

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's)
Review of its Rules for Competitive Retail)
Natural Gas Service Contained in) Case No. 12-925-GA-ORD
Chapters 4901:1-27 through 4901:1-34 of)
the Ohio Administrative Code.)

ENTRY ON REHEARING

The Commission finds:

- (1) R.C. 119.032 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 competitive retail natural gas service (CRNGS) rules contained in Ohio Adm.Code Chapters 4901:1-27 through 4901:1-34, as required by R.C. 119.032.
- (2) R.C. 119.032(C) 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 - (a) The rules should be continued without amendment, be amended, or be rescinded, taking into consideration the purpose, scope, and intent of the statute(s) under which the rules were adopted;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 R.C. 121.74, and whether the incorporation by reference meets the standards stated in R.C. 121.71, 121.75, and 121.76;

- (d) The rules duplicate, overlap with, or conflict with other rules; and
 - (e) The rules have an adverse impact on businesses and whether any such adverse impact has been eliminated or reduced.
- (3) In addition, on January 10, 2011, the Governor of the state of Ohio issued Executive Order 2011-01K, entitled "Establishing the Common Sense Initiative," which sets forth several factors to be considered in the promulgation of rules and the review of existing rules. Among other things, the Commission must review its rules to determine the impact that a rule has on small business; 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.
- (4) Additionally, in accordance with R.C. 121.82, in the course of developing draft rules, the Commission must evaluate the rules against a business impact analysis (BIA). If there will be an adverse impact on businesses, as defined in R.C. 107.52, 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 R.C. 121.82, to provide the Common Sense Initiative (CSI) office the draft rules and the BIA.
- (5) By Entry issued on July 2, 2012, a workshop was scheduled at the offices of the Commission on August 6, 2012, to engage interested stakeholders on the appropriate revisions to the rules contained in Ohio Adm.Code Chapters 4901:1-27 through 4901:1-34. In addition, the Commission noted that the rules for competitive retail electric service (CRES) are being reviewed in *In re Rules for Competitive Retail Elec. Serv. in Chapters 4901:1-21 and 4901:1-24 of the Ohio Adm.Code*, Case No. 12-1924-EL-ORD (*CRES Rules Case*) at the same time as the CRNGS rules are being reviewed in this matter. The workshop was held as scheduled and stakeholder comments were offered by multiple stakeholders.

- (6) Staff evaluated the rules contained in Ohio Adm.Code Chapters 4901:1-27 through 4901:1-34, as well as the feedback received at the August 6, 2012 workshop and recommended amendments to several rules.
- (7) On November 7, 2012, the Commission issued Staff's proposed amendments, as well as the BIAs, and requested comments to assist in the review. Comments were filed by Eagle Energy, LLC (Eagle); Border Energy Gas, Inc.; Ohio Gas Marketers Association and Retail Energy Supply Association (jointly, OGMG/RESA); Dominion Retail, Inc. (Dominion Retail); Duke Energy Retail Sales, LLC (DERS); Interstate Gas Supply, Inc. (IGS); Hess Corporation; the Northeast Ohio Public Energy Council (NOPEC); The East Ohio Gas Company d/b/a Dominion East Ohio (Dominion) and Vectren Energy Delivery of Ohio (Vectren) (jointly, DEO/VEDO); Columbia Gas of Ohio, Inc. (Columbia); Duke Energy Ohio, Inc.; Ohio Consumers' Counsel (OCC); and Ohio Partners for Affordable Energy (OPAE). Reply comments were filed by Eagle, OGMG/RESA, Dominion Retail, DERS, IGS, NOPEC, DEO/VEDO, OCC, OPAE, and the Ohio Poverty Law Center (OPLC).
- (8) Thereafter, by Finding and Order (Order) issued December 18, 2013, the Commission amended Ohio Adm.Code 4901:1-27-01 through 4901:1-27-14, 4901:1-28-01 through 4901:1-28-05, 4901:1-29-01 through 4901:1-29-03, 4901:1-29-05, 4901:1-29-06, 4901:1-29-08 through 4901:1-29-13, 4901:1-30-01, 4901:1-31-01, 4901:1-32-01 through 4901:1-32-04, 4901:1-33-01, and 4901:1-34-02 through 4901:1-34-08. Further, the Commission ordered that existing Ohio Adm.Code 4901:1-29-04, 4901:1-29-07, and 4901:1-34-01 be adopted with no changes. In the Order, the Commission noted that a Commission investigation remained open in *In re the Comm. Rev. of the Natural Gas Retail Mkt. Dev.*, Case No. 13-1307-GA-COI (CRNGS Investigation Case). The Commission emphasized that, although certain issues in the CRNGS Investigation Case overlapped with issues in the rules proceeding, it was necessary to move forward with adoption of the rules due to the timeline of the five-year review mandated by R.C. 119.032. Additionally, the Commission noted that adoption of the rules did not preclude further

review in the *CRNGS Investigation Case* and further review of the rules at a later date due to the *CRNGS Investigation Case*.

- (9) On January 17, 2014, applications for rehearing were filed by OP&E, Direct Energy Services, LLC, and Direct Energy Business, LLC (jointly, Direct Energy), Dominion, OCC and OPLC (jointly, Consumer Groups), OGMG/RESA, and IGS. Memoranda contra were filed by OP&E; Dominion, Vectren, and Columbia (collectively, Gas Companies); OCC; and OGMG/RESA. Thereafter, by Entry on Rehearing issued February 13, 2014, the Commission granted all of the applications for rehearing for the purpose of further consideration of the issues specified in the applications for rehearing.
- (10) Initially, prior to considering the applications for rehearing, the Commission finds that, upon further consideration of the internal implementation of proposed Ohio Adm.Code 4901:1-27-04, addressing filing of an application, the proposed language should be deleted. In so finding, the Commission notes that no stakeholders advocated for this rule, for which the purpose was to increase internal administrative efficiency, and, in fact, several stakeholders opposed the rule. Finally, the Commission notes that, as CRNGS suppliers are no longer required to file applications for certification renewal under a new case number, several modifications are necessary to proposed Ohio Adm.Code 4901:1-27-09, addressing certification renewal. As part of this change, the Commission has moved the portion of proposed Ohio Adm.Code 4901:1-27-09 addressing expired certificates into proposed Ohio Adm.Code 4901:1-27-04 and retitled the rule "Expired certificates." These changes are reflected in the attached rules.
- (11) In its application for rehearing, OP&E first argues that the Order is unreasonable and unlawful pursuant to R.C. 4929.02(A)(2) because it fails to provide consumers with meaningful access to customer complaint data regarding CRNGS business practices, which prevents customers from making informed decisions when selecting a natural gas supplier. More specifically, OP&E argues that state policy requires that customers be provided with competitive options and promotes effective competition and

transactions. OP&E argues that the best source of information for customers is other customers and, in turn, argues that the Commission should order that information regarding customer complaints and marketer business practices be analyzed and made available to the public in a user-friendly format in order to assist customers in making decisions.

In its memorandum contra, OGMG/RESA contend that OP&E has not provided any suggested format for such complaint data in its application; that the data sought is already publicly available; and that OP&E has not actually requested any modifications to the CRNGS rules.

The Commission denies OP&E's application for rehearing on this issue. Although the Commission is not necessarily opposed to some type of forum that provides customer complaint data, the Commission emphasizes that, as noted by OGMG/RESA, OP&E has not actually requested any rules modifications. Consequently, the Commission finds it inappropriate to incorporate any changes into the rules on this issue at this time.

- (12) OP&E next argues that the Order is unreasonable and unlawful pursuant to R.C. 4929.02(A)(3) and (A)(7) and violates basic contract law because it does not require affirmative customer consent when contract renewals contain material changes. More specifically, OP&E agrees with the addition of proposed Ohio Adm.Code 4901:1-29-06(K), which requires affirmative consent by a customer to material changes to existing contracts; however, OP&E argues that the Commission should not permit an exception by permitting automatic renewal clauses. OP&E argues that automatic renewal clauses inhibit participation in the market in contravention of R.C. 4929.02(A)(3).

In its memorandum contra, OGMG/RESA contend that the rule does not violate basic contract law in Ohio as "evergreen" renewal provisions in a contract are lawful. Further, OGMG/RESA state that the rule established by the Commission provides a workable solution for contract renewals by requiring affirmative consent if there is an early

termination fee in excess of \$25, or requiring two notices before renewal if the early termination fee is \$25 or less.

The Commission denies OP&E's application for rehearing on this issue. Initially, the Commission notes that this issue was raised and thoroughly addressed in the Order. Order at 48. The Commission notes that renewal provisions are contained in the original signed contract. Further, as pointed out by O&M&G/RESA, the contract renewal rules, as proposed, provide customer protection by requiring affirmative consent in situations where any early termination fee exceeds \$25.

- (13) OP&E's final argument is that the Order is unreasonable pursuant to R.C. 4929.02(A)(2), (A)(3), and (A)(7) and 4929.22(A)(1), because it does not require variable rate contracts to tie the rate to a publicly available index so that consumers can evaluate the rate prior to entering into the contract. OP&E argues that the rules, as written, fail to provide customers with the requisite information to make effective choices.

In its memorandum contra, O&M&G/RESA point out that OP&E does not define what constitutes a "publicly available index." Further, O&M&G/RESA argue that Ohio Adm.Code 4901:1-29-11(J)(2) requires a variable rate offer to contain either a clear and understandable formula, based on publicly available indices, or a clear and understandable explanation of the factors that will cause the price to vary. Additionally, under the second option, no early termination fee may be charged. O&M&G/RESA argue that, consequently, the rule is sufficient to address OP&E's concerns.

