order to comply with state policy and Section 4905.72(B)(1), Revised Code. Therefore, OCC recommends the following modification:

(C)(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. The applicant shall also provide details of how choice-eligible customers are provided the opportunity to affirmatively choose (or opt-in) to continue being served under the default commodity sales service offer.

(OCC at 16.) In their reply comments, OGMG and RESA state that OCC has taken Section 4905.72, Revised Code, out of context because this statute applies to unauthorized changes in the provision of utility service that violate the Commission's rules and regulations. OGMG and RESA state that OCC's unfounded reliance on this statute was specifically rejected by the Commission in Case No. 08-1344-GA-EXM. (OGMG/RESA Reply at 3-4.)

Staff's June 27, 2012, Recommendation - Staff believes that Vectren and Dominion are correct that "proposed assignment" is more accurate terminology and recommends that the Commission adopt this change. Staff does not recommend the changes proposed by OCC.

VI. Paragraph (C)(3).

Staff's November 22, 2011, Proposal - In this paragraph, Staff recommends that applicants be required to provide an accounting of the costs to implement the exit-the-merchant-function plan.

Comments - Vectren and Dominion argue that the term "accounting" should not be used because actual amounts will not be known at the time the application is filed, but should use the term "estimate" (Vectren/Dominion at 9).

OPAE initially reiterates its belief that the entirety of proposed Rule 4901:1-19-05, O.A.C., should be deleted because it is not authorized by statute. However, OPAE states that, if the Commission chooses to move forward with the proposed rule, Paragraph (C) should be revised to include OPAE's recommendations made in its comments on proposed Rule 4901:1-19-03, O.A.C., in addition to a requirement that "the application identify all costs associated with providing the existing standard service offer, which offset any cost associated with implementing the new plan." OPAE argues that this language will ensure that customers do not continue to pay in rates for process that no longer exist. (OPAE at 8.) In its reply comments, Columbia argues that OPAE's proposal is inappropriate because natural gas companies necessarily incur costs that they must recover over a number of years, sometimes even after the process for which they incurred the costs ceases to exist (Columbia Reply at 6-7).

Staff's June 27, 2012, Recommendation - Staff does not recommend the changes proposed by Vectren and Dominion on the basis that Staff's proposed language is appropriate. Additionally, Staff does not recommend the changes proposed by OPAE on the basis that proposed Rule 4901:1-19-05, O.A.C., is authorized by statute, and,

further, Staff agrees with the points made by Columbia in response to OPAE's recommendation.

VII. Paragraph (C)(4).

Staff's November 22, 2011, Proposal - In this paragraph, Staff recommends that applicants be required to provide a plan for customer education regarding exiting the merchant function.

Comments - Vectren and Dominion argue that Staff's proposal goes beyond the statutory obligation under Section 4929.04, Revised Code, because it requires natural gas companies to encourage customers to choose a retail natural gas supplier as a condition for approval of an exit-the-merchant-function plan. Consequently, Vectren and Dominion argue that this requirement in Paragraph (C)(4) should be deleted. (Vectren/Dominion at 10.)

Additionally, OCC reiterates its argument that choice-eligible customers should be provided with the opportunity to affirmatively choose or opt-in to the default commodity sales service. On that basis, OCC recommends the following addition at the end of Paragraph (C)(4):

In addition, the education plan shall include the explanation to customers that there remains the opportunity for choice-eligible customers to affirmatively choose (or opt-in) to take service under the natural gas company's default commodity sales service offer.

(OCC at 16.) OGMG and RESA respond that they support Staff's original language. OGMG and RESA specify that, although this language may not be explicitly required under Section 4929.04, Revised Code, it is consistent with the General Assembly's policy in favor of competitive retail natural gas markets and reducing the need for regulation of natural gas services. (OGMG/RESA Reply at 11.)

Staff's June 27, 2012, Recommendation - Staff believes that its proposed language appropriately encourages competitive retail natural gas markets and, consequently, does not recommend the changes proposed by the commenters.

VIII. Paragraph (D).

Staff's November 22, 2011, Proposal - In this paragraph, Staff recommends that applicants be permitted to request recovery of their reasonable costs of exiting the merchant function.

Comments - OGMG states that this rule requires clarification because it does not explain from whom recovery may be requested. OGMG proposes clarification of

Paragraph (D) with the following language: "The applicant may request recovery from Choice-eligible Default Customers of its reasonable cost of exiting the merchant function." (OGMG at 8.) OPAE recommends that this paragraph be revised to restate the requirement to offset costs with savings as it recommended for Paragraph (C)(3) (OPAE at 8).

Staff's June 27, 2012, Recommendation - Staff does not recommend the changes proposed by OGMG or OPAE. The issues brought up by the commenters will be taken into consideration during the review of an application.

IX. Paragraph (E).

Staff's November 22, 2011, Proposal - In this paragraph, Staff recommends language providing that the Commission shall order such procedures as it deems necessary in its consideration of an application to exit the merchant function.

Comments - OCC states that the proposed rules should separate the rule for filing requirements and the rule for procedures involving an exit-the-merchant-function application. Consequently, OCC recommends deletion of Paragraph (E) from Rule 4901:1-19-05, O.A.C., and the introduction of a separate procedural section in Rule 4901:1-19-06, O.A.C. (OCC at 19-20.)

Staff's June 27, 2012, Recommendation - Staff believes that its proposed organization is appropriate and does not recommend that the Commission adopt OCC's proposed changes.

X. Paragraph (F).

Staff's November 22, 2011, Proposal - In this paragraph, Staff proposes specific procedures exclusive to the exit-the-merchant-function applications, as well as language regarding the burden of proof and the necessity for the applicant to show that the application is just and reasonable.

Comments - Vectren and Dominion argue that this paragraph, which details the specific procedures exclusive to the exit-the-merchant-function applications, is unnecessary and should be deleted because the burden of proof is already set forth in Section 4929.05, Revised Code, and Rule 4901:1-19-05(C)(2), O.A.C. Additionally, Vectren and Dominion state that the ability for opposing parties to present evidence and comments would likely be set forth in a procedural entry pursuant to Rule 4901:1-19-05(E), O.A.C. (Vectren/Dominion at 11.) Columbia states that Paragraph (F)(1) is duplicative of Paragraph (C)(5) and should be deleted (Columbia at 4.) In its reply comments, OCC argues that the ability to file objections to an exit-the-merchant-function application should be part of an established process and not left to be determined on a case by case basis (OCC Reply at 14).

Staff's June 27, 2012, Recommendation - Staff does not recommend adoption of the commenters' proposed changes on the basis that Staff's proposed language is appropriate.

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

I. General.

Staff's November 22, 2011, Proposal - In this rule, Staff recommends amendments to make the language consistent with Am. Sub. H.B. 95, which modified Chapter 4929, Revised Code, specifically revising the notification requirement. Staff further recommends that Paragraph (C)(2)(f) reflect the new requirement under Am. Sub. H.B. 95 that an alternative rate plan applicant demonstrate that the plan is just and reasonable.

