BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's Review of Chapter 4901:1-10, Ohio Administrative Code, Regarding Electric Companies.	))))	Case No. 12-2050-EL-ORD

ENTRY ON REHEARING

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. The rules in Chapter 4901:1-10, O.A.C., are regarding electric companies and govern the minimum service and safety standards for service provided by electric utilities.

(2) On October 16, 2013, the Commission issued its finding and order (Order), adopting Rules 4901:1-10-01 and 4901:1-10-05, Ohio Administrative Code (O.A.C.), for advanced meter opt-out service.

(3) Pursuant to Section 4903.10, Revised Code, any party who has entered an appearance in a Commission proceeding may apply for rehearing with respect to any matters determined by the Commission, within 30 days of the entry of the order upon the Commission's journal.

(4) On November 14, 2013, Duke Energy Ohio, Inc. (Duke), the Ohio Edison Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company (collectively, FirstEnergy), and The Dayton Power and Light Company (DP&L) filed applications for rehearing. On November 25, 2013, FirstEnergy, Duke, and Ohio Partners for Affordable Energy (OPAE) filed memoranda contra the applications for rehearing.

(5) Duke asserts as its first assignment of error that the Commission's rules were unclear with regard to the definitions of advanced meter and traditional meter. Duke notes that the definition of an advanced meter includes the concept of a meter with one-way communication, but points out that its meters communicate in two directions. Duke further requests that the Commission amend the rules to provide for the utility to turn off the communication

function of the meters, rather than have a meter lacking communication hardware/software installed.

Similarly, DP&L contends as its first and only assignment of error that the Commission's order is unlawful and unreasonable because it sets forth a definition of advanced meter that is overly broad. DP&L asserts that the definition of advanced meter should exclude meters with encoder receiver transmitter (ERT) technology because customer concerns and complaints regarding advanced metering technology are directed at smart meters with two-way communication capabilities. DP&L contends that customer privacy concerns would be sufficiently addressed by narrowing the scope of the definition of advanced meter to meters with the capability to communicate more granular customer usage data directly to the utility over a network. Finally, DP&L notes that ERT meters are used for residential water meters and the most recent rule review for the water rules did not result in an advanced meter definition that includes ERT technology.

Additionally, FirstEnergy avers in its third assignment of error that the definition of advanced meter should be revised to exclude meters with advanced meter read (AMR) technology. FirstEnergy asserts that AMR meters have been in service for so long that they should be considered traditional meters. FirstEnergy requests that the definition of advanced meter be narrowed to exclude AMR meters.

(6) The Commission finds that Duke's first assignment of error should be granted, in part, and denied, in part. Similarly, DP&L's first assignment of error should be granted and FirstEnergy's third assignment of error should be granted. The Commission believes that the definition of advanced meter should be revised to indicate that an advanced meter includes only meters with two-way communication capabilities. The Commission believes that it is appropriate for the definition of advanced meter to exclude meters with ERT and AMR technology that communicate a meter reading on a one-way basis. The Commission agrees with stakeholders that meters with ERT and AMR technology are not typically considered smart meters. Therefore, the Commission finds that they should not be considered advanced meters at this time. However, if a customer requests advanced meter opt-out service and the customer has a meter with AMR or ERT technology, the EDU should present the opportunity for advanced meter opt-out service

to the customer and may add that customer to the advanced meter opt-out service tariff if the customer requests a new type of traditional meter. The Commission believes that the EDUs should work with customers on a case by case basis, regardless of whether their meter is an advanced meter, and should arrive at a mutually agreeable solution to the customer's concerns. The EDUs should recognize advanced meter opt-out service as one of many solutions to customer concerns regarding their meters.

Further, the Commission denies Duke's request for the rules to allow for the utility to turn off the meter's communication function, rather than have the utility install a meter lacking communication hardware/software installed. Each electric utility must file a tariff for advanced meter opt-out service offering residential customers the option to remove an installed advanced meter and replace it with a traditional meter, and the option to decline the installation of an advanced meter and retain a traditional meter. The Commission notes that the electric utility may continue to work with customers on alternatives to opt-out, such as turning off the communication function of the meter or moving the meter to another area of the property, but the customer shall have the option to request full advanced meter opt-out service for replacement of the advanced meter with a traditional meter. If the customer and EDU mutually agree that disabling the communication capabilities of the meter is sufficient to satisfy the customer's concerns, then they may adopt an agreement as an alternative to full advanced meter opt-out service. If such an alternative agreement is adopted between the customer and the EDU, it shall not eliminate the customer's opportunity to subsequently request full advanced meter opt-out service.