In their memorandum contra, the Gas Companies assert that tying the variable gas rates of the CRNGS suppliers to an index limits price options and hinders effective competition. The Gas Companies point out that Dominion, Vectren, and Columbia offer residential customers some form of a standard service offer, which is a variable price tied to a publicly available price index; therefore, OP&E's recommendation is superfluous. Further, the Gas Companies argue that dictating to CRNGS suppliers what

rates they must offer is directly regulating the price of commodity.

The Commission denies OP&E's application for rehearing on this issue. The Commission finds that the current rule, requiring a clear and understandable explanation of the factors that will cause the price to vary, provides consumers with sufficient information to evaluate offers. Further, as argued by the Gas Companies, the Commission agrees that residential customers are already offered a standard service offer, which is a variable price tied to a publicly available price index.

- (14) In their joint application for rehearing, the Consumer Groups first argue that the Commission erred by not requiring CRNGS providers to provide a price-to-compare or to otherwise notify customers when the supplier price exceeds the standard offer price. The Consumer Groups argue that, when natural gas utilities render consolidated bills that include CRNGS charges, there is no information provided about the utility standard offer; thus, customers may not have sufficient information on their bills to determine if CRNGS charges are higher than the standard offer. Further, the Consumer Groups argue that the Commission failed to explain why there is no demonstrated need for requiring a CRNGS provider to notify its customers when the CRNGS price exceeds the standard offer for two consecutive months.

In their memorandum contra, OGMG/RESA contend that: the Consumer Groups failed to provide any evidence of recurring instances where a customer did not know he was paying more than he would through another CRNGS supplier or the standard choice offer (SCO); the whole term of the contract would need to be considered rather than just a two-month period; and customers already have tools to compare their rates to other suppliers, as gas companies are required to supply on bills information including the rate charged, telephone numbers for billing questions, the Commission, and OCC, and prominent display of the apples-to-apples notice.

In their memorandum contra, the Gas Companies argue that OCC's recommendation runs counter to Ohio's policy goals of reducing or eliminating barriers to market entry and encouraging customers to choose their own natural gas supplier because it highlights a Commission-required offer as the price-to-compare.

The Commission denies the Consumer Groups' application for rehearing on this issue. Initially, the Commission notes that this issue was raised and thoroughly addressed in the Order. Order at 56. The Commission notes that the issue of the SCO and price comparison to market offers is being monitored by the Commission as set forth in the *CRNGS Investigation Case, Finding and Order* (Feb. 13, 2014). Further, the Commission notes that, as set forth in the Order, the Commission must move forward with adoption of these rules at this time due to the timeline of the five-year review mandated by R.C. 119.032; however, the Commission expressly noted in the Order that the adoption of these rules does not preclude further review of these rules at a later date.

- (15) The Consumer Groups next argue that the Commission erred by not requiring CRNGS providers to provide OCC with residential promotional and advertising materials upon OCC's request. The Consumer Groups assert that OCC was not requesting materials unrelated to residential customer service or for pre-approval vetting and argue that the Commission did not explain why providing OCC with materials specifically related to residential customer service would be unreasonable.

In their memorandum contra, OGMG/RESA argue that OCC is not a regulator of CRNGS providers and OCC has no argument that it needs to review all CRNGS material in order to fulfill its statutory mission. In addition, OGMG/RESA note that, as pointed out by the Commission in the Order, there could be reasons Staff may ask for promotional material unrelated to residential service. Further, OGMG/RESA point out that, to the extent OCC is attempting to educate residential customers, it will be able to obtain such advertising from the customer or the media.

Initially, the Commission notes that this issue was raised and thoroughly addressed in the Order. Order at 32-33. The Commission denies the Consumer Groups' application for rehearing on this issue on the basis that it would be costly and burdensome for CRNGS providers to comply with the recommendation. Further, as pointed out by OGMG/RESA, if OCC was investigating a complaint or question related to promotional materials, it would be able to obtain the materials from the complaining customer or the internet.

- (16) The Consumer Groups' final argument is that the Commission erred by not requiring that total annual costs be listed along with total consumption on residential customers' bills. The Consumer Groups argue that, even though customers could obtain this information by calling their utility, customers should not have to take the step of calling the utility.

In their memorandum contra, OGMG/RESA argue that historical cost information, unlike historical usage information, is not necessarily helpful for customers on a going forward basis; that bills already contain sufficient tools for customers to calculate this information and budget for the future; and that the apples-to-apples charts are a better comparison tool than evaluating historical costs.

In their memorandum contra, the Gas Companies argue that OCC's proposal is unnecessary and reflects unreasonable assumptions. More specifically, the Gas Companies argue that providing this information would provide negative value by adding more information to an already crowded document and information that will not provide a valid indicator of future prices, as natural gas market prices are variable and sometimes volatile, and the apples-to-apples chart is a better comparison tool.

The Commission denies the Consumer Groups' application for rehearing on this issue. Initially, the Commission finds that this issue was raised and thoroughly addressed in the Order. Order at 62. The Commission agrees with OGMG and the Gas Companies that including this information on a bill could result in customer confusion and is also of minimal value, because, as stated in the Order, customers

can obtain this information by requesting it from their utility.

- (17) In its application for rehearing, Dominion argues that the Order is unreasonable and unlawful because it is ambiguous and potentially conflicts with other rules and tariffs approved by the Commission. More specifically, Dominion contends that the Commission stated in the Order that it “declines to permit any fees to be charged for the [customer] list” and contends that this could be interpreted as prohibiting local distribution companies from charging fees for providing lists of customers. Dominion requests clarification whether the Commission was prohibiting fees, which exist in Dominion’s Commission-approved tariffs, or whether the Commission merely intended to reject the notion that additional language discussing fees was necessary.

The Commission acknowledges that fees exist in Dominion’s Commission-approved tariffs and clarifies that the Commission declines to *require* any fees to be charged for the customer list or to add language discussing fees to the rule.

- (18) In its application for rehearing, Direct Energy first argues that the Order is unreasonable because it adopts a rule regarding presence of a sales agent during the third-party verification (TPV) process, but does not differentiate between residential and small commercial customer door-to-door sales. Direct Energy asserts that, unlike residential sales, small commercial sales agents are ordinarily building a longer-term relationship with the specific customer that continues after the initial door-to-door contact, and small commercial customers are less likely to be intimidated by an agent’s presence during a TPV.

In its memorandum contra, OPAE states that it is the only entity filing comments in this docket that represents small commercial customers, and argues that its members do not agree that small commercial customers need less protection than residential customers, as they may not have the sophistication and knowledge to be distinguished from residential customers. OPAE urges the Commission to reject Direct Energy’s recommendations, as the continued presence

of an agent during the process of TPV will undermine its effectiveness.

The Commission denies Direct Energy's application for rehearing on this issue. The Commission believes that both residential and small commercial customers should receive this protection before, during, and after TPV following door-to-door solicitation.

- (19) Next, Direct Energy asserts that the Order is unreasonable because it fails to provide flexibility as it relates to a door-to-door agent returning to the customer's premises after the TPV. More specifically, Direct Energy argues that an agent should be permitted to return after the TPV at the customer's request, pointing out that a customer may have questions for the agent.

The Commission denies Direct Energy's application for rehearing on this issue. As discussed above, the Commission believes customers should receive this protection before, during, and after the TPV following door-to-door solicitation. The Commission is unaware that there are many customer complaints that sales agents are required to leave before the TPV process necessitating a change to this proposed rule.

- (20) In its application for rehearing, IGS argues that the Order is unlawful and unreasonable because it violates due process of interested parties by materially changing the scope of government aggregation programs without having afforded interested parties the opportunity to comment on the material change. Similarly, IGS contends that the Order is unlawful and unreasonable because it amends the definition of governmental aggregation programs in Ohio Adm.Code 4901:1-28-01 to limit the terms of programs beyond the scope of what is permitted by Ohio law. More specifically, IGS urges the Commission to modify proposed Ohio Adm.Code 4901:1-28-01(E) to eliminate the prohibition against governmental aggregation contracts for less than one year or more than two years.

The Commission denies IGS' application for rehearing on this issue. As pointed out in the Order, in our Entry calling

for comments on these rules, the Commission specifically questioned whether the rules should regulate the availability of certain lengths and types of contracts. Order at 18. Therefore, although IGS argues it has been denied due process because it was not afforded the opportunity to comment on this issue prior to the Order, IGS has been given due process to voice its concerns via our Entry calling for comments. Additionally, as set forth in the Order, the Commission finds that the proposed rule provides greater continuity to governmental aggregation contracts and is consistent with consumer protections already in place for several years in the CRES rules. Moreover, the Commission has authority to make this change under its authority to regulate CRNGS contracts. Order at 18. Finally, the Commission notes that this rule change affects only governmental aggregation contracts under a 12-month period or over a 2-year period and that such contracts in place as of the date of this Entry on Rehearing may remain in place until the initial term expires.

- (21) In their first assignment of error, OGMG/RESA contend that the Commission's adoption of proposed Ohio Adm.Code 4901:1-27-05(B)(1)(f) violates the CSI criteria because it requires CRNGS suppliers, as part of the certificate or renewal process, to report information that the Commission already has or is irrelevant to the Commission's supervisory authority over CRNGS suppliers. IGS states, in its application for rehearing, that it supports OGMG/RESAs' argument on this rule.

In its memorandum contra, OCC points out that a CRNGS supplier may not necessarily know what information the Commission already has and that relevance is in the eye of the Commission when it evaluates a CRNGS application. For example, OCC argues that information, such as tax disputes or slip-and-fall cases, may be relevant to the Commission's evaluation of an applicant's financial standing.

The Commission denies OGMG/RESAs' and IGS' applications for rehearing on this issue. Initially, the Commission notes that this issue was raised and thoroughly addressed in the Order. Order at 7-8. The Commission

finds that limiting the rule, as suggested by OGMG/RESA, would undermine the intent of the rule, which is to require companies to provide full disclosure and to permit the Commission to use its judgment in assessing the information.