Comments - As it commented in Rule 4901:1-19-05, O.A.C., OCC proposes that Rule 4901:1-19-06, O.A.C., should be a separate procedural rule for applications to exit the merchant function. Specifically, OCC argues that, because an exit-the-merchant-function application will be a complex proposal, the Commission's proposed rules should include basic due process applications and procedural safeguards to assure an appropriate review of a natural gas company's application. OCC recommends that its proposed new rule contain the following language:

(A) During the processing of the application, the Commission may dismiss any application which does not substantially comply with the filing requirements of Rule 4901:1-19-05 of the Administrative Code.

(B) After notice and a period for public comment, the Commission shall conduct a hearing upon an application to exit the merchant function by a natural gas company with fifteen thousand or more customers. 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 the day of the hearing unless a different deadline has been specified in an order of the Commission for the purposes of a specific proceeding.

(OCC at 21-22.) Vectren and Dominion respond that Chapter 4901-1, O.A.C., already provides for intervention, prehearing conferences, testimony, and discovery in Commission proceedings, and consequently, separate procedural rules for exit-the-merchant-function proceedings are not required or needed (Vectren/Dominion Reply at 5).

Staff's June 27, 2012, Recommendation – Staff finds that the language contained in OCC's recommended Paragraph (A) is appropriate and should be incorporated into Rule 4901:1-19-05, O.A.C., as this language is also contained in the filing requirements for exemption applications in Rule 4901:1-19-04(A), O.A.C. Staff does not recommend adoption of OCC's other proposed changes on the basis that Chapter 4901-1, O.A.C., already provides procedural rules and that OCC's proposal to implement additional procedural rules would be inconsistent with the goals to streamline processes in Executive Order 2011-01K and Section 121.82, Revised Code. Further, as set forth in Staff's June 27, 2012, recommendation regarding Rule 4901:1-19-05(E), O.A.C., Staff does not recommend OCC's proposal that a separate procedural rule be implemented in Rule 4901:1-19-06 for applications to exit the merchant function.

II. Paragraph (B).

Staff's November 22, 2011, Proposal - In this paragraph, Staff supports the form of an alternative rate plan application.

Comments - Vectren and Dominion argue that, for reasons stated previously, the companies should not be required to house a copy of an alternative rate plan application at every business office, but only at the principal business office (Vectren/Dominion at 12).

Staff's June 27, 2012, Recommendation - For the reasons stated previously, Staff recommends adoption of Vectren and Dominion's proposed changes.

III. Paragraph (C).

Staff's November 22, 2011, Proposal - In this paragraph describing exhibits to an alternative rate plan application, Staff recommends, in part, that applicants submit the exhibits described in divisions (A) to (D) of Section 4909.18, Revised Code, and standard filing requirements pursuant to Rule 4901-7-01, O.A.C., in order to determine just and reasonable rates under Section 4909.15, Revised Code.

Comments - Vectren and Dominion argue that Staff unreasonably establishes filing requirements that Am. Sub. H.B. 95 intended to abolish. Specifically, Vectren and Dominion argue that alternative rate plans are no longer required to be filed as part of a rate case, but may be filed as a stand-alone application. Consequently, Vectren and Dominion argue that the schedules under Section 4909.18(A)-(D), Revised Code, and appendix to Rule 4901-7-01, O.A.C., should not be required and Paragraph (C)(1) should be deleted. Additionally, Vectren and Dominion recommend deletion of Paragraphs (C)(2), (C)(2)(b), and (C)(2)(c) (Vectren/Dominion at 12-14).

Columbia reiterates Vectren and Dominion's argument that Am. Sub. H.B. 95 eliminated the requirement that the Commission determine just and reasonable rates

and charges for a natural gas company pursuant to Section 4909.15, Revised Code, when a natural gas company files an application for an alternative rate plan. Additionally, Columbia states that applicants filing an alternative rate plan should not be required to submit the exhibits described in Section 4909.18(A)-(D), Revised Code, and the standard filing requirements under Rule 4901-7-01, O.A.C., where the applications are not for an increase in rates. Consequently, Columbia recommends deletion of Paragraph (C)(1) in its entirety. Additionally, Columbia recommends deletion of references to Appendix A of Rule 4901-7-01, O.A.C., from Rule 4901:19-06(C)(2), O.A.C. (Columbia at 5-7). In its reply comments, OPAE responds that the standard filing requirements should not be eliminated from this rule because the passage of Am. Sub. H.B. 95 did not eliminate the requirement that just and reasonable rates are a condition precedent for alternative regulation treatment (OPAE Reply at 2-3).

Vectren and Dominion argue that Paragraph (C)(3) was unreasonable when first enacted and remains unreasonable because it purports to require a quid pro quo for alternative rate treatment when this is not required by statute. Consequently, Vectren and Dominion recommend deletion of Paragraph (C)(3). (Vectren/Dominion at 15.) OPAE argues that Paragraph (C)(3) should be deleted because alternate forms of rate setting are not found in Section 4909.15, Revised Code, and are not provided for in Chapter 2929, Revised Code, and, therefore, the Commission has no authority to consider them (OPAE at 8).

Staff's June 27, 2012, Recommendation - Staff does not recommend adoption of the commenters' proposed changes. Alternative rate applications filed pursuant to Section 4929.05, Revised Code, must be filed pursuant to Section 4909.18, Revised Code, and the applicant must show that the plan is just and reasonable. Therefore, the information set forth in the rule is appropriate and, if an applicant believes the information is not necessary for a particular filing, the applicant may file a request for waiver of the requirement pursuant to Rule 4901:1-19-02(D), O.A.C.

Rule 4901:1-19-07, O.A.C. - Procedures for alternative rate plan applications

I. General.

Staff's November 22, 2011, Proposal - Staff recommends separation of the procedures related to exemption applications from alternative rate plan applications. Additionally, Staff recommends incorporation of current Rule 4901:1-9-07, O.A.C., into a new Paragraph (C) in this rule, which requires Staff to file a written report addressing the reasonableness of the current rates pursuant to Section 4909.15, Revised Code. Further, Staff recommends incorporating current Rule 4901:1-19-08, O.A.C., into a new Paragraph (D), which provides that the Commission may require a hearing to consider an application at its discretion. Staff also recommends removal of specifications regarding objections filed to an alternative rate application.

II. Paragraph (A).

Staff's November 22, 2011, Proposal – Staff supports this paragraph, which sets forth procedures and timelines for alternative rate plan applications.

Comments - OPAE recommends a revision providing that the acceptance date of the application is the date that the Commission finds the application to be substantially in compliance with the rules (OPAE at 9).

Staff's June 27, 2012, Recommendation - Staff does not recommend adoption of OPAE's recommendation on the basis that Staff's recommended procedures and timelines are appropriate.

III. Paragraph (C).

Staff's November 22, 2011, Proposal - In this paragraph, Staff recommends that a written report addressing the reasonableness of the current rates pursuant to Section 4909.15, Revised Code, be filed by Staff.