(7) Duke contends as its second assignment of error that the rules fail to clarify whether they apply to commercial and industrial customers, or just residential customers. The definition of customer includes both commercial and industrial customers, but the rule requires the utility to file a tariff allowing residential customers to opt-out.

(8) The Commission finds that Duke's second assignment of error should be granted. The Commission notes that the rules were intended to only apply to residential customers. The Commission has adopted clarifying language for the purpose of indicating that

the advanced meter opt-out provisions apply exclusively to residential customers.

(9) Duke argues as its third assignment of error that the Commission's rules fail to address who bears the cost of reinstalling an advanced meter. Duke contends that the Commission's declaration that the cost of reinstalling an advanced meter should be borne by the utility is inconsistent with proposed Rule 4901:1-10-05(J)(5)(e), O.A.C., which indicates that costs incurred to provide advanced meter opt-out service shall be borne only by customers who elect to receive advanced meter opt-out service.

In it memorandum contra to Duke's application for rehearing, OPAE notes that advanced meter opt-out customers may be required to pay Duke's special advanced meter rider that includes all the costs associated with advanced meter installations until those costs are recognized in a base distribution rate case. OPAE contends that if an electric utility has a separate rider to recover the costs associated with installing new advanced meters, advanced meter opt-out service customers should be able to avoid paying that rider. OPAE believes that this would be consistent with the principle of cost-causation. Additionally, OPAE avers that if the electric utility's current distribution base rates already include costs associated with traditional metering service, such as the cost of the traditional meter and associated costs for reading the meter, there should be no additional costs associated with the opt-out service.

(10) The Commission finds that Duke's third assignment of error should be granted for clarification. The Commission notes that Rule 4901:1-10-05(J)(5)(e), O.A.C., is not at odds with the Commission's Order. Rule 4901:1-10-05(J)(5)(e), O.A.C., directs that costs incurred by an electric utility to provide advanced meter opt-out service should be borne only by customers who elect to receive advanced meter opt-out service. These costs would then be recovered by the utility through the advanced meter opt-out service tariff. However, reinstalling an advanced meter for a new tenant or customer is not a cost of providing advanced meter opt-out service, since the new tenant or customer is not an opt-out customer. Rather, reinstalling an advanced meter is a cost of providing advanced metering service that should be recovered in the electric utility's rider for advanced meter deployment or base rates. When the Commission indicated that the costs of reinstalling an advanced meter should be borne by the utility, it meant to indicate that this was not a cost that

advanced meter opt-out service customers or new residents would have to pay, but rather a cost that would be recovered by the utility through the same rider or mechanism that it recovers the costs of all advanced meter deployments. Thus, the cost of reinstalling an advanced meter is covered by the customers paying the rider for advanced meter deployment in the electric utility's service territory. Furthermore, the principle of cost causation actually requires that advanced meter opt-out service customers be required to pay the riders for recovery of the costs of advanced meter deployment and redeployment, as their actions actually cause a portion of the cost of redeployment. Accordingly, the Commission finds that the electric utility's rider or mechanism for advanced meter deployment should recover the costs of advanced meter deployment and redeployment, and advanced meter opt-out service customers should be required to pay the rider.

(11) As its fourth assignment of error, Duke contends that the Commission's rule for one full business day of notice before installing an advanced meter on a customer's premises may be unduly burdensome. Duke requests clarification on the Commission's intent. Further, Duke requests that the Commission direct that the one full business day notice be required only in instances of full system upgrade deployments. As the rule is written, Duke is concerned that it would require the electric utility to provide one-day notice even when simply changing out a faulty advanced meter for a properly functioning advanced meter.

(12) The Commission finds that Duke's assignment of error on this issue should be granted for further clarification on the matter. The Commission finds that clarification is necessary as to the requirement in Rule 4901:1-10-05(B)(2), O.A.C., that the electric utility should give the customer at least one business day notice. The Commission finds that the EDU should give at least one business day notice when a traditional meter is being replaced with an advanced meter, when an advanced meter is being deployed for new construction, when an advanced meter is being deployed for temporary use, and when the EDU is reinstalling an advanced meter after a previous opt-out customer ends service at the residence. The EDU shall use reasonable efforts to contact the customer in all instances. However, Rule 4901:1-10-05(J)(2), O.A.C., does not require the EDU to provide notice when it is replacing a faulty advanced meter with a properly functioning advanced meter or when repairing an advanced meter.