- (22) In their second assignment of error, OGMG/RESA support the Commission's proposed changes to Ohio Adm.Code 4901:1-27-08(A) and (D) to extend the life of protective orders covering proprietary financial and other confidential information supplied as part of the application process; however, OGMG/RESA request modification of the language to specify when the extension period begins and to sync the protective order with the next cycle of biennial certificate filings. More specifically, OGMG/RESA request that proposed Ohio Adm.Code 4901:1-27-08(A) specify that exhibits filed under seal be afforded protective treatment from the time of filing under seal until six years after the date of the certificate. As to Ohio Adm.Code 4901:1-27-08(D), OGMG/RESA argue that the Commission should eliminate the specific reference to paragraph (F) and refer only generally to Ohio Adm.Code 4901-1-24, and should specifically provide that a motion to extend protective treatment, if granted, will afford protective treatment until the expiration of the certificate, which would be 24 months, rather than the 18 months provided for in Ohio Adm.Code 4901-1-24(F). IGS states, in its application for rehearing, that it supports OGMG/RESAs' argument on this rule.

The Commission finds that OGMG/RESAs' and IGS' applications for rehearing should be granted, in part, and denied, in part, on this issue. As to the request to modify Ohio Adm.Code 4901:1-27-08(A), the Commission finds that this change is unnecessary. Pursuant to Ohio Adm.Code 4901-1-24(D), it is the Commission's practice to maintain exhibits filed under seal as confidential pending ruling on a motion for protective order. Further, when such rulings are granted, it is the Commission's practice to time the confidential period from the date of the certificate.

As to OGMG/RESAs' and IGS' requests to modify proposed Ohio Adm.Code 4901:1-27-08(D), the Commission finds that the request to modify the language to refer only generally to

Ohio Adm.Code 4901-1-24 should be granted for clarity and has modified this section accordingly. However, the Commission finds that OGMG/RESAs' and IGS' requests to add a sentence providing that motions to extend protective treatment may be granted to afford protective treatment until the expiration of the certificate should be denied. The Commission notes that, although the current version of Ohio Adm.Code 4901-1-24(F) provides that protective orders automatically expire 18 months after the date of issuance, the current version of Ohio Adm.Code 4901-1-24(D)(4) specifically provides that motions for protective order filed in conjunction with CRNGS marketers' renewal certification application cases are approved for a 24-month period beginning with the date of the certificate. Further, the Commission is currently reviewing Ohio Adm.Code Chapter 4901-1, and adopted revisions to Ohio Adm.Code 4901-1-24 providing that all motions for protective order filed pursuant to Ohio Adm.Code 4901-1-24 automatically expire 24 months after the date of issuance. *In re Comm. Rev. of Rules*, Case No. 11-776-AU-ORD, Finding and Order (Jan. 22, 2014) at Attachment A, 34-35. The Commission also notes that it has not been Commission practice to extend protective treatment for CRNGS certification information beyond the initial 6-year period; however, the Commission notes that any decision to grant a motion to extend protective treatment would be granted in conjunction with the expiration date of the certificate in order to simplify the process for an applicant. Consequently, the Commission finds that the modifications requested by OGMG/RESA and IGS are unnecessary. Finally, the Commission notes that it intends to issue a procedural entry in the future that clarifies the process for outstanding and future motions for protective order.

- (23) In their third assignment of error, OGMG/RESA assert that there are issues with the definitions of "eligible customer" set forth in proposed Ohio Adm.Code 4901:1-28-01(C) and 4901:1-29-01(N), because, unlike the proposed rules in the *CRES Rules Case*, Ohio Adm.Code 4901:1-21-17(E), it prohibits enrollment of a customer who enrolled with a CRNGS supplier after an aggregation opt-out mailing, but before the aggregation submits an enrollment. IGS states, in

its application for rehearing, that it supports OGMG/RESAs' argument on this rule.

The Commission finds that OGMG/RESAs' and IGS' applications for rehearing should be granted on this issue. The Commission agrees that the definition of "eligible customer" could cause confusion. Consequently, the Commission has modified proposed Ohio Adm.Code 4901:1-28-01(C), changing the term to "eligible governmental aggregation customer," and has modified the definition for clarity, and has deleted the definition for "eligible customer" from Ohio Adm.Code 4901:1-29-01.

- (24) In their fourth assignment of error, OGMG/RESA argue that proposed Ohio Adm.Code 4901:1-29-03(C) is overly broad because it prohibits CRNGS suppliers and governmental aggregators from terminating or arranging for termination of distribution service as a result of contract termination, customer nonpayment, or any other reason. OGMG/RESA argue that there should be an exception for situations where the CRNGS supplier or governmental aggregator is providing consolidated billing. IGS states, in its application for rehearing, that it supports OGMG/RESAs' argument on this rule.

In its memorandum contra, OCC asserts that OGMG/RESAs' position is contrary to R.C. 4929.22(D)(1), which requires coordination between suppliers for the purpose of maintaining service. In addition, OCC states that the expanding of the CRNGS rules as urged by OGMG/RESA would place customers at risk.

In their memorandum contra, the Gas Companies argue that the Commission did not err by continuing the prohibition against CRNGS suppliers terminating distribution service. The Gas Companies state that they are not necessarily opposed to later discussions concerning OGMG/RESAs' recommendations, however, the Gas Companies urge rejection of any rule changes at this time. The Gas Companies point out that OGMG/RESAs' recommendations present serious issues that must be resolved before a CRNGS supplier would be permitted to disconnect a residential

customer, and that discussing these issues is necessary prior to changing the rule.

The Commission denies OGMG/RESAs' and IGS' applications for rehearing on this issue. Initially, the Commission points out that this issue was raised and thoroughly addressed in the Order. Order at 28-29. The Commission agrees with the Gas Companies that OGMG/RESAs' proposal presents serious issues that warrant stakeholder discussion prior to any implementation in the rules. Consequently, the Commission finds it is not appropriate to incorporate any such changes into the rules at this time.

- (25) In their fifth assignment of error, OGMG/RESA request that the Commission redefine "door-to-door" solicitation to exclude solicitation with prior appointment or with a previous personal relationship, and to structure the requirements for door-to-door solicitations all into one rule in Ohio Adm.Code Chapter 4901:1-29.

In its memorandum contra, OCC argues that the meaning of "existing relationship" is undefined and not easily defined, as what a marketer may claim as an existing relationship could be different from what the customer recalls or understands. OCC argues that making this exception as recommended by OGMG/RESA will cause a slippery slope that undermines the customer protection intent of the rule and could leave the Commission mired in administratively burdensome considerations about what constitutes an existing relationship in a given transaction.

The Commission denies OGMG/RESAs' application for rehearing on this issue. Initially, the Commission notes that this issue was raised and thoroughly addressed in the Order. Order at 23-24. Further, as argued by OCC, the term "existing relationship" is ambiguous and the meaning may differ between marketers and customers.

- (26) In their sixth assignment of error, OGMG/RESA argue that Ohio Adm.Code 4901:1-29-05(E)(2) should only limit door-to-door marketing until 8:00 p.m. instead of 7:00 p.m., or, at minimum, 8:00 p.m. during daylight savings time, on the

basis that many residential customers find it convenient to receive a sales solicitation after dinner. IGS states, in its application for rehearing, that it supports OGMG/RESAs' argument on this rule.

The Commission denies OGMG/RESAs' and IGS' applications for rehearing on this issue. The Commission points out that this issue was raised and addressed in the Order. As set forth in the Order, the Commission believes that 7:00 p.m. is the appropriate time to cease door-to-door sales. Order at 36.

- (27) In their seventh assignment of error, OGMG/RESA argue that, under proposed Ohio Adm.Code 4901:1-29-05(E)(3), even if asked to leave the premises by a customer or occupant, sales agents should be permitted to return to the customer's premises unless the customer directs otherwise. IGS states, in its application for rehearing, that it supports OGMG/RESAs' argument on this rule.

In its memorandum contra, OCC argues that customers should have the ability to ask a sales agent to leave and not worry that the agent could return over and over again. OCC contends that OGMG/RESAs' recommendation undermines the purpose of the rule, which is to protect customers from unwanted contact or solicitation.

In its memorandum contra, OPAE opposes OGMG/RESAs' recommendation, arguing that, if the customer has asked the agent to leave the premises, the customer should not be required to say magic words in order to keep the agent from returning.

The Commission denies OGMG/RESAs' and IGS' applications for rehearing on this issue. Initially, the Commission notes that, in its initial comments, OGMG/RESA argued that the word "expressly" should be added to this provision to require an agent to leave the premises when "expressly" requested by a customer; however, OGMG/RESA raises the argument about agents being permitted to return unless directed otherwise for the first time on rehearing. The Commission finds that it is unclear what a customer would need to say to keep a sales

agent from returning after asking the agent to leave and believes that this rule provides an important customer protection against unwanted solicitation.

- (28) In their eighth assignment of error, OGMG/RESA argue that proposed Ohio Adm.Code 4901:1-29-05(E)(4) should not mandate branded clothing and photo identification for all direct solicitations, and requests that this rule be removed, or, at minimum, limited to door-to-door solicitation of residential customers where there is not an existing family or friend relationship. OGMG/RESA argue that requiring branded clothing will mandate that sales agents who previously wore business suits must now wear branded clothing such as a polo shirt, which may be inappropriate in a business-to-business sale, that sales agents who sell multiple products would be required to wear CRNGS-branded clothing, and that the CRES rules do not require CRES sales agents to wear branded clothing. Additionally, OGMG/RESA argue that sales agents should not be required to leave a form of identification with customers, but should merely be required to offer to leave a form of identification, as not every customer may accept proffered identification. IGS states, in its application for rehearing, that it supports OGMG/RESAs' argument on this rule.