Comments - Vectren and Dominion argue that the reference to Section 4909.15, Revised Code, should be deleted and the rule should instead require Staff to file a written report addressing the justness and reasonableness of the proposed alternative rate plan. Vectren and Dominion argue that this change should be made because Am. Sub. H.B. 95 deleted the reference to Section 4909.15, Revised Code, from Section 4929.05, Revised Code. (Vectren/Dominion at 15.) Columbia similarly states that the reference to Section 4909.15, Revised Code, should be deleted from Paragraph (C) (Columbia at 7).

Staff's June 27, 2012, Recommendation - Staff recommends that the proposed language should be modified to require that the written report address Section 4909.15, Revised Code, as Section 4929.05, Revised Code, still provides for the possibility that an alternative rate case may be filed as part of an application to increase rates.

IV. Paragraph (D).

Staff's November 22, 2011, Proposal – Staff supports this paragraph which provides that the Commission may require a hearing, including local hearings, to consider the application.

Comments - Vectren and Dominion recommend that a sentence be added to clarify that local public hearings are not required if an application is filed pursuant to Section 4929.051, Revised Code, in accordance with the changes in Am. Sub. H.B. 95 (Vectren/Dominion at 15-16). Similarly, Columbia states that Section 4903.083, Revised Code, relates to public hearings on rate increases, and argues that it would be contrary to statutory and legislative intent to hold public hearings for alternative rate plan

applications that are considered not for an increase in rates. Consequently, Columbia suggests deletion of the sentence discussing hearings in accordance with Section 4903.083, Revised Code. (Columbia at 7.)

OPAE recommends revision of this rule to require hearings on applications on the basis that the price impacts of changes require the scrutiny afforded by a hearing on the application (OPAE at 9). Vectren and Dominion state in their reply comments that this procedural suggestion is unnecessary and contrary to Section 4929.05(A), Revised Code, which specifically states that there may be a hearing at the discretion of the Commission (Vectren/Dominion Reply at 4). Columbia echoes Vectren and Dominion's opposition to OPAE's recommendation (Columbia Reply at 7).

Staff's June 27, 2012, Recommendation - Staff does not recommend adoption of the changes proposed by the commenters. However, Staff clarifies that the intent of the proposal was to employ the hearing and notification procedural parameters set forth in Section 4903.083, Revised Code, when setting hearings in a case; therefore, this paragraph should be revised to clarify such intent.

V. Paragraph (F).

Staff's November 22, 2011, Proposal - Staff supports this paragraph, which sets forth the procedure for the filing of objections to the staff report and/or the application.

Comments - Vectren and Dominion state that Staff removed language containing specifications for objections, and argue that this language should remain in the rules to ensure that objections to the staff report and application specifically designate portions that are allegedly objectionable (Vectren/Dominion at 16-17).

Staff's June 27, 2012, Recommendation - Staff believes that the companies' proposal is reasonable and recommends that the language deleted be reinserted into this paragraph as (F)(1)(b) and (c).

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

I. General.

Staff's November 22, 2011, Proposal - Staff recommends revisions of this rule throughout to include exit-the-merchant-function plans.

Comments - OPAE argues the term "exit-the-merchant-function" should be eliminated from the title and body of this rule. OPAE restates its argument that the Commission has no statutory authority to consider such applications. (OPAE at 9.)

Staff's June 27, 2012, Recommendation - Staff does not recommend OP&E's proposed change for the reasons previously stated.

II. Paragraph (A).

Staff's November 22, 2011, Proposal - In this paragraph, Staff recommends addition of language directing that, following the issuance of a Commission order or entry on rehearing granting approval of an exemption, exit-the-merchant-function, or alternative rate plan application, an applicant shall file a notice of intention to implement the application along with revised rate schedules or shall withdraw the application where the Commission does not approve the application as filed.

Comments - Vectren and Dominion suggest that the copy of the applicant's revised rate schedules be provided in redline in order to ensure that the Commission can see the changes requested by an alternative rate plan application (Vectren/Dominion at 17).

OGMG comments that Staff's proposed language does not contemplate a situation where the Commission does not affirmatively issue an entry on rehearing, but denies an application for rehearing by operation of law. OGMG recommends clarification by inserting the phrase "or the denial by law of an application for rehearing" before the phrase "pursuant to section 4903.10 of the Revised Code." Additionally, as to Paragraph (A)(2), OGMG suggests that a withdrawal should only be permitted if the plan has been rejected or the Commission has made a "significant" modification, in order to recognize the time and effort Staff and intervenors devote when an application is filed. (OGMG at 8-9.) Vectren and Dominion reply that OGMG's suggestion to limit the withdrawal period is contrary to law because Section 4929.07(A), Revised Code, allows companies to withdraw an application within 20 days, not one week, and because that right to withdraw is not limited to significant changes ordered by the Commission (Vectren/Dominion Reply at 5). Columbia replies that a one-week period would not allow a natural gas company sufficient time to meaningfully consider and analyze a final order to determine whether withdrawal is necessary (Columbia Reply at 7). OCC responds that it would be unproductive to try to determine what is, or what is not, a significant modification to the natural gas company's exit-the-merchant-function plan, and that OGMG's proposed shortened withdrawal period should not be adopted (OCC Reply at 15).

Staff's June 27, 2012, Recommendation - Staff recommends that the Commission adopt Vectren and Dominion's recommendation that the revised rate schedules be submitted in redline to better show the changes. Additionally, Staff recommends that the Commission adopt OGMG's recommendation that the rule be changed to provide for a situation where the Commission allows an application to be denied by operation of law. Staff does not recommend any of the other proposed changes.

III. Paragraph (C).

Staff's November 22, 2011, Proposal – Staff supports this paragraph, which addresses an applicant's failure to file a notice of intent to implement it plan.

Comments - Vectren and Dominion recommend addition of "exit-the-merchant-function plan, or alternative rate plan" in order to conform this paragraph with Paragraphs A and B in this rule (Vectren/Dominion at 17). Columbia recommends the same addition and states that this will make clear that Paragraph (C) also applies to exit-the-merchant-function plans and alternative rate plans (Columbia at 7-8). OCC also suggests redrafting the rule to clarify that it also applies to exit-the-merchant-function applicants and alternative rate plan applications (OCC at 27-28).

OGMG again notes that Staff and intervenors devote time and resources into the review of applications and states that, consequently, the rule should be clear that withdrawals should await the Commission's final order and the time frame to accept or reject the final order should be less than one month. OGMG recommends a one-week withdrawal period. (OGMG at 9.)

Staff's June 27, 2012, Recommendation - Staff recommends addition of exit-the-merchant-function plans and alternative rate plans as suggested by Vectren, Dominion, Columbia, and OCC. Staff does not recommend adoption of OGMG's proposed changes.

Rule 4901:1-19-09, O.A.C. - Implementation of an exit-the-merchant-function plan

I. General.

Staff's November 22, 2011, Proposal – Staff recommends addition of this rule in order to address implementation of exit-the-merchant-function plans.