(13) Duke's fifth assignment of error is that the rule fails to recognize theft as a reason for declining a customer the right to opt-out. Duke requests that the rule be revised to include the concept of theft, as well as theft or tampering through a breach of cyber security. Furthermore, Duke requests that the Commission revise the rule to permit electric utilities to deny advanced meter opt-out service to a customer who has a meter inside the premises. Duke contends that accessing inside meters is a significant safety risk, and causes undue costs and time consuming labor.

(14) The Commission finds that Duke's fifth assignment of error should be denied. The Commission addressed this issue in its order by noting that providing opt-out service to a customer with a history of tampering could create a safety hazard to the electric utility's personnel or facilities. However, Duke contests the Commission's finding because it leaves the burden of explaining the denial on the utility rather than upon the customer. The Commission finds that the burden appropriately rests with the utility in this instance; if the utility is going to deny opt-out to a customer requesting it, then the utility should carry the burden of demonstrating why opt-out should be denied. Further, the Commission sees no distinction between theft and tampering. In the Commission's view, theft is a form of tampering. If a utility chooses not to provide opt-out service to a customer with a history of tampering or theft, and the customer contests the EDU's denial of advanced meter opt-out service, then the burden is on the utility to demonstrate that such a history of tampering exists and that advanced meter opt-out service should be denied.

Furthermore, the Commission denies Duke's request to revise the rules to address the electric utility's right to deny opt-out service to a customer who has a meter inside the premises. The Commission understands that there are additional costs and burdens to granting customers opt-out when they have an inside meter, and these additional costs are being recovered by the electric utility through the tariff. Furthermore, as the Commission has noted previously, the electric utility is not precluded by these rules from exploring alternatives to opt-out with the customer, such as moving the meter to another area of the property. However, the Commission does not believe that customers with inside meters should be precluded from advanced meter opt-out service. Accordingly, Duke's assignment of error should be denied.

(15) Duke's sixth assignment of error alleges that the Commission's Order inadequately addressed how to apply advanced meter opt-out service to customers on time-of-use rates. Duke asserts that if a customer is a shopping customer with time-of-use rates, and is served by a competitive retail electric service provider, the electric distribution utility will not necessarily be aware of that arrangement. If the customer then opts-out of advanced meter service, the customer could be returned to standard service offer rates or some other rate with the competitive retail electric service provider. Duke requests clarification on this issue.

(16) The Commission finds that Duke's sixth assignment of error should be granted for clarification. Rule 4901:1-10-05(J)(3)(c), O.A.C., indicates that if the customer is enrolled in a product or service requiring an advanced meter as a condition of enrollment with the electric utility, the electric utility should notify the customer that a different product or service must be chosen prior to installation of the traditional meter. The Commission notes that if a customer chooses to opt-out of advanced metering service, then it is also choosing to opt-out of all of the products and services that depend on that advanced meter. However, if the electric utility is aware, or can reasonably ascertain, that a customer is enrolled in a product or service that requires an advanced meter, then the electric utility must notify the customer that a different product or service must be chosen prior to installation of the traditional meter.

(17) Duke proposed a seventh assignment of error, which was a formatting change to Rule 4901:1-10-05(J)(5)(b)(ii), O.A.C., which the Commission grants and adopts.

(18) FirstEnergy asserts as its first assignment of error that Rule 4901:1-10-05(J), O.A.C., establishing advanced meter opt-out service, is unlawful because it conflicts with the enabling statute that authorizes the Commission to promulgate rules governing advanced metering. FirstEnergy notes that it believes there are two statutes that enable the Commission to promulgate rules related to metering: Sections 4905.28 and 4928.02, Revised Code. FirstEnergy argues that Section 4905.28, Revised Code, is not applicable to this case because opt-out service does not concern specifications and standards to secure the accuracy of all meters and appliances for measurement. Therefore, FirstEnergy argues that the enabling statute for rules 4901:1-10-01 and 4901:1-10-05, O.A.C., must be

Section 4928.02, Revised Code. FirstEnergy then asserts that advanced meter opt-out service conflicts with Section 4928.02(D), Revised Code, because it discourages innovation and market access to advanced metering.

In its memorandum contra to FirstEnergy's application for rehearing, OCC argues that the Commission has the statutory authority to adopt advanced meter opt-out service rules pursuant to Section 4928.02, Revised Code, as well as Section 4905.06, Revised Code. OCC notes that Section 4905.06, Revised Code, grants the Commission general supervisory power over the public utilities in Ohio, including the power to prescribe any rule or order that the Commission finds necessary for the protection of public safety. OCC contends that the Commission's adoption of advanced meter opt-out service is necessary for the protection of public safety.

