

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's)	
Review of Chapter 4901:1-20, Ohio)	Case No. 12-2817-EL-ORD
Administrative Code, Regarding)	
Transition Plans for Electric Utilities.)	

In the Matter of the Commission's)	
Review of Chapter 4901:1-26, Ohio)	Case No. 12-2818-EL-ORD
Administrative Code, Regarding)	
Alternative Dispute Resolution.)	

In the Matter of the Commission's)	
Review of Chapter 4901:1-41, Ohio)	Case No. 12-3160-EL-ORD
Administrative Code, Regarding)	
Greenhouse Gas Reporting and)	
Carbon Dioxide Control Planning.)	

ENTRY

The Attorney Examiner 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.
- (2) The rules in Chapter 4901:1-20, Ohio Administrative Code (O.A.C.), were promulgated pursuant to Section 4928.31, Revised Code, in 2000 for Commission review of each jurisdictional electric utility's transition plan for providing retail electric service during the market development period defined by Section 4928.01(A)(17), Revised Code, to implement the choice of electric generation service for retail customers in Ohio. The rules in Chapter 4901:1-26, O.A.C., concern alternative dispute resolution procedures for formal complaints between (a) nonmercantile, nonresidential customers and (b) electric utilities, electric service companies, electric cooperatives, and governmental aggregators. Finally, the rules in Chapter 4901:1-41, O.A.C., address greenhouse gas reporting and carbon dioxide control planning.

- (3) Section 119.032(C), Revised Code, requires the Commission to determine whether:
 - (a) The rules should be continued without amendment, be amended, or be rescinded, taking into consideration the purpose, scope, and intent of the statute(s) under which the rules were adopted;
 - (b) The rules need amendment or rescission to give more flexibility at the local level;
 - (c) The rules need amendment or rescission to eliminate unnecessary paperwork, or whether the rule incorporates a text or other material by reference and, if so, whether the text or other material incorporated by reference is deposited or displayed as required by Section 121.74, Revised Code, and whether the incorporation by reference meets the standards stated in Sections 121.71, 121.75, and 121.76, Revised Code; and
 - (d) The rules duplicate, overlap with, or conflict with other rules.
- (4) In addition, on January 10, 2011, the governor of the state of Ohio issued Executive Order 2011-01K, entitled "Establishing the Common Sense Initiative," which sets forth several factors to be considered in the promulgation of rules and the review of existing rules. Among other things, the Commission must review its rules to determine the impact that a rule has on small businesses; attempt to balance properly 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.
- (5) Additionally, in accordance with Section 121.82, Revised Code, in the course of developing draft rules, the Commission must conduct a business impact analysis regarding the rules. If there will be an adverse impact on business, as defined in Section 107.52, Revised Code, the

agency is to incorporate features into the draft rules to eliminate or adequately reduce any adverse impact. Furthermore, the Commission is required, pursuant to Section 121.82, Revised Code, to provide the Common Sense Initiative (CSI) office the draft rules and the business impact analysis. The Commission is to consider any recommendations made by CSI with regard to the draft rules and provide CSI with a memorandum explaining either how CSI's recommendations were incorporated into the rules or why the recommendations were not incorporated into the rules.

- (6) The Commission has considered the current rule review procedures and revised them to incorporate the new CSI process. As part of our new procedures, the Commission finds that, prior to issuing Staff's proposed revisions to the rules for comment, it is appropriate to require Staff to hold a workshop with interested stakeholders. At the workshop, Staff should elicit feedback on any proposed revisions to the rules which Staff may have and may permit stakeholders to propose their own revisions to the rules for Staff's consideration. Interested stakeholders should come to the workshop prepared with necessary technical experts to provide appropriate feedback. After Staff has an opportunity to consider the feedback received at the workshop, proposed rule amendments will be issued for comments and reply comments by interested parties.
- (7) Accordingly, the Attorney Examiner finds that, at this time, a workshop should be scheduled for January 15, 2013, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, Hearing Room 11-B, Columbus, Ohio, to consider the rules in Chapters 4901:1-20, 4901:1-26, and 4901:1-41, O.A.C. To allow broader access to the workshop, it will be webcast. Persons wishing to view the workshop via the web should access the Commission's website at www.puco.ohio.gov and select Webcasts. The workshop is intended as an opportunity for Staff to receive feedback from interested stakeholders before it issues draft rules and opens them up for formal comment. Any interested stakeholder that cannot or does not choose to participate in the workshop may file formal comments with the Commission once the draft rules have been issued.

It is, therefore,

ORDERED, That, in accordance with finding (7), a workshop be scheduled for January 15, 2013. It is, further,

ORDERED, That a notice or copy of this entry be served upon all investor-owned electric utilities in the state of Ohio, all certified competitive retail electric service providers in the state of Ohio, and the Electric-Energy industry list-serve.

THE PUBLIC UTILITIES COMMISSION OF OHIO

s/James Lynn

By: James M. Lynn
Attorney Examiner

JRJ/sc

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in

Case No(s). 12-2817-EL-ORD, 12-2818-EL-ORD, 12-3160-EL-ORD

Summary: Attorney Examiner Entry ordering a workshop for 01/15/2013 in accordance with finding (7). - electronically filed by Sandra Coffey on behalf of James Lynn, Attorney Examiner, Public Utilities Commission of Ohio