In its memorandum contra, OCC asserts that the purpose of branded clothing is to allow easy identification of sales agents and their employers. OCC claims that branded clothing is especially important because it will allow customers to distinguish sales agents from utility employees, which, based on Commission complaint data, has been a recurring issue with door-to-door solicitations. Additionally, OCC asserts that the meaning of "existing relationship" is not easily defined, could differ between a marketer's understanding and customer's understanding, and could be administratively burdensome for the Commission to determine in a given transaction.

In its memorandum contra, OP AE echoes OCC's concerns regarding the meaning of "existing relationship" and, further, contends that the rule should continue to apply to small commercial customers. OP AE argues that small commercial customers need to have knowledge of an agent's

identity, and, given that the branded clothing must be worn by agents soliciting residential customers, it is difficult to see why it would be an additional burden as applied to small commercial customers.

The Commission grants OGMG/RESAs' and IGS' applications for rehearing on this issue, in part. Initially, the Commission finds that it is not unreasonable for sales agents to be required to display photo identification and that there should be no exception for "existing relationships," as this term is ambiguous and could differ between marketers and customers, or for small commercial customers for the reasons argued by OPAC. However, the Commission finds that the proposed rule should be modified to require sales agents to offer to leave a form of identification with the customer, rather than mandating sales agents always leave a form of identification with the customer. Additionally, the Commission finds that, although branded clothing would provide a clear indication to customers as to the identification of the marketer, the Commission agrees that this requirement may be burdensome to some suppliers and has removed this requirement from proposed Ohio Adm.Code 4901:1-29-05(E)(4).

- (29) In their ninth assignment of error, OGMG/RESA contend that proposed Ohio Adm.Code 4901:1-29-06(C)(6)(b), addressing TPV, should expressly clarify that TPV is to verify door-to-door solicitations of residential customers only, should omit the word "before" because a sales agent would obviously be at the customer's property before the TPV occurs, and should permit the customer to allow the sales agent to remain at the property during the TPV and/or return to the property following TPV. IGS states, in its application for rehearing, that it supports OGMG/RESAs' argument on this rule.

In its memorandum contra, OCC urges rejection of OGMG/RESAs' arguments. OCC asserts that, if a customer has questions after a TPV, the customer should have a telephone number or website to turn to for answers, and that, requiring the sales agent to leave is an important protection against coercion.

In its memorandum contra, OPAE states that it is the only entity filing comments in this docket that represents small commercial customers, and argues that its members do not agree that small commercial customers need less protection than residential customers, as they may not have the sophistication and knowledge to be distinguished from residential customers. OPAE urges the Commission to reject OGMG/RESAs' recommendations, as the continued presence of an agent during the process of TPV will undermine its effectiveness.

The Commission denies OGMG/RESAs' and IGS' applications for rehearing on this issue. The Commission believes that prohibiting a sales agent from being present before, during, and after the TPV is an important consumer protection. Further, the Commission agrees with OPAE that this protection should apply to both residential and small commercial customers and has modified proposed Ohio Adm.Code 4901:1-29-06(C)(6) to include small commercial customers solicited door-to-door.

- (30) In their tenth assignment of error, OGMG/RESA contend that proposed Ohio Adm.Code 4901:1-29-06(C)(6)(c), requiring terms and conditions provided to residential customers during door-to-door solicitations to be printed on paper, conflicts with statutes that allow for greater flexibility, including provision of documents by email, electronic copy, and electronic signature, as well as contrary to the CSL. Similarly, IGS states, in its application for rehearing, that it supports OGMG/RESAs' argument on this rule. Also in its application for rehearing, IGS argues that the Order is unreasonable or unlawful because it fails to appropriately consider rapidly changing technology that can enhance the customer enrollment experience with a CRNGS supplier. IGS contends that paperless enrollment reduces the burden and clutter for customers and CRNGS agents, is environmentally friendly, and may be preferred by customers because electronic copies can be easier to track, store, and organize. Consequently, IGS urges the Commission to adopt its original recommendation that customers be permitted to enroll via electronic signature and be e-mailed a copy of their contract, rather than requiring

customers to have a physical copy of the signed contract. IGS also urges the Commission to permit video recording of TPVs if a customer consents, as recommended by Border in its initial comments.

In its memorandum contra, OCC asserts that the purpose of this rule is that customers have a copy of their contract they entered into and to be able to view the terms and conditions. OCC asserts that OGMG/RESAs' recommendations would make it more difficult for most customers to access that information, as terms and conditions are complicated and may not be easily readable on a small electronic screen. Additionally, OCC points out that there is no guarantee that the version of terms and conditions the customer read are the same that would be eventually e-mailed to the customer, or would be accessible to the customer during the TPV.

In its memorandum contra, OPAE urges the Commission to reject OGMG/RESAs' and IGS' proposal, arguing that, when a customer is solicited door-to-door, it does not make sense that an agent could not provide a written copy of the contract, as an agent would already have copies of contracts available for customers who do not have access to e-mail or internet access.

The Commission finds that OGMG/RESAs' and IGS' arguments have merit, to an extent. The Commission agrees to modify the rule to allow customers to receive terms and conditions via electronic copy, rather than a paper copy, if: (1) the customer agrees to receive an electronic copy rather than a paper copy; (2) the customer is offered an unsigned paper copy with a version number identical to the electronic copy; and (3) receipt of the e-mail can be verified. The Commission does not find that OGMG/RESAs' and IGS' other arguments are reasonable to provide customer protection. Consequently, the Commission grants OGMG/RESAs' and IGS' applications for rehearing on this issue, in part, and has modified proposed Ohio Adm.Code 4901:1-29-06(C)(6)(c) accordingly. However, the Commission denies IGS' request for rehearing on the issue of videotaping customers for the reasons set forth in the Order. Order at 43.

- (31) In their eleventh assignment of error, OGMG/RESA argue that proposed Ohio Adm.Code 4901:1-29-06(D)(1), which requires CRNGS suppliers to make a date- and time-stamped audio recording of the sales portion of a telephone solicitation if the customer is enrolled, essentially requires all telephone solicitations to be recorded in their entirety, as it may not be clear at the beginning of a call if a customer will be enrolled. Thus, OGMG/RESA argue that this provision should be deleted and the Commission should, instead, rely on the independent TPV process. IGS states, in its application for rehearing, that it supports OGMG/RESAs' argument on this rule.

In its memorandum contra, OCC argues that this rule, as written, is necessary in order to provide customers with protections from unfair practices related to the marketing and enrollment process.

The Commission denies OGMG/RESAs' application for rehearing on this issue. The Commission finds that the recorded sales call is necessary to assist in Staff's investigation into misleading or deceptive sales practices, as the TPV does not capture this information. The Commission also emphasizes that a CRNGS supplier would only need to retain a copy of the sales portion if the customer is enrolled. Further, as most call centers record calls already, the Commission does not believe this should be administratively burdensome to CRNGS suppliers.

- (32) In their twelfth assignment of error, OGMG/RESA contend that proposed Ohio Adm.Code 4901:1-29-06(D)(1)(c) should not require the TPV to verify the customer understands he or she may enroll with another retail natural gas supplier. OGMG/RESA argue that this suggests that the customer should be served elsewhere. IGS states, in its application for rehearing, that it supports OGMG/RESAs' argument on this rule.

In its memorandum contra, OCC argues that informing a customer of options available does not equate with "suggesting" the customer may choose another CRNGS supplier.

The Commission finds that OGMG/RESAs' and IGS' applications for rehearing should be granted on this issue. The Commission agrees that this requirement could be confusing to customers and agrees to delete it.

- (33) In their thirteenth assignment of error, OGMG/RESA argue that proposed Ohio Adm.Code 4901:1-29-08(D)(4) should be modified to permit an audio-recorded TPV for verification for a residential door-to-door enrollment. IGS states, in its application for rehearing, that it supports OGMG/RESAs' argument on this rule.

The Commission denies OGMG/RESAs' and IGS' applications for rehearing on this issue. The Commission disagrees with these parties and finds that direct solicitation has the ability to allow a marketer to obtain a signed contract and TPV is only necessary to assist in the veracity of the sales pitch that led to the enrollment.

- (34) In their fourteenth assignment of error, OGMG/RESA argue that proposed Ohio Adm.Code 4901:1-29-09(A) unreasonably limits a CRNGS supplier's ability to disclose a customer's account number, social security number, or other customer information. OGMG/RESA argue that it was error for the Commission to propose these limitations given that the issue of enrolling customers without the customer providing his or her account number is under consideration in other dockets before the Commission. Similarly, OGMG/RESA argue that a CRNGS supplier may need to use a customer's social security number for collection purposes when the supplier is billing the customer directly. IGS states, in its application for rehearing, that it supports OGMG/RESAs' argument on this rule.

In its memorandum contra, OCC asserts that the Commission correctly found that only customers should be able to divulge their account numbers.

The Commission finds that OGMG/RESAs' and IGS' applications for rehearing should be denied on this issue. Initially, the Commission notes that this issue was raised and thoroughly addressed in the Order. Order at 52. As stated in the Order, the Commission continues to find that,

at this time, account numbers should remain the only means for identifying customers prior to enrollment. However, the Commission emphasizes that, as discussed in the Order, the Commission is required to move forward with adoption of these rules due to the five-year review timeline mandated by R.C. 119.032, but has specifically noted that adoption of these rules at this time does not preclude further review in other cases or reopening of the rules at a later date. Further, the Commission continues to find that customers should remain in control of their social security numbers and to whom they provide them.

- (35) In their fifteenth assignment of error, OGMG/RESA argue that proposed Ohio Adm.Code 4901:1-29-09(B) unreasonably precludes an SCO customer from enrolling in an alternative offer, unless the customer provides his or her account number. OGMG/RESA contend that an SCO supplier already has a customer's account number by virtue of being the supplier, so there is no reason for the customer to provide his or her account number. IGS states, in its application for rehearing, that it supports OGMG/RESAs' argument on this rule.