(19) The Commission finds that FirstEnergy's first assignment of error should be denied. The Commission initially notes that Section 4928.06, Revised Code, as well as Section 4928.02, Revised Code, authorize the Commission to implement rules to ensure that the policies specified in Section 4928.02, Revised Code, are effectuated. The Commission notes that the policy of the state in Section 4928.02(D), Revised Code, is to encourage innovation and market access, not to force it upon customers without an alternative. Furthermore, the Commission believes that the advanced meter opt-out service rules do encourage innovation and market access. By presenting individual customers with a means to opt-out of advanced meter service and deployment, those individual customers who are opposed to advanced meters may no longer oppose the electric utility's plan for advanced meter deployment in the rest of the service territory.

Further, the Commission notes that other state policies defined in Section 4928.02, Revised Code, reinforce the authority and inherent reasonableness of the Commission in adopting advanced meter opt-out service rules. Section 4928.02(L), Revised Code, states that it is the policy of the state to protect at-risk populations. Similarly, Section 4905.06, Revised Code, grants the Commission authority to adopt rules that it finds necessary for the protection of public safety. The Commission believes that if a customer is concerned that it is at-risk from some harm, then that customer should have a remedy. In this instance, certain customers believe they are at-risk

of some harm from advanced meters. Therefore, the Commission believes that it is appropriate for them to be presented with a remedy to alleviate their concern that they are at risk for harm. Accordingly, the Commission believes that adopting advanced meter opt-out service rules is within the Commission's authority and FirstEnergy's first assignment of error should be denied.

(20) FirstEnergy contends as its second assignment of error that the Commission's order is unlawful and unreasonable because it fails to comply with Section 121.82, Revised Code. Section 121.82, Revised Code, requires the Commission to evaluate any proposed rules against a business impact analysis (BIA), which will then be sent to the state's Common Sense Initiative (CSI) office for review. FirstEnergy contends that, in this instance, the rules have an adverse impact on business because the EDU could potentially be subjected to treble damages if it does not comply with the rules, pursuant to Section 4905.26, Revised Code. FirstEnergy avers that Rule 4901:1-10-05(J), O.A.C., has an adverse impact on business by creating a cause of action and subjecting the EDU to a penalty for non-compliance, and by requiring the EDU to unnecessarily incur costs to maintain additional inventory or to make otherwise unnecessary service calls.

(21) The Commission finds that FirstEnergy's second assignment of error should be denied. Initially, the Commission notes that it filed its BIA twice in this case; once on November 7, 2012, and once on July 10, 2013. FirstEnergy itself then filed comments, reply comments, supplemental comments, and supplemental reply comments in this case without identifying an adverse impact on business. The Commission notes that Section 4903.10(B), Revised Code, requires that, on rehearing, the Commission shall not take any evidence that could have been offered in the original hearing. While there was not a hearing in this case, there was ample opportunity for FirstEnergy to identify an adverse impact on business before raising it in its application for rehearing. While this is sufficient justification for the Commission to deny FirstEnergy's assignment of error, the Commission believes that clarification is needed on the Commission's intent behind issuing the BIA with its proposed rules.

The Commission notes that nothing in Section 121.82, Revised Code, requires the Commission to take stakeholder feedback on the BIA itself or to consider any stakeholder analysis of adverse

impacts on business. The Commission issues the BIA with the proposed rules so that stakeholders may comment on whether they believe an adverse impact on business may exist. Stakeholder comments on the BIA are not prima facie evidence that an adverse impact on business exists; they are for the Commission's reference as it conducts its own analysis of the rules and their impact on business. Furthermore, an adverse impact on business identified by stakeholders does not necessarily make the rules unjust or unreasonable. Accordingly, FirstEnergy's second assignment of error should be denied.

(22) FirstEnergy avers as its third assignment of error that the rules are unjust and unreasonable because they permit customers, without just cause, to dictate the type of equipment an electric distribution utility uses when delivering electric distribution service. FirstEnergy asserts that customers should not have the opportunity to direct what type of distribution technology the EDU can deploy. FirstEnergy argues that the Commission's order is unjust and unreasonable because it fails to identify why customers should be given the opportunity to direct the type of meter the EDU deploys, when customers can't direct the type of equipment the EDU uses for the rest of its distribution service. Further, FirstEnergy contends that the notice requirement that the utility notify a customer at least one business day in advance of deploying the advanced meter may disrupt daily operations.