Comments - OCC argues that the rules providing for intervention and procedural protections were unreasonably removed by Staff from this section. OCC recommends reinsertion of the current version of Rule 4901:1-19-09, O.A.C., in its entirety with additional changes to recognize the applicability of these provisions to exit-the-merchant-function cases. (OCC at 23-27.) Vectren and Dominion reply that OCC's proposal duplicates the procedural rules contained in Chapter 4901-1, O.A.C., which is not necessary because Chapter 4901-1, O.A.C. already provides for intervention, prehearing conferences, testimony, and discovery in Commission proceedings (Vectren/Dominion Reply at 5). OGMG and RESA reply that the modifications proposed by OCC will increase the cost of applying to exit-the-merchant-function and may discourage applicants from applying; consequently, the Commission should retain flexibility and not implement strict procedural processes (OGMG/RESA Reply at 13).

Additionally, OCC argues that the proposed rules should be modified to accommodate choice-eligible customers who affirmatively choose to continue taking default commodity sales service. OCC recommends the following changes:

(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. However, any choice-eligible customer may affirmatively choose (opt-in) to be served by the natural gas company's default commodity sales service.

(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, as well as the provider of last resort function, but shall not be responsible~~ responsibility for supplying default commodity sales service to any choice-eligible customer except for those choice customers who affirmatively choose (opt-in) to be served by the natural gas company's default commodity sales service.

(OCC at 29-30.)

Staff's June 27, 2012, Recommendation - Staff does not recommend adoption of the changes proposed by OCC, as Staff believes this would be duplicative of the procedural rules set forth in Chapter 4901-1, O.A.C., and would not comport with the streamlining goals set forth in Executive Order 2011-01K and Section 121.82, Revised Code.

II. Paragraph A.

Staff's November 22, 2011, Proposal - In this paragraph, Staff recommends language reflecting that 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 even after the choice-eligible customers have been transferred to retail natural gas suppliers.

Comments - Vectren and Dominion recommend deletion of "company's choice-eligible customers have been transferred to retail natural gas suppliers pursuant to the approved plan" and replacement with "retail natural gas suppliers, pursuant to the approved plan, have been assigned to provide commodity service to choice-eligible customers" (Vectren/Dominion at 18). Duke echoes this concern and suggests removing the term "company" from both paragraphs and replacing it with "natural gas company" (Duke at 4).

Additionally, Duke points out that, although Paragraph (A) requires a natural gas company that has exited the merchant function to continue service to customers who are served as part of a PIPP or are otherwise ineligible for retail choice, in the past, the Commission has found it appropriate to allow for a wholesale auction process that would apply to these customers. Duke recommends that the Commission's flexibility in this regard should be retained by making specific allowance for this option. (Duke at 4-5.) OGMG suggests that the following language should be added to Paragraph (A) to make clear the manner in which natural gas commodity for choice-eligible customers will be procured: "Natural gas commodity for the choice-ineligible customers shall be procured by an auction or a public request for proposal" (OGMG at 10).

Staff's June 27, 2012, Recommendation - Staff recommends that the Commission adopt Dominion, Vectren, and Duke's suggestion that the term "company" be replaced with "natural gas company." Additionally, Staff recommends that the Commission adopt OGMG's suggested language to clarify the manner in which natural gas commodity will be procured for choice-eligible customers.

III. Paragraph (B).

Staff's November 22, 2011, Proposal - In this paragraph, Staff recommends language reflecting that 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 will not be responsible for supplying default commodity sales service to choice-eligible customers.

Comments - Vectren and Dominion state that some companies do not currently perform the balancing functions and that Staff's insertion of "including safety" is unnecessary because natural gas companies are required to abide by the Commission's pipeline safety rules and minimum gas service standards, regardless of whether they have exited the merchant function (Vectren/Dominion at 18-19). Duke voices its agreement with the intent of Paragraph (B), but suggests separating safety and distribution from the balancing function. Duke asserts that, in its business structure, the balancing function is not embedded in the distribution system, but Duke contracts for off-system balancing operations. (Duke at 4.) OGMG recommends that the phrase "and balancing" be deleted and the word "function" be made singular because balancing functions will be turned over to marketers (OGMG at 10). In their reply comments, Vectren and Dominion state that it is not universally true that balancing functions will be turned over to marketers. Vectren and Dominion specify that Vectren allows suppliers to balance its system while Dominion does not and does not plan to. (Vectren/Dominion Reply at 6.) Duke replies that it believes the natural gas company should remain responsible for balancing operations and that any costs associated with the provision of balancing services should be fully recoverable from suppliers or customers (Duke Reply at 4).

Staff's June 27, 2012, Recommendation - In light of the commenters' assertions that some companies do not perform balancing, Staff recommends that the reference to balancing be removed from Staff's proposed language.

Comments - Vectren and Dominion assert that Staff's proposed language implies that, once a natural gas company has exited the merchant function, it no longer serves as the provider of last resort (POLR) for choice-eligible customers if its supplier defaults. Vectren and Dominion state that they are willing to use "best efforts" to be the POLR in these situations and recommend that the following language be added to Paragraph (B): "However, the natural gas company may use best efforts to be the provider of last resort." (Vectren/Dominion at 18-19.) In its reply comments, Duke states that the POLR issue needs to be clarified under the rules (Duke Reply at 2-3).

OCC argues that the proposed rule is silent on the POLR responsibility, and that the responsibility for balancing should not be segregated from the POLR obligation in the proposed rules. OCC argues that the natural gas company should be solely responsible for both of these functions because separating them could be more expensive. Additionally, OCC argues that, under the proposed rules, the choice suppliers presumably have responsibility for the POLR function which puts the Commission in a precarious position in the event of catastrophic market failure. Vectren and Dominion reply that OCC's proposal ignores the shared POLR responsibility that can exist between suppliers and natural gas companies (Vectren/Dominion Reply at 6). OGMG and RESA reply that they oppose OCC's assertion that natural gas companies should be solely responsible for balancing and POLR functions because OCC's recommendation assumes that all natural gas companies operate the same and should be treated the same (OGMG/ RESA Reply at 13).

Staff's June 27, 2012, Recommendation - Staff recommends adoption of Vectren and Dominion's proposed language regarding the companies' best efforts to serve as the POLR. Staff does not recommend adoption of OCC's proposal, as Staff agrees with the points presented in the reply comments.

Comments - OPAE argues that the entire Paragraph (B) proposed by Staff should be deleted because the rule creates a situation where a customer who does not want to shop is motivated not to pay his bill so that he will become "choice-ineligible." Alternately, OPAE argues that, if the Commission moves forward with this rule, it should require that separate pools for choice-ineligible and PIPP customers be created and bid. OPAE supports its recommendation by stating that PIPP customers have attributes that are beneficial from a bidding standpoint. (OPAE at 9-10.)

Vectren and Dominion disagree with OPAE's prediction that good paying customers will be tempted to not pay their bills, risking disconnection and security deposit assessment, in order to retain the default commodity service rate. Additionally, Vectren

and Dominion assert that OP&E's concern about the discounting of receivables and marketers adding the cost of the discount to their bid price is misplaced because the proposed rule clearly states that the natural gas company will continue to supply default commodity service to choice-ineligible and PIPP-enrolled customers. (Vectren/Dominion Reply at 6-7.)