In its memorandum contra, OCC contends that there should be no exception to the account number requirement where there is an existing relationship for the reasons set forth previously by OCC, i.e., the meaning of the term is ambiguous and could result in administrative burdens on the Commission.

The Commission denies OGMG/RESAs' and IGS' applications for rehearing on this issue. Initially, the Commission notes that this issue was raised and addressed in the Order. Order at 54. As set forth in the Order, the Commission believes, at this time, that account numbers should be the only means for identifying customers prior to enrollment and should be supplied only by the customer. However, as set forth in the Order, the Commission specifically noted that it must move forward with the adoption of these rules due to the timeline of the five-year review mandated by R.C. 119.032, but that the adoption of these rules at this time does not preclude further review of the rules at a later date.

- (36) Finally, in their sixteenth assignment of error, OGMG/RESA argue that proposed Ohio Adm.Code 4901:1-29-11 is unclear because it now requires an itemized list and explanation of *all* fees associated with service. OGMG/RESA complain that it is unclear what fees are required to be disclosed and further contend that it is unfair to require this disclosure for all customers, when the CRES rules only require these disclosures for contracts with residential and small commercial customers.

The Commission denies OGMG/RESAs' application for rehearing on this issue. However, the Commission clarifies that the modification to proposed Ohio Adm.Code 4901:1-29-11 was made to require disclosure of all fees including those by brokers, governmental aggregators, etc., and does not require disclosure of cost components such as postage. As for their concern regarding the applicability of these rules, the Commission notes that Ohio Adm.Code 4901:1-29-02(G) states that this chapter does not apply to mercantile customers.

- (37) The amended chapters are posted at: www.puco.ohio.gov/puco/rules. To minimize the expense of this proceeding, the Commission will serve a paper copy of this Finding and Order only. All interested persons are directed to download the attachments to this Finding and Order from the above website or contact the Commission's docketing division to request a paper copy.

It is, therefore,

ORDERED, That the applications for rehearing filed by OPAC, the Consumer Groups, DEO, and Direct Energy, are denied. It is, further,

ORDERED, That the applications for rehearing filed by OGMG/RESA and IGS are granted, in part, and denied, in part. It is, further,

ORDERED, That amended Ohio Adm.Code 4901:1-27-04, 4901:1-27-08, 4901:1-27-09, 4901:1-28-01, 4901:1-28-03, 4901:1-28-04, 4901:1-28-05, 4901:1-29-01, 4901:1-29-05, and 4901:1-29-06, as attached to the Order and revised by this Entry on Rehearing, be adopted and be filed with the Joint Committee on Agency Rule Review, the Secretary of State, and the Legislative Service Commission in accordance with divisions (D) and (E) of Section 111.15, Revised Code. It is, further,

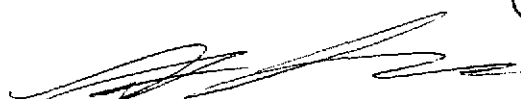
ORDERED, That the final rules be effective on the earliest date permitted. Unless otherwise ordered by the Commission, the five-year review date for Ohio Adm.Code Chapters 4901:1-27 through 4901:1-34 shall be in compliance with R.C. 119.032. It is, further,

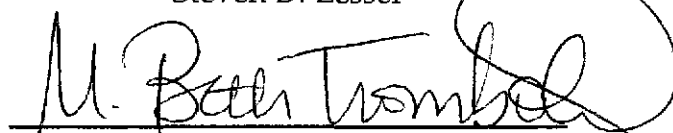
ORDERED, That, in accordance with finding (37), a copy of this Entry on Rehearing be served upon all regulated natural gas service and electric companies, all competitive retail gas suppliers and electric service providers, and OCC. It is, further,

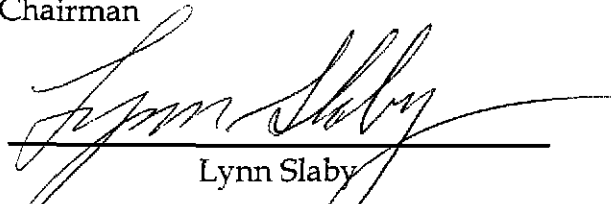
ORDERED, That a copy of this Entry on Rehearing be served upon the Gas-Pipeline List-Serve.

THE PUBLIC UTILITIES COMMISSION OF OHIO


Todd A. Snitchler, Chairman


Steven D. Lesser


M. Beth Trombold


Lynn Slaby

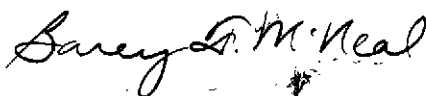


Asim Z. Haque

MWC/sc

Entered in the Journal

FEB 26 2014



Barcy F. McNeal
Secretary

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4901:1-27-01 Definitions.

As used in this chapter:

- (A) "Abandonment" means to cease being a retail natural gas supplier or governmental aggregator in this state.
- ~~(B)~~ ~~(B)~~ "Ancillary service" has the meaning set forth in division (B) of section 4929.01 of the Revised Code.
- ~~(C)~~ ~~(B)~~ "Applicant" means a person who files an application for certification or certification renewal under this chapter.
- ~~(D)~~ ~~(C)~~ "Application form" means a form, approved by the commission, that an applicant seeking certification or certification renewal as a retail natural gas supplier or as a governmental aggregator shall file with the commission as set forth in this chapter.
- ~~(E)~~ ~~(D)~~ "Billing or collection agent" has the meaning set forth in division (I) of section 4929.01 of the Revised Code.
- ~~(F)~~ ~~(E)~~ "Commission" means the public utilities commission of Ohio.
- ~~(G)~~ ~~(F)~~ "Commodity sales service" has the meaning set forth in division (C) of section 4929.01 of the Revised Code.
- ~~(H)~~ ~~(G)~~ "Comparable service" has the meaning set forth in division (D) of section 4929.01 of the Revised Code.
- ~~(I)~~ ~~(H)~~ "Competitive retail natural gas service" has the meaning set forth in division (J) of section 4929.01 of the Revised Code.
- ~~(J)~~ ~~(I)~~ "Consumer" has the meaning set forth in division (E) of section 4929.01 of the Revised Code.
- ~~(K)~~ ~~(J)~~ "Contract" means an agreement between a customer and retail natural gas supplier or governmental aggregator that specifies the terms and conditions for provision of competitive retail natural gas service.
- ~~(L)~~ ~~(K)~~ "Customer" means a person who contracts with or is solicited by a retail natural gas supplier or governmental aggregator for the provision of a competitive retail natural gas service.
- ~~(M)~~ ~~(L)~~ "Existing customer" means a person who has a contract with a retail natural

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gas supplier or governmental aggregator for the provision of competitive retail natural gas service.

- ~~(N)~~-(M) "Gas company" means a company that meets the definition of a gas company set forth in section 4905.03 of the Revised Code and that also meets the definition of a public utility under section 4905.02 of the Revised Code.
- (N) "Governmental aggregator" has the meaning set forth in division (K)(1) of section 4929.01 of the Revised Code. For purposes of this chapter, "governmental aggregator" specifically excludes a municipal corporation acting exclusively under Section 4 of Article XVIII, Ohio Constitution, as an aggregator for the provision of competitive retail natural gas service.
- (O) "Mercantile customer" has the meaning set forth in division (L) of section 4929.01 of the Revised Code.
- (P) "Natural gas company" has the meaning set forth in division (G) of section 4929.01 of the Revised Code.
- (Q) "Person" has the meaning set forth in division (H) of section 4929.01 of the Revised Code.
- (R) "Regulated sales service" means the provision of natural gas commodity service to consumers at the gas cost recovery rate or any alternate gas cost pricing mechanism approved by the commission pursuant to Chapter 4901:1-19 of the Administrative Code.
- (S) "Regulated sales service customer" means a person who has an agreement by contract and/or tariff with a natural gas company or gas company to receive regulated sales service.
- (T) "Retail natural gas aggregation service" means combining the natural gas load of multiple retail residential customers or small commercial customers via an agreement with the customers for the purpose of purchasing competitive retail natural gas service on an aggregated basis.
- (U) "Retail natural gas aggregator" means a person who contracts with customers to combine the customers' natural gas load for the purposes of purchasing competitive retail natural gas service on an aggregated basis.
- (V) "Retail natural gas brokerage service" means assuming the contractual and legal responsibility for the sale and/or arrangement for the supply of competitive retail

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natural gas service to a retail customer in this state without taking title to the natural gas.

- (W) "Retail natural gas broker" means a person who provides retail natural gas brokerage service.
- (X) "Retail natural gas marketing service" means assuming the contractual and legal responsibility for the sale and provision of competitive retail natural gas service to a retail natural gas service customer in this state and having title to natural gas at some point during the transaction.
- (Y) "Retail natural gas marketer" means a person who provides retail natural gas marketing service.
- (Z) "Retail natural gas service" has the meaning set forth in division (M) of section 4929.01 of the Revised Code.
- (AA) "Retail natural gas supplier" has the meaning set forth in division (N) of section 4929.01 of the Revised Code.
- (BB) "Small commercial customer" means a commercial customer which is not a mercantile customer under paragraph ~~(O)~~(P) of this rule.
- ~~(DD)~~——~~(CC)~~ "Staff" means the commission staff.

4901:1-27-02 Purpose and scope.