(23) The Commission finds that FirstEnergy's third assignment of error should be denied. The Commission has already demonstrated that it has the authority, and the discretion, to adopt rules for the purpose of carrying out the policies of the state of Ohio identified in Section 4928.02, Revised Code. Further, the Commission notes that advanced meter opt-out service is necessary due to the close proximity of the meter to the customer's property and residence, as well as to customers themselves. The Commission has adopted advanced meter opt-out service as a customer protection for customers that believe they are being affected by their electric meter. Further, as the Commission identifies supra, the EDUs are encouraged to explore alternatives to advanced meter opt-out service with customers on a case-by-case basis. However, the EDUs must notify the customers of the opportunity for advanced meter opt-out service and inform them of the advanced meter opt-out service tariff. Accordingly, FirstEnergy's third assignment of error should be denied.

(24) FirstEnergy argues as its fourth assignment of error that Rule 4901:1-10-05(J), O.A.C., is unjust and unreasonable because it requires an EDU to submit a tariff for a service that is not required or being provided across the EDU's entire service territory. FirstEnergy asserts that the only smart meters installed in its service territory have been installed pursuant to a department of energy (DOE) program and customers enrolled in that program may opt-out without charge. FirstEnergy contends that it should not have to file a tariff for advanced meter opt-out service if it has not deployed any advanced meters, and that the filing of such a tariff would create unnecessary confusion on the part of customers and unnecessary expense and resources on the part of FirstEnergy. Accordingly, FirstEnergy asserts that the advanced meter opt-out service rules are unjust and unreasonable because they require each EDU to file a tariff, even if that tariff would not apply to anyone in the EDU's service territory.

(25) The Commission finds that FirstEnergy's fourth assignment of error should be denied. The Commission believes that every EDU in Ohio should file an advanced meter opt-out service tariff, even if that tariff would not currently apply to any customers in the EDU's service territory. The advanced meter opt-out service tariff grants customers the option to decline the installation of an advanced meter and retain a traditional meter; therefore even if an EDU has not deployed advanced meters, it should still have a tariff on file with the Commission for when it begins advanced meter deployment. Further, the Commission notes that a customer with a traditional meter that chooses to decline installation of an advanced meter and retain its traditional meter should only be placed on the advanced meter opt-out service tariff once it actually declines the installation of an advanced meter. This means that the EDU must actually intend to deploy an advanced meter at the customer's residence, and the customer must subsequently decline, before the customer should be placed on the advanced meter opt-out service tariff. Advanced meter opt-out service for customers currently with traditional meters begins when the EDU notifies the customer of the advanced meter deployment and the customer subsequently informs the utility of its intent to opt-out.

(26) Any remaining assignments of error not addressed by the Commission should be considered denied.

It is, therefore,

ORDERED, That the applications for rehearing filed by Duke, FirstEnergy, and DP&L be granted, in part, and denied, in part, as set forth above. It is, further,

ORDERED, That an electronic notice or paper copy of this entry without the attached rules or business impact analysis be served upon all electric utilities in the state of Ohio, all certified competitive retail electric service providers in the state of Ohio, the Electric-Energy industry list-serve, and all other interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Todd A. Snitchler, Chairman

Steven D. Lesser

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Entered in the Journal
DEC 18 2013

Barcy F. McNeal
Secretary,

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4901:1-10-01 Definitions.

As used in this chapter:

(A) "Advanced meter" means any electric meter that meets the pertinent engineering standards using digital technology and is capable of providing ~~one-way or~~ two-way communications with the electric utility to provide usage and/or other technical data.

(B) "Advanced meter opt-out service" means a service provided by an electric utility under the terms and conditions of a commission-approved tariff, which allows a customer to take electric distribution service using a traditional meter.

~~(A)~~ (C) "Applicant" means a person who requests or makes application for service.

~~(B)~~ (D) "Commission" means the public utilities commission of Ohio.

~~(C)~~ (E) "Competitive retail electric service provider" or "CRES" means a provider of competitive retail electric service, subject to certification under section 4928.08 of the Revised Code.

~~(D)~~ (F) "Consolidated billing" means that a customer receives a single bill for electric services provided during a billing period for services from both an electric utility and a competitive retail electric service provider.

~~(E)~~ (G) "Consumer" means any person who receives service from an electric utility or a competitive retail electric service provider.