Columbia replies that this situation would be resolved if the Commission removes the distinction between choice-eligible and choice-ineligible customers and makes the exit-the-merchant-function rules applicable to both types of customers (Columbia Reply at 7-8).

OGMG replies that the Commission should disregard OP&E's argument because there is no factual basis to assume that market pricing would be so expensive that customers would avoid paying their bills in order to be subject to lower prices (OGMG at 13-14).

Staff's June 27, 2012, Recommendation - Staff does not recommend OP&E's recommended changes on the basis that nothing indicates that choice-eligible customers will risk disconnection and security payment assessment in order to become choice-ineligible and retain the default commodity service rate.

Rule 4901:1-19-10, O.A.C. - Consumer protection for exemption and exit-the-merchant-function plans

I. General.

Staff's November 22, 2011, Proposal - Staff recommends addition of this new rule to provide for certain consumer protection requirements that would be applicable to exemption and exit-the-merchant-function plans.

Comments - OCC comments that the Commission should clarify for what time period the consumer protections in this rule are in place. Consequently, OCC recommends addition of the following language preliminary to the paragraphs proposed by Staff:

Retail natural gas suppliers assigned a choice-eligible customer as part of an exit-the-merchant-function transition shall adhere to the following consumer protections for as long as that choice[-]eligible customer is served under the terms of the transition (e.g. until that choice[-]eligible customer signs a contract with the supplier, changes suppliers or affirmatively chooses (or opts-in) to the natural gas company's default commodity sales service):

(OCC at 30.)

Staff's June 27, 2012, Recommendation - Staff does not recommend that the Commission adopt OCC's proposed changes on the basis that Staff believes its proposed language is sufficiently clear.

II. Paragraph (A).

Staff's November 22, 2011, Proposal - In this paragraph, Staff recommends addition of language prohibiting retail natural gas suppliers assigned a choice-eligible customer from charging a customer in excess of the company's posted standard variable rate.

Comments - Vectren, Dominion, and Columbia argue that Paragraph (A) should be modified to clarify that natural gas companies are not being regulated by the consumer protections under this rule and replace references to "company" with "retail natural gas supplier" (Vectren/Dominion at 19; Columbia at 8).

OGMG recommends that Paragraph (A) be modified to make clear that the prohibition on suppliers' website rates is solely for suppliers providing default commodity service and that, if the customer chooses another retail natural gas supplier or alternative product from the assigned supplier, the rate may vary from the standard variable rate (OGMG at 10-11).

Staff's June 27, 2012, Recommendation - Staff points out that the preliminary paragraph of this rule clearly states the applicability of the rule to retail natural gas suppliers assigned a choice-eligible customer. Therefore, Staff does not recommend the changes proposed by the commenters.

Comments - OCC argues that, at the time a choice-eligible customer is transitioned from being a choice supplier customer as part of an exit-the-merchant-function case, the choice supplier should be required to charge the customer in accordance with the supplier's lowest posted standard variable rate as posted on the Commission's website. Consequently, OCC recommends insertion of the word "lowest" preceding "posted standard variable rate." (OCC at 31.)

OGMG and RESA reply that OCC's proposition fails to understand the nature of offers made by retail natural gas suppliers, because a supplier will only have one "standard" variable rate, so providing for a lowest "standard variable rate" is not appropriate as there is only one standard. Additionally, OGMG and RESA state that OCC's proposition fails to consider that long-term contracts offered by retail natural gas suppliers may be more advantageous to a customer in the long run, even if the variable rate for a particular month is lower. (OGMG/RESA Reply at 14.)

Staff's June 27, 2012, Recommendation - Staff does not recommend adoption of OCC's proposed changes on the basis that, as stated by OGMG and RESA, suppliers have only one standard variable rate.

III. Paragraph (B).

Staff's November 22, 2011, Proposal - In this paragraph, Staff recommends addition of language forbidding a retail natural gas supplier from charging its assigned choice-eligible customer a termination fee if the customer chooses another retail natural gas supplier.

Comments - OGMG recommends that the phrase "while being served under the company's posted standard variable rate" be added after the phrase "natural gas supplier," in order to clarify the rule because it sets forth the time period when a customer cannot be charged a termination fee if the customer chooses another natural gas supplier (OGMG at 11).

OCC comments that it supports prohibition of termination fees if a customer selects another supplier, but recommends that other fees be prohibited, as well as including initiation or switching fees. OCC recommends that the language be modified to include "termination, switching, or any other fee." (OCC at 31.)

Staff's June 27, 2012, Recommendation - Staff does not recommend adoption of OGMG's or OCC's proposed changes on the basis that these changes are unnecessary.

IV. Paragraph (C).

Staff's November 22, 2011, Proposal - Staff supports this paragraph, which prohibits a retail natural gas supplier from requiring an assigned choice-eligible customer to remain a customer of that supplier for a minimum period of time.

Comments - OGMG comments that the language does not take into account the fact that, anytime a retail natural gas supplier is assigned a choice-eligible customer, that customer must remain a customer of the default retail natural gas supplier for at least a one-month billing cycle. Consequently, OGMG recommends adding the language "beyond the first month in which that customer is assigned to the retail natural gas supplier" after the phrase "minimum period of time." (OGMG at 11.)

Staff's June 27, 2012, Recommendation - Staff believes that OGMG's suggested language is accurate and recommends its adoption for purposes of clarity.

V. Paragraph (D).

Staff's November 22, 2011, Proposal - In this paragraph, Staff recommends that retail natural gas suppliers be required to keep an assigned choice-eligible customer's information confidential except to the host distribution utility.

Comments - OGMG comments that the rule does not take into account the fact that Rule 4901:1-21-10(C), O.A.C., requires a legitimate sharing of customer information with the

customer's consent or with specific entities; consequently, OGMG recommends adding the language "or as otherwise provided under the Commission rules" subsequent to the phrase "host distribution utility" (OGMG at 11-12).

OCC comments that, in order to protect consumers, especially in exit-the-merchant-function cases, the Commission should require natural gas suppliers who are assigned choice-eligible customers to adhere to a uniform bill of rights that applies to all assigned customers (OCC at 32-34).

Vectren and Dominion state, in their reply comments, that the proposed consumer bill of rights duplicates the consumer protections already adopted in Chapter 4901:1-29, O.A.C. (Vectren/Dominion Reply at 5). OGMG and RESA reply that OCC's proposition is outside the scope of this docket and should be discussed in the context of marketing and consumer protection rates. Additionally, OGMG and RESA state that a natural gas customer's bill of rights is already available to consumers on the Commission's website. (OGMG/RESA Reply at 14-15.)

Staff's June 27, 2012, Recommendation - Staff does not recommend adoption of OCC's recommendations because consumer protections have already been adopted in the minimum requirements for competitive retail natural gas service certification rules set forth in Chapter 4901:1-29, O.A.C., and because a natural gas customer's bill of rights is already available on the Commission's website.