Under the rules in this chapter:

- (A) Any retail natural gas supplier or governmental aggregator that intends to offer or provide a competitive retail natural gas service in this state shall obtain a certificate to operate from the commission before commencing operations.
- (B) 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, for good cause shown.
- ~~(B) Nothing contained in this chapter shall preclude, in any way, the commission from altering, amending, or waiving, in whole or in part, any of these rules.~~
- (C) These rules do not apply to a billing and collection agent if it is a fully independent agent, not affiliated with or otherwise controlled by a retail natural gas supplier or governmental aggregator subject to certification under section 4929.20 of the Revised

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Code, to the extent that the agent is under contract with such supplier or aggregator solely to provide billing and collection for competitive retail natural gas service on behalf of the supplier or aggregator. Nothing in this rule exempts such supplier or aggregator from liability for the acts of its billing and collection agents.

4901:1-27-03 General prohibitions.

- (A) ~~On or after July 26, 2002, no~~ No retail natural gas ~~suppliers~~ supplier or governmental ~~aggregators~~ aggregator shall offer, contract for, or supply competitive retail natural gas service in this state without a valid certificate. ~~This paragraph shall not apply to contracts in effect before the effective date of this rule.~~
- (B) Nothing in this rule is intended to prohibit a person from conducting market research or advertisements designed solely to ascertain and raise public awareness and/or improve name recognition.
- (C) Enforcement of any rule in this chapter or commission order adopted thereunder will be conducted in accordance with Chapter 4901:1-34 of the Administrative Code.

4901:1-27-04 Expired certificates.

Any retail natural gas supplier or governmental aggregator that fails to file an application for certification renewal pursuant to rule 4901:1-27-09 of the Administrative Code prior to the expiration date on the certificate must file a new application for certification in a new case and may request, no later than sixty days after the expiration date on the certificate, to extend its previous certificate during the pendency of the new application review. If the motion is filed in conformance with rule 4901:1-27-07 of the Administrative Code, it shall be deemed automatically approved unless, within three business days of filing, the commission or an attorney examiner appointed by the commission rules otherwise.

4901:1-27-05 Application content.

- (A) An application for certification or certification renewal shall be made on forms supplied by the commission. The application forms shall provide for sufficient information to enable the commission to assess an applicant's managerial, financial, and technical capability to provide the service it intends to offer, its ability to provide reasonable financial assurances sufficient to protect customers and natural gas companies from the consequences of default, and its ability to comply with commission rules or orders.

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- (B) The applicant shall complete the appropriate application form (e.g., retail natural gas marketer, retail gas aggregator/broker, or governmental aggregator) in its entirety and supply all required attachments, affidavits, and evidence of capability specified by the form at the time an application is filed.
- (1) A natural gas marketer shall file general, technical, managerial, and financial information as set forth in the application. This information includes, but is not limited to:
- (a) Ownership and organizational descriptions.
 - (b) Managerial experience and capabilities.
 - (c) Credit ratings and relevant financial information including financial statements, financial arrangements, and forecasted financial statements.
 - (d) Technical ability and experience in nominating, scheduling, and providing natural gas to retail customers.
 - (e) Proof of an Ohio office and an employee in this state in accordance with division (G) of section 4929.22 of the Revised Code.
 - (f) Statements as to whether the applicant has ever been terminated from any choice program; if applicant's certification has ever been revoked or suspended; if applicant has ever been in default for failure to deliver; or if there are pending or past regulatory or judicial actions against the applicant or past rulings finding against the applicant.
- (2) A retail natural gas aggregator/retail natural gas broker shall file general, managerial, and financial information as set forth in the application. This information includes, but is not limited to:
- (a) Ownership and organizational descriptions.
 - (b) Managerial experience and capabilities.
 - (c) Credit ratings and relevant financial information, including financial statements, financial arrangements, and forecasted financial statements.
 - (d) Proof of an Ohio office and an employee in this state in accordance with division (G) of section 4929.22 of the Revised Code.
 - (e) Financial capability as depicted on publicly available information, and

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applicable credit ratings.

- (f) Statements as to whether the applicant's certification has ever been revoked or suspended or if there are pending or past regulatory or judicial actions against the applicant or past rulings finding against the applicant.
- (3) A governmental aggregator shall file general information as set forth in the application. This information includes, but is not limited to:
 - (a) Copies of its operation and governance plans.
 - (b) Descriptions of experience.
- (C) An applicant for certification or certification renewal shall file a completed and notarized original application signed by a principal officer of the applicant in accordance with the application instructions, including all supporting attachments and affidavits, with the commission's docketing division.
 - (1) The date that the commission's docketing division stamps an application received shall serve as the official filing date with the commission.
 - (2) In accordance with rule 4901:1-27-10 of this chapter, the commission may deny without prejudice any application that is not complete or does not include the attachments, documentation, and affidavits required by the application form.
 - (3) In accordance with this chapter, in instances where information and/or documentation required by these rules is not available at the time of filing an application, an applicant may substitute a notarized affidavit by an officer of the applicant stating that the applicant will file such information and/or documentation with the commission at least ten business days prior to offering or providing competitive retail natural gas service to a customer in this state. The affidavit shall be accompanied by an explanation as to why such information is not available for inclusion with the application.
- (D) All retail natural gas suppliers or governmental aggregators shall include in their certification application, the name, telephone number, and electronic mail address of a contact person who will respond to commission concerns pertaining to consumer complaints. If any of the required information relating to the contact person should change, the retail natural gas supplier or governmental aggregator shall file notice of such changes with the commission within thirty days of such material change in accordance with paragraph (B)(8) of rule 4901:1-27-11 of the Administrative Code.

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4901:1-27-06 Affidavits.

In addition to all other affidavits required by this chapter, each applicant shall submit with its application, on forms prescribed by the commission, affidavits attesting that:

- (A) The information provided by the applicant on its application form and supporting attachments is complete, true, and accurate to the best knowledge of the applicant.
- (B) The applicant will timely file an annual report of its intrastate gross receipts and sales of hundred cubic feet of natural gas pursuant to division (A) of section 4905.10, division (A) of section 4911.18, and division (B) of section 4929.23 of the Revised Code.
- (C) The applicant will timely pay any assessment made pursuant to section 4905.10 or division (A) of section 4911.18 of the Revised Code.
- (D) The applicant will comply with all applicable commission rules or orders adopted pursuant to Title XLIX of the Revised Code.
- (E) The applicant will cooperate with the commission and its staff in the investigation of any complaint regarding any service offered or provided by the applicant.
- (F) The applicant will comply with section 4929.21 of the Revised Code regarding consent to the jurisdiction of Ohio courts and the service of process.

4901:1-27-07 Motions.

- (A) Motions filed by an applicant (e.g., motions for extension of the certificate and motions for protective order) must be filed by an attorney authorized to practice law in the state of Ohio.
- (B) An out-of-state attorney may seek permission to appear pro hac vice before the commission in any case upon the filing of a motion. Such motions shall include all the information and documents required by rule XII, section 2(A)(6) of the "Supreme Court rules for the government of the bar" of Ohio.

4901:1-27-08 Protective orders.

- (A) An applicant may file financial statements, financial arrangements, and forecasted financial statements under seal. If these exhibits are filed under seal, they will be

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afforded protective treatment for a period of six years from the date of the certificate for which the information is being provided.

- (B) An applicant may file a motion for protective order covering information not covered under paragraph (A) of this rule. If the motion is filed in conformance with rule 4901:1-27-07 of the Administrative Code, it shall be automatically approved on the thirty-first day after the date of filing and the information shall be afforded protective treatment for a period of six years from the date of the certificate for which the information is being provided, unless the commission or an attorney examiner appointed by the commission rules otherwise.
- (C) At the expiration of the six-year period provided for in paragraphs (A) and (B) of this rule, the information will be automatically released into the open record.
- (D) An applicant wishing to extend a protective order beyond the six-year time period provided for in paragraphs (A) and (B) of this rule must file a motion that complies with rule 4901-1-24 of the Administrative Code.

4901:1-27-09 Certification renewal.

- (A) No less than thirty and no more than sixty days prior to the expiration date indicated on the retail natural gas supplier's or governmental aggregator's certificate, the retail natural gas supplier or governmental aggregator shall file an application with the commission for certification renewal on forms provided by the commission.
- (B) Any renewal application filed fewer than thirty calendar days prior to the expiration date indicated on the certificate, but no later than the expiration date on the certificate, shall be filed with a motion requesting an extension of the certificate. If the motion is filed in conformance with rule 4901:1-27-07 of the Administrative Code, it shall be deemed automatically approved unless, within three business days of its filing, the commission or an attorney examiner appointed by the commission rules otherwise.
- (C) The applicant shall, as instructed by the renewal form, update the information supplied with an applicant's initial certification application.
- (D) The commission will act to approve, deny, or suspend an application for certification renewal pursuant to the same processes, standards, and timelines delineated in rules 4901:1-27-10 or 4901:1-27-13, of the Administrative Code.

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4901:1-27-10 Application approval or denial.

- (A) If the commission does not act upon an application for certification or certification renewal within thirty days of the filing date, the application shall be deemed automatically approved pursuant to section 4929.20 of the Revised Code on the thirty-first day after the official filing date.
- (1) Upon good cause shown, the commission, or an attorney examiner appointed by the commission, may suspend its consideration of an application.
- (2) If the commission, or an attorney examiner appointed by the commission, acts to suspend an application, it will:
- (a) Docket its decision and notify the applicant of the reasons for such suspension and may direct the applicant to furnish any additional information as the commission deems necessary to evaluate the application.
- (b) Act to approve or deny the application within ninety days from the date that the application was suspended.
- (c) At its discretion, set the matter for hearing.
- (B) In evaluating an application, the commission will consider the information contained in the application, supporting evidence and attachments, evidence filed by any interested parties, and recommendations of its staff.
- (C) The commission will act to approve an application if it finds all of the following:
- (1) The applicant is managerially, financially, and technically fit and capable of performing the service it intends to provide.
- (2) The applicant is managerially, financially, and technically fit and capable to comply with all applicable commission rules and orders.
- (3) The applicant is able to provide reasonable financial assurances sufficient to protect natural gas companies and the customers from default.
- (D) When the commission approves an application, it will issue the applicant a numbered certificate that indicates the service(s) for which the applicant is certified to provide and the dates for which the certificate is valid.
- (E) Unless otherwise specified by the commission, a retail natural gas supplier's or governmental aggregator's initial or renewal certificate is valid for a period of two years, beginning and ending on the dates specified on the certificate.