~~(F)~~ (H) "Critical customer" means any customer or consumer on a medical or life-support system who has provided appropriate documentation to the electric utility that an interruption of service would be immediately life-threatening.

~~(G)~~ (I) "Customer" means any person who has an agreement, by contract and/or tariff with an electric utility or by contract with a competitive retail electric service provider, to receive service.

(J) "Customer energy usage data" means data collected from a customer's meter, which is identifiable to a retail customer.

~~(H)~~ (K) "Customer premises" means the residence(s), building(s), or office(s) of a customer.

~~(I)~~ (L) "De-identified energy usage data" means aggregated data that is not identifiable to an individual retail customer nor could be used to reasonably ascertain a customer's identity.

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~~(I)~~ (M) "Director of the service monitoring and enforcement department" means the director of the service monitoring and enforcement department of the commission or the director's designee.

~~(J)~~ (N) "Electric distribution utility" or "EDU" shall have the meaning set forth in division (A)(6) of section 4928.01 of the Revised Code.

~~(K)~~ (O) "Electric light company" shall have the meaning set forth in division (A)(4) of section 4905.03 of the Revised Code.

~~(L)~~ (P) "Electric services company" shall have the meaning set forth in division (A)(9) of section 4928.01 of the Revised Code.

~~(M)~~ (Q) "Electric utility" as used in this chapter shall have the meaning set forth in division (A)(11) of section 4928.01 of the Revised Code.

~~(N)~~ (R) "Electric utility call center" means an office or department or any third party contractor of an electric utility designated to receive customer calls.

~~(O)~~ (S) "Fraudulent act" means an intentional misrepresentation or concealment by the customer or consumer of a material fact that the electric utility relies on to its detriment. Fraudulent act does not include tampering.

~~(P)~~ (T) "Governmental aggregation program" means the aggregation program established by the governmental aggregator with a fixed aggregation term, which shall be a period of not less than one year and no more than three years.

~~(Q)~~ (U) "Major event" encompasses any calendar day when an electric utility's system average interruption duration index (SAIDI) exceeds the major event day threshold using the methodology outlined in section ~~4.5~~ 3.5 of standard ~~1366-2003~~ 1366-2012 adopted by the institute of ~~electric~~ electrical and electronics engineers (IEEE) in "IEEE Guide for Electric Power Distribution Reliability Indices." The threshold will be calculated by determining the SAIDI associated with adding 2.5 standard deviations to the average of the natural logarithms of the electric utility's daily SAIDI performance during the most recent five-year period. The computation for a major event requires the exclusion of transmission outages. For purposes of this definition, the SAIDI shall be determined in accordance with paragraph (C)(3)(e)(iii) of rule 4901:1-10-11 of the Administrative Code.

~~(R)~~ (V) "Mercantile customer" shall have the meaning set forth in division (A)(19) of section 4928.01 of the Revised Code.

~~(S)~~ (W) "Outage coordinator" means the commission's ~~emergency outage coordinator~~ service monitoring and enforcement department director or the director's designee.

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~~(T)~~ (X) "Person" shall have the meaning set forth in division (A)(24) of section 4928.01 of the Revised Code.

~~(U)~~ (Y) "Postmark" means a mark, including a date, stamped or imprinted on a piece of mail which services to record the date of its mailing, which in no event shall be earlier than the date on which the item is actually deposited in the mail. For electronic mail, postmark means the date the electronic mail was transmitted.

~~(V)~~ (Z) "Renewable energy credit" means the fully aggregated attributes associated with one megawatt hour of electricity generated by a renewable energy resource as defined in division (A)(35) of section 4928.01 of the Revised Code.

~~(W)~~ (AA) "Slamming" means the transfer of or requesting the transfer of a customer's competitive electric service to another provider without obtaining the customer's consent.

~~(X)~~ (BB) "Staff" means the commission staff or its authorized representative.

~~(Y)~~ (CC) "Sustained outage" means the interruption of service to a customer for more than five minutes.

~~(Z)~~ (DD) "Tampering" means to interfere with, damage, or by-pass a utility meter, conduit, or attachment with the intent to impede the correct registration of a meter or the proper functions of a conduit or attachment so far as to reduce the amount of utility service that is registered on or reported by the meter. Tampering includes the unauthorized reconnection of a utility meter, conduit, or attachment that has been disconnected by the utility.