Rule 4901:1-19-11, O.A.C. - Abrogation or modification of an order granting an exemption or alternative regulation plan

I. General.

Staff's November 22, 2011, Proposal - Staff recommends amendments to this rule to provide that the Commission could impose temporary measures necessary for the provision of default commodity sales service under certain conditions, and to provide that natural gas companies may request recovery of all costs reasonably incurred in complying with any temporary measures imposed under the rule.

Comments - OCC contends that the proposed rules are too vague and should include sufficient basic due process protections and procedural safeguards to ensure an appropriate review of a natural gas company's application for an abrogation or modification. OCC recommends the addition of the following paragraph:

Discovery shall be served no later than the day of hearing unless a different deadline has been specified in an order of the Commission for the purposes of a specific proceeding.

(OCC at 35.) Columbia responds that there is no need for a special discovery rule in alternative rate plan cases and that discovery should not even be permitted, unless the Commission determines that a hearing will be conducted in a proceeding. Columbia stresses that it believes the Commission's normal procedural rules are more than sufficient to afford procedural guidelines. (Columbia at 8-9.)

Staff's June 27, 2012, Recommendation - Staff does not recommend adoption of OCC's proposed changes on the basis that they do not comport with the streamlining goals of Executive Order 2011-01K and Section 121.82, Revised Code. Furthermore, the procedural rules contained in Chapter 4901-1, O.A.C., may be applied when appropriate.

II. Paragraphs (A) and (B).

Staff's November 22, 2011, Proposal - In this paragraph, Staff recommends addition of a rule for abrogation or modification of an order granting an exemption or an alternative rate plan.

Comments - Vectren, Dominion, and Columbia propose addition of exiting the merchant function to this rule, stating that these applications serve as a "final" exemption pursuant to Section 4929.04, Revised Code, and should be included in the rule (Vectren/Dominion at 10-20; Columbia at 9). In its reply, Duke comments that the Commission should not be permitted to grant a utility's application to exit the merchant function and then subsequently abrogate that order and require the utility to once again provide commodity service. Duke states that, once an application to exit the merchant function is granted, a utility will no longer be in the commodity business and it would be inappropriate for the Commission to require it to recommence commodity services. (Duke Reply at 4.)

OCC also recommends inclusion of the exit the merchant function in this rule, but also recommends deletion of Paragraph (A)(2), which prohibits abrogation or modification more than eight years after the effective date of the order, because, according to OCC, the eight-year limitation is arbitrary. As to Paragraph (B), which provides that the Commission will order such procedures as it deems necessary, OCC reiterates that due process protections and procedural safeguards are needed. Consequently, OCC recommends the following changes to Paragraph (B):

~~(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.~~
After notice and a period for public comment, the Commission shall conduct a hearing upon an abrogation or modification motion.

(OCC at 35-36.) Columbia replies that the proposed rule in Paragraph (A)(2) providing for an eight-year limitation on seeking modification or abrogation of an exemption order is not arbitrary, but is specified by statute in Section 4929.08, Revised Code (Columbia Reply at 8).

Staff's June 27, 2012, Recommendation – Staff finds merit in the suggestions made by Vectren, Dominion, Columbia, and OCC that exit the merchant function be included in this rule. Staff does not recommend adoption of the other changes proposed by OCC because the eight-year limitation on modification or abrogation of an exemption order is specified in Section 4929.08, Revised Code.

III. Paragraph (C).

Staff's November 22, 2011, Proposal - Staff recommends addition of this paragraph to allow for temporary measures to ensure default commodity sales service in the event of unforeseen circumstances or lack of competition.

Comments - Vectren and Dominion argue that this paragraph would grant the Commission temporary power to require natural gas companies to revert to the purchased gas adjustment clause if the Commission determines that there is insufficient competition in the market or supply is compromised. Vectren and Dominion argue that this rule contravenes the statutory authority allowing the Commission to modify or abrogate an opinion granting an exemption or alternative rate plan in Section 4929.08(B), Revised Code. Consequently, Vectren and Dominion recommend that the Commission delete Paragraph (C), or alternately, adopt the language from Section 4929.08(B), Revised Code. (Vectren/Dominion at 20-21.)

Columbia comments that this rule, as proposed, would create undesirable uncertainty for natural gas companies that receive exemptions from the provision of default commodity sales service under Section 4929.04, Revised Code, and recommends that the Commission revise the rule to provide greater clarity regarding the process through which the Commission would determine if temporary measures are necessary, the criteria the Commission would apply, and what measures the Commission would be authorized to impose. (Columbia at 10.)

OGMG and RESA reply that Columbia, Dominion, and Vectren's recommendation of temporary measures or temporary suspension of an order is too vague and is unenforceable. OGMG and RESA state that the rules need a definitive statement that, if there is an emergency, the Commission can step in to take the steps necessary to ensure that commodity will be available for default service. (OGMG/RESA Reply at 15.)

Columbia further comments that reporting, verification, or other obligations should be imposed on retail natural gas suppliers in order to demonstrate that market conditions are not competitive or that the supply of natural gas commodity has been compromised

by unforeseen circumstances (Columbia at 10). OGMG and RESA reply that retail natural gas suppliers are already required to meet annual reporting requirements, so such additional filings are unnecessary (OGMG/RESA Reply at 15-16). Finally, Columbia comments that the final sentence of Paragraph (C) should provide that the Commission "shall authorize a natural gas company's recovery of all costs." Columbia states that this change would make it clearer that a natural gas company required to undertake temporary measures will be entitled to recover its reasonable costs of compliance. (Columbia at 10-11.)

OGMG states that the existing and proposed rule should be simplified to just reserving the Commission the authority to order the steps needed to assure commodity is available. Consequently, OGMG recommends that this paragraph be clarified by removing existing language about purchase gas adjustments and reconciliations and using simple and straight terms. (OGMG at 12.)

Staff's June 27, 2012, Recommendation - Staff recommends retaining Paragraph (C) because it is essential that the Commission ensures customers are provided with natural gas service in the event of a threat to the supply. Consequently, Staff believes its proposed language is appropriate and does not recommend adoption of the commenters' proposed changes.

Rule 4901:1-19-13, O.A.C. - Continuation of an alternative rate plan

I. General.

Staff's November 22, 2011, Proposal - Staff recommends addition of this rule in order 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 consistent with Am. Sub. H.B. 95 and Section 4929.051(B), Revised Code.

Comments - Vectren and Dominion argue that Staff's proposed changes incorporate Section 4929.051(B), Revised Code, but fail to include Section 4929.051(A), Revised Code. Consequently, Vectren, Dominion, and Columbia propose adding a paragraph to the rule to clarify that applications to initiate or continue revenue decoupling mechanisms will not be considered applications for an increase in rates. (Vectren/Dominion at 21; Columbia at 11.) Finally, Columbia proposes that additional language be added to this provision to clarify that a new alternative rate plan application will not automatically be considered an application for an increase in rates (Columbia at 12).

Staff's June 27, 2012, Recommendation - In order to clarify the rule, Staff agrees that language should be added regarding the provisions of Sections 4929.05(A), 4929.051(A) and (B), Revised Code, as recommended by the companies.