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(F) If the commission acts to deny an application, in whole or in part, it will docket its decision and notify the applicant that its application, or parts of its application, has been denied, including the reason(s) for such denial.

4901:1-27-11 Material changes to business operations.

(A) A retail natural gas supplier or governmental aggregator shall file with the commission notification of any material change to the information supplied in a certification or most recent certification renewal application within thirty days of such material change.

(1) A retail natural gas supplier or governmental aggregator shall file such notice under the docket number assigned to the retail natural gas supplier's or governmental aggregator's initial certification or most recent certification renewal application, whichever is the most recent.

(2) After notice and an opportunity for a hearing, the commission may suspend, rescind, or conditionally rescind a retail natural gas supplier's or governmental aggregator's certificate if it determines that the material change will adversely affect the retail natural gas supplier's or governmental aggregator's fitness or ability to provide the services for which it is certified; or to provide reasonable financial assurances sufficient to protect natural gas companies and the regulated sales service customers from default.

(B) Material changes to the information contained in or supplied with a certification or most recent certification renewal application include, but are not limited to, the following:

(1) Any significant change in ownership (being an ownership interest of five per cent or more) of the applicant or retail natural gas supplier.

(2) An affiliation with any public utility or change of an affiliation with a public utility in this state.

(3) Retirement or other long-term changes to the operational status of supply resources relied upon by the retail natural gas supplier or the retail natural gas supplier of a governmental aggregator to provide competitive retail natural gas service.

(4) Revocation, restriction, or termination of any interconnection or service agreement with a pipeline company or natural gas company relied upon by a

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retail natural gas supplier or the retail natural gas supplier of a governmental aggregator to provide competitive retail natural gas service.

- (5) The applicant or retail natural gas supplier's bond rating falls below BBB- as reported by Standard & Poors, Duff & Phelps, or Fitch IBCA or below Baa3 as reported by Moody's investor service.
- (6) The applicant or retail natural gas supplier has or intends to file for reorganization, protection from creditors, or any other form of bankruptcy with any court.
- (7) Any judgment, finding, or ruling by a court or regulatory agency that could affect a retail natural gas supplier's or governmental aggregator's fitness or ability to provide service in this state.
- (8) Any change in the name of the applicant's regulatory contact, the staff contact for consumer complaints, and the customer service contact, the contact's business or electronic mail address, or telephone or fax number.
- (9) Any change in the applicant's name or any use of a fictitious name.

4901:1-27-12 Transfer or abandonment of a certificate.

- (A) A retail natural gas supplier or governmental aggregator shall not transfer its certificate to any person without prior commission approval.
 - (1) A retail natural gas supplier or governmental aggregator may apply for commission approval to transfer its certificate by filing a certificate transfer application.
 - (2) A transfer application shall be automatically approved on the thirty-first day after filing, unless the commission or attorney examiner acts to suspend or reject the application.
- (B) A retail natural gas supplier or governmental aggregator shall not abandon the service(s) it provided under a certificate without filing an abandonment application and without commission approval. The retail natural gas supplier or governmental aggregator shall fulfill the terms of all existing contracts with customers or assign such contracts to another retail natural gas supplier or governmental aggregator prior to abandoning service.

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- (1) Abandonment applications shall be filed at least ninety days prior to the effective date that the retail natural gas supplier or governmental aggregator will cease providing service. The application shall include copies of any notices provided pursuant to paragraphs (B)(2), (B)(3), and (B)(4) of this rule.
- (2) At least ninety days prior to abandoning service in the state of Ohio, a retail natural gas supplier or governmental aggregator shall provide written notice to each natural gas company in whose service area the retail natural gas supplier or governmental aggregator operates of its intent to cease providing service in the state of Ohio. That notice shall reflect that the retail natural gas supplier or governmental aggregator has filed an abandonment application with the commission.
- (3) At least ninety days prior to abandoning service, a retail natural gas supplier or governmental aggregator shall provide written notice to its existing customers and the office of the Ohio consumers' counsel of its intent to abandon service. Such notice shall indicate the retail natural gas supplier's or governmental aggregator's intent to fulfill or assign customer contracts, including the effective date of such assignment, the effective date it will cease to provide service, and identify the commission's toll-free and Ohio relay service telephone numbers. That notice shall reflect that the retail natural gas supplier or governmental aggregator has filed an abandonment application with the commission. Such notice shall also inform existing customers that, if they do not choose an alternative supplier, their natural gas company will supply them under the applicable tariff service and provide instructions on how they can obtain service from an alternative retail natural gas supplier or governmental aggregator. Such notice shall be provided to the commission staff for its review and to the incumbent natural gas company, prior to customer dissemination.
- (4) The retail natural gas supplier or governmental aggregator shall provide notice of its abandonment to its existing customers by separate message that is mailed or otherwise directly delivered to the customer or by notice on customer billing statements. Where the retail natural gas supplier or governmental aggregator is providing the billing, the retail natural gas supplier or governmental aggregator shall provide notice of its abandonment. Where the natural gas company is billing for the retail natural gas supplier or governmental aggregator, the retail natural gas supplier or governmental aggregator may negotiate with the incumbent natural gas company to provide such notice of its abandonment on each billing statement rendered to existing customers. Abandonment notices

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shall begin at least ninety days before the effective date of the abandonment and shall continue monthly until the operation is abandoned.

- (5) If the commission does not act upon the application within ninety days of the filing date, the application shall be deemed automatically approved on the ninety-first day after the official filing date.

4901:1-27-13 Certification suspension, rescission, or conditional rescission.

- (A) After reasonable notice and the opportunity for a hearing, the commission may, upon its own motion or upon complaint, suspend, rescind, or conditionally rescind a retail natural gas supplier's or governmental aggregator's certificate, in whole or in part, for good cause shown.

- (B) If the commission suspends a retail natural gas supplier's or governmental aggregator's certificate:

- (1) The commission will notify the retail natural gas supplier or governmental aggregator of the reasons and effective dates for such suspension and specify the actions, including associated time frames, that the retail natural gas supplier or governmental aggregator must take in order to have the suspension lifted.

- (2) The retail natural gas supplier or governmental aggregator shall continue to provide all services it is obligated to provide under contract to its existing customers, but it shall not advertise, offer, or contract to provide any new competitive retail natural gas service to existing customers, nor advertise, offer, or contract to provide any competitive retail natural gas service to potential customers during the suspension, unless the commission orders otherwise. Such suspensions and related prohibitions against advertising, offering or entering into contracts apply statewide, unless otherwise ordered by the commission.

- (C) If the commission conditionally rescinds a retail natural gas supplier's or governmental aggregator's certificate:

- (1) The commission will delineate the specific conditions that the retail natural gas supplier or governmental aggregator must meet and establish a date by which the conditions must be met in order for the retail natural gas supplier or governmental aggregator to avoid permanent rescission of its certificate.

- (2) Unless otherwise ordered by the commission, the retail natural gas supplier or governmental aggregator shall continue to provide all services it is obligated to provide under contract to its existing customers, but it shall not advertise, offer,

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or contract to provide any new competitive retail natural gas service to existing customers, nor advertise, offer, or contract to provide any competitive retail natural gas service to potential customers throughout the duration of a conditional rescission of a certificate.

(D) If the commission rescinds a retail natural gas supplier's or governmental aggregator's certificate:

- (1) The commission will notify the retail natural gas supplier or governmental aggregator of the reasons for and effective date of such rescission.
- (2) Upon the effective date specified by the commission, a retail natural gas supplier or governmental aggregator whose certificate has been rescinded shall cease providing all competitive retail natural gas service for which it is no longer certified to provide.
- (3) Before the effective date of the certificate rescission, a retail natural gas supplier or governmental aggregator that provides competitive retail natural gas service to customers shall cooperate fully with each natural gas company in whose service area it provides such service to ensure that its existing customers will be served by another retail natural gas supplier, governmental aggregator or by the natural gas company on and after the effective date of the certificate rescission.
- (4) Before the effective date of the certificate rescission, a retail natural gas supplier or governmental aggregator whose certificate has been rescinded shall provide a written notice to each of its customers that indicates that its certificate has been rescinded and specifies the date(s) it will cease to provide service. Such notice shall be provided to the commission staff for its review and to the incumbent natural gas company prior to customer dissemination. Such notice shall also inform existing customers that, if they do not choose an alternative supplier, their natural gas company will supply them under the applicable tariff service and provide instructions on how they can obtain service from an alternative retail natural gas supplier or governmental aggregator.

(E) Reasons that the commission may suspend, rescind, or conditionally rescind a retail natural gas supplier's or governmental aggregator's certificate include, but are not limited to:

- (1) A retail natural gas supplier's or governmental aggregator's failure to timely pay any assessment made pursuant to section 4905.10 or section 4911.18 of the Revised Code.