(EE) "Third-party developer" means any person other than the electric utility (including their contractors and agents), a customer's CRES provider of record, applicable regulatory authorities, or independent system operator or regional transmission organization, that has an interest in, seeks to gain access to, or that uses data related to the customer's utility service.

(FF) "Time differentiated rates" means rates that vary from one time period to another, such as hourly, daily, or seasonally.

(GG) "Traditional meter" means any meter with an analog or digital display that does not have the capability to communicate with the utility using ~~either one-way or~~ two-way communications.

~~(AA)~~ (HH) "Transmission outage" means an outage involving facilities that would be included in rate setting by the federal energy regulation commission.

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~~(BB)~~ (II) "Universal service fund" means a fund established pursuant to section 4928.51 of the Revised Code, for the purpose of providing funding for low-income customer assistance programs, including the percentage of income payment plan program, customer education, and associated administrative costs.

~~(CC)~~ (JJ) "Voltage excursions" are those voltage conditions that occur outside of the voltage limits as defined in the electric utility's tariffs and are beyond the control of the electric utility.

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4901:1-10-05 Metering.

(A) Electric energy delivered to the customer shall be metered, except where it is impractical to meter the electric usage, such as in street lighting and temporary or special installations. The usage in such exceptions may be calculated or billed on a demand or connected load rate as provided in an approved tariff on file with the commission.

(B) A customer's electric usage shall be metered by commercially acceptable measuring devices that comply with "American National Standards Institute" (ANSI) standards. Meter accuracy shall comply with the ~~2001~~ 2008 version of ANSI C12.1 standards. No metering device shall be placed in service or knowingly allowed to remain in service if it does not comply with these standards.

(C) Electric utility employees or authorized agents of the electric utility shall have the right of access to the electric utility's metering equipment for the purpose of reading, replacing, repairing, or testing the meter, or determining that the installation of the metering equipment is in compliance with the electric utility's requirements, or other such purposes necessary to permit the electric utility to carry out its authorized functions.

(D) Meters that are not direct reading meters, such as meters with a multiplier not equal to 1.0, shall have the multiplier plainly marked on or adjacent to the meter. All charts taken from recording meters shall be marked with the date of the record, the meter number, the customer name, and the chart multiplier. The register ratio shall be marked on all meter registers. The watt-hour constant for the meter shall be placed on all watt-hour meters.

(E) The electric utility's meters shall be installed and removed by the electric utility's personnel or authorized agent. Before initial service to a service location is energized, the electric utility shall verify that the installation of the meter base and associated equipment has either been inspected and approved by the local inspection authority or, in any area where there is no local inspection authority, has been inspected by ~~an~~ a licensed electrician.

(F) Metering accuracy shall be the responsibility of the electric utility.

(1) Upon request by a customer, the electric utility shall test its meter to verify its compliance with the ANSI C12.1 standards within thirty business days after the date of the request.

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(2) The customer or the customer's representative may be present when the meter test is performed at the customer's request.

(3) A written explanation of the test results shall be provided to the customer within ten business days of the completed test.

(4) If the accuracy of the meter is found to be within the tolerances specified in this rule:

(a) The first test at the customer's request shall be free of charge.

(b) The electric utility may charge the customer an approved tariffed fee for each succeeding test conducted less than thirty-six months after the last test requested by the customer. Each electric utility shall notify the customer of such charge prior to the test.

(5) If the accuracy of the meter is found to be outside the tolerances specified in this rule, the electric utility:

(a) Shall not charge a fee or recover any testing expenses from the customer.

(b) Shall recalibrate the meter or provide a properly functioning meter that complies with the ANSI C12.1 standards without charge to the customer.

(c) Shall, within thirty days, pay or credit any overpayment to the customer, in accordance with one of the following billing adjustments:

(i) When the electric utility or customer has established the period of meter inaccuracy, the overcharge shall be computed on the basis of metered usage prior and/or subsequent to such period, consistent with the rates in effect during that period.

(ii) When the electric utility and customer cannot establish the period of meter inaccuracy, the overcharge period shall be determined to be: the period since the customer's "on" date or the period since the date of most recent meter test performed, whichever is shorter. The applicable rates shall be those in effect during the period of inaccuracy in order to determine the appropriate credit or refund.

Paragraph (F)(5) of this rule shall not apply to meter or metering inaccuracies caused by tampering with or unauthorized reconnection of the meter or metering equipment.

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(d) Any undercharge shall be billed in accordance with Rule 4901:1-10-23 of the Administrative Code.