Rule 4901:1-19-15, O.A.C. - Assessment of costs and enforcement**I. General.**

Staff's November 22, 2011, Proposal - Staff recommends no changes to this rule, which provides that the Commission has discretion to assess the costs of hearing or investigation on a nonconsenting applicant pursuant to Section 4903.24, Revised Code.

Comments - Duke opposes the continued existence of this rule on the basis that it is unnecessary and too vague to be susceptible to any rational interpretation. Specifically, Duke comments that the term "non-consenting applicant" is unclear and that the legislature has already given the Commission power to assess costs in certain circumstances under Section 4903.24, Revised Code. (Duke at 4-5.)

Staff's June 27, 2012, Recommendation - Staff has recommended no changes to this rule and does not find merit to Duke's proposed language.

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

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

ATTACHMENT B
STAFF'S PROPOSED RULES

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

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) "Applicant" means a natural gas company, as defined in division (G) of section 4929.01 of the Revised Code, that has filed an application under either section 4929.04 or 4929.05 of the Revised Code.
- (EF) "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.
- (FG) "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.
- (GH) "Commodity sales service" means the sale of natural gas to consumers, exclusive of any distribution or ancillary service.

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- (HI) "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 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.
- (IJ) "Competitive retail auction" shall mean a competitive bidding process in which the obligation to provide commodity sales service to choice-eligible 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.
- (JK) "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.
- (KL) "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.
- (LM) "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.
- (MN) "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.
- (NO) "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.
- ~~(J) "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.~~

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- (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 cost, respectively, at that firm's profit maximizing output.~~
- (OP) "Market" means the set of all actual and potential buyers and sellers of a particular product.
- (~~PO~~) "PIPP-enrolled customer" means a customer who is enrolled in the natural gas company's percentage of income payment plan program or any successor program.
- (QR) "Product" means commodity sales and/or ancillary goods or services.
- (RS) "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.
- (ST) "Relevant market" means the market for the product that is the subject of the application for exemption or alternative rate making.
- (~~TU~~) "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 made pursuant to section 4929.04 of the Revised Code, 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, 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. The applicant shall keep at least one copy of the application at the applicant's principal business office in Ohio and on its web page for public inspection.
- (3) The applicant shall provide or cause to be provided a copy of the application to any person upon request.
- (4) 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 may or may not be consistent with previous Commission orders considering exemption applications as well as best industry practices.
- (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.

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- (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 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.
- (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.

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- (10) The applicant shall provide a list and description of all dockets in which there are special arrangements with customers that involve natural gas commodity service, 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 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 4901:1-19-05 of the administrative code.

(B) 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.

(C) 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. The applicant shall keep at least one copy of the application at the applicant's principal business office and on its web page for public inspection.

(3) The applicant shall provide or cause to be provided a copy of the application to any person upon request.

(34) An exit-the-merchant-function application shall be designated by the commission's docketing division using the acronym EMF.

(D) 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~~ proposed 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-

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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 of the Revised Code, and is just and reasonable.

(E) The applicant may request recovery of its reasonable costs of exiting the merchant function.

(F) 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.

(G) Review of the application

(1) The burden of proof shall be on the applicant to show that the application satisfies section 4929.04 of the 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 (G)(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 (G)(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. The applicant shall keep at least one copy of its plan at the applicant's principal business office and on its web page or public inspection.

(3) The applicant shall provide or cause to be provided a copy of the application to any person upon request.

(34) 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 4901:1-19-02(D) 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

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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.

- (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

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Code, after implementation of the alternative rate plan. Finally, the applicant shall demonstrate that the alternative rate 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

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reasonableness of the current rates. If the application is for an increase in rates, the written report shall also address section 4909.15 of the 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 procedural parameters 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 must:

(a) Be filed with the commission and served on all parties within thirty calendar days after the filing of the report.

(b) Specifically designate those portions of the Staff report and/or the application that are considered to be objectionable and explain the objection.

(c) Sufficiently explain how the portions of the report and/or the application objected to are unjust and unreasonable.

(2) 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 or the denial by operation of law of an application for rehearing 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 final and redline 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, exit-the-merchant-function plan, or alternative rate plan 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 natural gas company's choice-eligible customers have been transferred to retail natural gas suppliers pursuant to the approved plan. Natural gas commodity for choice-eligible customers shall be procured by an auction or a public request for proposal.
- (B) A natural gas company that has an approved exit-the-merchant-function plan shall retain the natural gas company's distribution function, including safety, but shall not be responsible for supplying default commodity sales service to any choice-eligible customer. However, the natural gas company may use best efforts to be the provider of last resort.

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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 beyond the first month in which that customer is assigned to the retail natural gas supplier.
- (D) Keep the assigned customers' personal, billing, account number and usage information confidential except to the host distribution utility or as otherwise provided under the Commission rules.

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4901:1-19-11 Abrogation or modification of an order granting an exemption, exit-the-merchant-function plan, or alternative regulation plan.

- (A) The commission may, upon its own motion or upon the motion of any person adversely affected by such exemption, exit-the-merchant-function, 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, exit-the-merchant-function, or alternative rate regulation authority under section 4929.04 or 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, exit-the-merchant-function plan, or 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 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.

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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.

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4901:1-19-13 Initiation or cContinuation of an alternative rate plan.

- (A) A natural gas company may request approval of an alternative rate plan by filing an application under section 4909.18 of the Revised Code, regardless of whether the application is for an increase in rates.
- (B) An alternative rate plan filed by a natural gas company under section 4929.05 of the Revised Code that proposes to initiate or continue a revenue decoupling mechanism shall be considered an application not for an increase in rates if the rates, joint rates, tolls, classifications, charges, or rentals are based upon the billing determinants and revenue requirement authorized by the public utilities commission in the company's most recent rate case proceeding and the plan also establishes, continues, or expands an energy efficiency or energy conservation program.
- (C) 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.

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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.

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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.

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

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

ATTACHMENT C
BUSINESS IMPACT ANALYSIS

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Public Utilities Commission of Ohio

Regulation/Package Title: Natural Gas Alternative Rate Plan and Exemption Rules

Rule Number(s): 4901:1-19-01, 4901:1-19-02, 4901:1-19-03, 4901:1-19-04, 4901:1-19-05,
4901:1-19-06, 4901:1-19-07, 4901:1-19-08, 4901:1-19-09, 4901:1-19-10, 4901:1-19-11,
4901:1-19-12, 4901:1-19-13, 4901:1-19-14, and 4901:1-19-15

Date: July 2, 2012

Rule Type:

☒ New

☒ 5-Year Review

☒ Amended

☒ Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Regulatory Intent

1. Please briefly describe the draft regulation in plain language. Chapter 4901:1-19, Ohio Administrative Code, governs the filing, consideration, and implementation of applications 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 provisions of Chapters 4905, 4909, and 4935, Revised Code; the filing and consideration of an application by a natural gas company to exit the merchant function; and, the filing and consideration of an application

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made pursuant to Section 4929.05, Revised Code, by a natural gas company to request approval of an alternative rate plan. The proposed changes to this chapter include non-substantive amendments and rescissions of rules, with the intent of separating the rules pertaining to exemption applications and alternative rate plan applications, in order to clarify the rules applicable to each type of application, streamline the rules, and remove unnecessary or outdated requirements. Further, the proposed changes include the addition of new rules to address definitions, filing requirements, consumer protection requirements, and procedures related to applications to exit the merchant function. Finally, the proposed changes include amendments to make the rules consistent with Amended Substitute House Bill 95, which became effective September 9, 2011.