(G) Each electric utility shall identify, by company name and/or parent trademark name and serial or assigned meter numbers and/or letters, placed in a conspicuous position on the meter, each customer meter that it owns, operates, or maintains.

(H) Each electric utility shall maintain the following records regarding each meter that it owns, operates, or maintains, for the life of each such meter plus three years:

(1) Serial or assigned meter number.

(2) Every location where the meter has been installed and removed, together with the dates of such installations and removals.

(3) Date of any customer request for a test of the meter.

(4) Date and reason for any test of the meter.

(5) Result of any test of the meter.

(6) Meter readings before and after each test of the meter.

(7) Accuracy of the meter found during each test, "as found" and "as left".

(I) Each electric utility shall comply with the following requirements regarding meter reading:

(1) The electric utility shall obtain actual readings of all its in-service customer meters at least once each calendar year. Every billing period, the electric utility shall make reasonable attempts to obtain accurate, actual readings of the energy and demand, if applicable, delivered for the billing period, except where the customer and the electric utility have agreed to other arrangements. Meter readings taken by electronic means shall be considered actual readings.

(2) In addition to the requirements of paragraph (I)(1) of this rule, the electric utility shall provide, upon the customer's request, two actual meter readings, without charge, per calendar year. The customer may only request an actual meter read if usage has been estimated for more than two of the immediately preceding billing cycles consecutively or if the customer has reasonable grounds to believe that the meter is malfunctioning.

(3) An actual meter reading is required at the initiation and/or the termination of service, if the meter has not been read within the sixty calendar days

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immediately preceding initiation and/or termination of service and access to the meter is provided.

(4) If the meter has most recently been read within the thirty-three to fifty-nine calendar days immediately preceding the initiation and/or termination of service, the electric utility shall inform the customer, when the customer contacts the electric utility, of the option to have an actual meter read at no charge to the customer.

(5) If the meter has been read within the thirty-two calendar days immediately preceding the initiation and/or termination of service, the electric utility may estimate usage.

(J) Advanced meter opt-out service

(1) An electric utility shall provide residential customers with the option to remove an installed advanced meter and replace it with a traditional meter, and the option to decline installation of an advanced meter and retain a traditional meter, including a cost-based, tariffed opt-out service.

(2) Prior to installation of an advanced meter, the utility shall give notice to the customer at least one business day in advance.

(3) The electric utility shall notify the customer of the following if a customer expresses interest in using a traditional meter:

(a) The customer will be required to pay the amount of the approved tariff charge.

(b) The electric utility shall explain the facts concerning advanced meters and attempt to address any customer concerns prior to signing up a customer for advanced meter opt-out service. To the extent that the electric utility offers multiple options for the customer to obtain or retain either an advanced meter or a traditional meter, the utility shall explain each option and the associated costs and give the customer choice over the option selection.

(c) If the customer is currently enrolled in a product or service requiring an advanced meter as a condition of enrollment with the electric utility, the electric utility shall notify the customer that a different product or service must be chosen prior to installation of the traditional meter.

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(4) The electric utility shall have the right to refuse to provide advanced meter opt-out service in either of the following circumstances:

(a) If such a service creates a safety hazard to consumers or their premises, the public, or the electric utility's personnel or facilities.

(b) If a customer does not allow the electric utility's employees or agents access to the meter at the customer's premises.

(5) Tariffs

(a) The electric utility shall file a proposed tariff for opt-out service within thirty calendar days of the effective date of this rule.

(b) Each electric utility shall have on file with the commission an approved tariff offering residential customers the option to remove an installed advanced meter and replace it with a traditional meter, and the option to decline the installation of an advanced meter and retain a traditional meter. Such tariff shall comply with the following requirements:

(i) In the event special tariff provisions are required due to circumstances not addressed in this rule, the electric utility shall address those circumstances in its tariff application, but shall make its best efforts to maintain consistency with the rules herein.

(ii) The tariff shall not be available to any customer taking generation service under a time differentiated rate.

(c) An electric utility may establish certain fees for electing not to use an advanced meter. Such fees shall be calculated based upon the costs incurred to provide advanced meter opt-out service as allowed by this rule.

(d) An electric utility may establish a one-time fee to recover the costs of removing an existing advanced meter, and the subsequent installation of a traditional meter.

(e) An electric utility may establish a recurring fee to recover costs associated with providing meter reading and billing services associated with the use of a traditional meter.

(f) Costs incurred by an electric utility to provide advanced meter opt-out service shall be borne only by customers who elect to receive advanced meter opt-out service.