2. **Please list the Ohio statute authorizing the Agency to adopt this regulation.** Section 4929.10, Revised Code.
3. **Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?** No.
4. **If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.** Not applicable. This chapter of rules implements a state requirement and is not required by the federal government.
5. **What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?** The purpose of this regulation is to provide a clear and consistent process for the filing of applications and review of applications made pursuant to Section 4929.04 of the Revised Code, applications to exempt any commodity sales service or ancillary service of natural gas companies from provisions of Chapters 4905, 4909, and 4935, Revised Code; applications by natural gas companies to exit the merchant function; and, applications made pursuant to Section 4929.05, Revised Code, by natural gas companies to request approval of an alternative rate plan.
6. **How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?** The PUCO will measure the success of this regulation by the Commission's ability to review and approve or disapprove an application for an exemption, to exit the merchant function, or for an alternative rate plan in a timely and thorough manner.

Development of the Regulation

7. **Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.** A draft of the proposed rules, as well as the Commission entry

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calling for comments were served on all regulated gas and natural gas companies, Ohio Consumers' Counsel, Ohio Gas Association, and Ohio Oil and Gas Association. Vectren Energy Delivery of Ohio, The East Ohio Gas Company d/b/a Dominion East Ohio, Duke Energy Ohio, Inc., Ohio Gas Marketers Group, Ohio Consumers' Counsel, Columbia Gas of Ohio, Inc., Ohio Partners for Affordable Energy, and Retail Energy Supply Association all contributed to the development of the draft regulation by submitting comments and/or reply comments regarding the proposed rules.

- 8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?** The specific stakeholders listed above suggested revisions to Sections 4901:1-19-01, 4901:1-19-02, 4901:1-19-03, 4901:1-19-04, 4901:1-19-05, 4901:1-19-06, 4901:1-19-07, 4901:1-19-08, 4901:1-19-09, 4901:1-19-10, 4901:1-19-11, 4901:1-19-13, and 4901:1-19-15, O.A.C. The PUCO staff has recommended that the Commission adopt several of the suggested revisions to Sections 4901:1-19-01, 4901:1-19-03, 4901:1-19-05, 4901:1-19-06, 4901:1-19-07, 4901:1-19-08, 4901:1-19-09, 4901:1-19-10, and 4901:1-19-13, O.A.C. The PUCO staff recommended that the Commission not adopt the stakeholders' suggested revisions as to Sections 4901:1-19-02, 4901:1-19-04, 4901:1-19-11, 4901:1-19-12, and 4901:1-19-15, O.A.C.
- 9. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?** Numerous PUCO staff reports have demonstrated the benefits of moving from a fully-regulated natural gas commodity pricing structure to a more market-based approach. The PUCO staff analyzed historic market prices, historic regulated gas prices, and the results of market-based auctions. Such comparisons consistently show that market-based auctions provide a lower price to customers. The proposed rules provide a mechanism to propose and evaluate further iterations in the move to a totally market-based pricing structure for the natural gas commodity.
- 10. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?** The proposed changes to this chapter clarify and streamline the rules and implement the changes set forth in Amended Substitute House Bill 95, which continue to provide natural gas companies with alternatives to traditional regulation. As the proposed rules provide a clear and consistent process for the filing of applications and review of applications, with options for alternatives to traditional regulation, the PUCO staff believes that further regulatory alternatives were unnecessary.
- 11. Did the Agency specifically consider a performance-based regulation? Please explain.**

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No. The proposal is based upon the statutory requirements, under Section 4929.04 and 4929.05, Revised Code, and performance-based regulation is not provided for in the statute.

- 12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?** This chapter is unique in that the rules provide a procedure to allow natural gas utilities to pursue alternatives to traditional regulation. The rules, as they currently exist, allow natural gas utilities to propose alternatives that would result in a more market-based pricing structure. The proposed modifications to those rules are an additional step to deregulating natural gas commodity pricing by allowing natural gas marketers to propose alternative approaches that would allow for even more of a market-driven pricing structure for natural gas. We are thus assured that there is no duplication with any existing regulation.
- 13. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.** The PUCO staff conducts a review of each application filed pursuant to this rule to ensure that the application complies with the filing requirements in the rule. Further, the PUCO attorney examiner assigned to each application ensures that the process set forth in the rules for the Commission's review of the application is followed.

Adverse Impact to Business

- 14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:**
- a. Identify the scope of the impacted business community;
 - b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and
 - c. Quantify the expected adverse impact from the regulation.
The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a "representative business." Please include the source for your information/estimated impact.
- a. The business community impacted by this chapter of rules includes natural gas companies, as defined in Section 4929.01(G), Revised Code.
 - b. The existing rules impact the business community by requiring employer time for compliance with filing requirements in certain situations. The proposed rules maintain a portion of that impact, requiring employer time for compliance with filing requirements; however, the proposed rules are a further step toward alternative regulation by providing

further procedures through which natural gas companies can pursue options to traditional regulation.

- c. The proposed rules place no additional compliance requirements beyond the existing rules, but, instead, provide more alternatives to traditional regulation. Therefore, according to the PUCO staff, the proposed rules have the potential to reduce the cost of supplying natural gas on both natural gas utilities and natural gas marketers.

15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community? The PUCO staff believes that the need for clear and consistent filing requirements and procedures for thorough review of applications filed pursuant to Sections 4929.04 and 4929.05, Revised Code, justifies the continued compliance requirements contained in the existing rules; but emphasizes that the proposed rules will not have an additional adverse impact on the identified business community.

Regulatory Flexibility

16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain. Yes, proposed Rule 4901:1-19-04, O.A.C., governing procedures for exemption applications filed pursuant to Section 4929.04, Revised Code, requires that the Commission conduct a hearing upon an application by a natural gas company with fifteen thousand or more customers. However, holding a hearing upon an application by a natural gas company with fewer than fifteen thousand customers is not required, but is within the Commission's discretion.

17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation? There are no fines and penalties imposed under this chapter; therefore, Section 119.14, Revised Code, is inapplicable to this chapter.

18. What resources are available to assist small businesses with compliance of the regulation? The rules, application forms, and other applicable regulations are accessible on the natural gas industry page on the PUCO website. Additionally, all applicants, large and small, are permitted to electronically file applications with the PUCO via the website. The PUCO also produces an apples-to-apples chart that enables small businesses that wish to shop for a marketer to compare the prices offered by various marketers making offers in that service area. This ensures that small business owners have access to full information.