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- (2) A retail natural gas supplier's or governmental aggregator's failure to timely file an annual report of its intrastate gross receipts and sales of hundred cubic feet of gas pursuant to section 4905.10, or section 4911.18, or division (B) of section 4929.23 of the Revised Code.
- (3) A finding by the commission that a retail natural gas supplier or governmental aggregator has materially underreported its intrastate gross receipts and sales of hundred cubic feet of gas on reports required by rule 4901:1-30-01 of the Administrative Code.
- (4) A finding by the commission that any information reported to the commission subsequent to granting a certificate adversely affects a retail natural gas supplier's or governmental aggregator's fitness or capability to provide any service covered by its certificate.
- (5) A finding by the commission that a retail natural gas supplier or governmental aggregator knowingly omitted information or knowingly provided false information on a certification or certification renewal application, including supporting attachments.
- (6) A finding by the commission that a retail natural gas supplier or governmental aggregator has provided a competitive retail natural gas service without being certified by the commission to provide such service.
- (7) A finding by the commission that a retail natural gas supplier or governmental aggregator has violated any applicable commission rule or order adopted pursuant to Chapter 4929. of the Revised Code.
- (8) A finding by the commission that a retail natural gas supplier or governmental aggregator has failed to consent to the jurisdiction of the courts of this state or has failed to designate an agent to accept service of process pursuant to section 4929.21 of the Revised Code.
- (9) A finding by the commission that a retail natural gas supplier or governmental aggregator has engaged in an anticompetitive act.
- (10) A finding that a retail natural gas supplier or the retail natural gas supplier of a governmental aggregator has failed to maintain appropriate financial security or has otherwise committed an act of default as defined by a natural gas company's tariff or by agreement between the natural gas company and the retail natural gas supplier or governmental aggregator.

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- (11) A finding by the commission that a retail natural gas supplier or governmental aggregator has failed to comply with state laws or rules designed to protect consumers in this state, or has otherwise engaged in any fraudulent, misleading or unfair practice.
- (12) A finding by the commission that a retail natural gas supplier has failed to maintain an Ohio office and an employee in this state, in accordance with section 4929.22 of the Revised Code.
- (F) In the event of a material default, as defined by a natural gas company's tariff or by an agreement between the natural gas company and the retail natural gas supplier or governmental aggregator:
 - (1) The natural gas company shall serve a written notice of such default in reasonable detail and with a proposed remedy to the retail natural gas supplier or governmental aggregator and the commission.
 - (2) On or after the date the default notice has been served, the natural gas company may file with the commission a written request for authorization to terminate or suspend the retail natural gas supplier or governmental aggregator from participation with the natural gas company's supplier program.
 - (3) If the material default is due to reasons other than underdelivery or nondelivery, and if the commission, or an attorney examiner, does not issue an entry to suspend or reject the action proposed by the natural gas company within ten business days after receipt of the request, the natural gas company's request to terminate or suspend shall be deemed authorized on the eleventh business day.
 - (4) If the default is due to underdelivery or nondelivery and, if the commission, or an attorney examiner, does not act within five business days after receipt of the request, the natural gas company's request to terminate or suspend shall be deemed authorized on the sixth business day.
 - (5) Notwithstanding paragraphs (F)(3) and (F)(4) of this rule, terminations or suspensions from a natural gas company's supplier program shall require authorization from the commission.
 - (6) The natural gas company shall send notices pursuant to this section by electronic mail, fax, overnight mail or hand delivery to the commission and staff at the commission's offices. The natural gas company shall notify all commissioners, the chief of staff, the director of the service monitoring and enforcement services department, the director of the utilities department, the director of the legal

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department and the chief of the attorney general's public utilities section. The natural gas company shall send the notice to the address, electronic mail, and fax number provided by the retail natural gas supplier or governmental aggregator in its aggregation agreement.

4901:1-27-14 Financial security.

- (A) Pursuant to a tariff filed with the commission in accordance with division (A) of section 4929.20 of the Revised Code and rule 4901:1-29-13 of the Administrative Code, a natural gas company may require a retail natural gas supplier to issue and maintain a financial security with the natural gas company to protect the natural gas company and the regulated sales service customers from default.
- (B) A natural gas company may require a retail natural gas supplier to furnish financial and other information contained in the natural gas company's tariff to determine the type and/or amount of the financial security required for compliance with paragraph (A) of this rule.
- (C) A retail natural gas supplier may bring an action before the commission seeking review of the natural gas company's determination of financial security requirements or may seek staff mediation as to any dispute.
- (D) If a retail natural gas supplier fails to maintain sufficient financial security to protect a natural gas company and customers from default by the retail natural gas supplier, the natural gas company may apply for relief at the commission.

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4901:1-28-01 Definitions.

As used in this chapter:

- (A) "Commission" means the public utilities commission of Ohio.
- (B) "Customer" means ~~any a person who has an agreement, by contract and/or tariff, contracts with a gas or is solicited by natural gas company to receive service or any person who requests or makes application for a retail natural gas supplier or governmental aggregator for the provision of a competitive retail natural gas service.~~
- (C) "Eligible governmental aggregation customer" means a person that is eligible to participate in a governmental aggregation in accordance with sections 4929.26 and 4929.27 of the Revised Code and does not include any of the following:-
 - (1) A person that is ~~a~~ both a distribution service customer and a mercantile customer on the date of commencement of service to the governmental aggregation, or the person becomes a distribution service customer after the service commencement date and is also a mercantile customer.
 - (2) A person that is supplied with commodity sales service pursuant to a contract with a retail natural gas supplier ~~that is in effect on the effective date of the ordinance or resolution authorizing the aggregation.~~
 - (3) A person that is supplied with commodity sales service as part of the percentage of income payment plan program or similar or successor program adopted by the commission under Chapter 4905. or 4929. of the Revised Code.
 - (4) A person that has failed to discharge, or enter into a plan to discharge, all existing arrearages owed to or being billed by the incumbent natural gas company.
- (D) "Existing customer" means a person who has a contract with a retail natural gas supplier or governmental aggregator for the provision of competitive retail natural gas service.
- (E) "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 two years.

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- ~~(E)~~(F) "Governmental aggregator" has the meaning set forth in division (K)(1) of section 4929.01 of the Revised Code. For purposes of this chapter, "governmental aggregator" specifically excludes a municipal corporation acting exclusively under Section 4 of Article XVIII, Ohio Constitution, as an aggregator for the provision of competitive retail natural gas service.
- ~~(F)~~(G) "Mercantile customer" has the meaning set forth in division (L) of section 4929.01 of the Revised Code.
- ~~(G)~~(H) "Natural gas company" has the meaning set forth in division (G) of section 4929.01 of the Revised Code.
- ~~(H)~~(I) "Operations and governance plan" means a plan adopted by a governmental aggregator pursuant to division (C) of section 4929.26 of the Revised Code.
- ~~(I)~~(J) "Opt off" means an action by a person to remove ~~their~~his/her name and associated account information from a natural gas company's pre-enrollment list.
- ~~(J)~~(K) "Opt-out notice" means a notice provided to the public pursuant to section 4929.26 of the Revised Code.
- ~~(K)~~(L) "Pre-enrollment list" means a list of customers and associated customer information compiled by a natural gas company pursuant to division (F) of section 4929.22 of the Revised Code and as directed by the commission.
- ~~(L)~~(M) "Retail natural gas service" has the meaning set forth in division (M) of section 4929.01 of the Revised Code.
- ~~(M)~~(N) "Retail natural gas supplier" has the meaning set forth in division (N) of section 4929.01 of the Revised Code.

4901:1-28-02 Purpose and scope.

~~The rules in this chapter:~~

- (A) ~~Apply~~The rules in this chapter apply to a governmental aggregator's formation and operation of an opt-out governmental aggregation pursuant to Chapter 4929. of the Revised Code and to cooperation between natural gas companies and governmental aggregators.
- ~~(B) Nothing contained in this chapter shall preclude, in any way, the commission from altering, amending, or waiving, in whole or in part, any of these rules.~~

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(B) 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, for good cause shown.

(C) Are intended to:

- (1) Establish minimum requirements for formation and operation of governmental aggregations.
- (2) Establish minimum requirements for a governmental aggregator's operation and governance plan.
- (3) Establish minimum requirements for a governmental aggregator's opt-out notice to customers.
- (4) Foster cooperation between natural gas companies and governmental aggregators.

4901:1-28-03 Formation and operation of an opt-out governmental aggregation and minimum requirements for operations and governance plans.

- (A) Prior to applying for certification at the commission, a governmental aggregator that will form an opt-out aggregation shall complete all of the requirements specified in divisions (A) to (D) of section 4929.26 of the Revised Code, including adopting an ordinance or resolution authorizing an opt-out aggregation, conducting a general or special election in accordance with division (B) of section 4929.26 of the Revised Code for authorization from electors to form the aggregation, and approving a plan for operation and governance of the aggregation as specified by division (C) of section 4929.26 of the Revised Code.
- (B) The operation and governance plan adopted shall detail the services that will be provided under the aggregation and specify all customer rights and obligations under the aggregation. The plan shall be sufficiently detailed to allow customers to readily understand the services that the governmental aggregator is to provide and to compare those services against similar services provided by competitive suppliers. The governmental aggregator shall write the plan in clear and plain language so that an average residential customer can easily understand it. The plan shall, at a minimum, contain all of the following:
- (1) A detailed description of services the governmental aggregator is to provide under the aggregation, including noting whether the service is to

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be provided directly by the governmental aggregator or by a party contracted by the governmental aggregator.

- (2) A description of the processes that the governmental aggregator will use to determine the rates that will be charged.
- (3) A detailed description of the governmental aggregator's plan for providing the required opt-out disclosure notices to eligible governmental aggregation customers. The plan shall describe the steps that the governmental aggregator will take to ensure that all eligible governmental aggregation customers residing within the governmental aggregator's governmental boundaries are notified. The plan shall also identify the time frames associated with the notice.
- (4) A detailed description of the process for developing the pool of customer accounts that may be included in the aggregation, including the steps that will be taken to identify and eliminate customers that are not eligible to participate in the aggregation and eligible governmental aggregation customers who opt out of the aggregation.
- (5) The governmental aggregator's plan for billing customers, including an identification of billing intervals and the identity of the entity that will transmit the bill to the customer.
- (6) A listing of any credit or deposit procedures and the policies that the governmental aggregator will employ in the event that a customer fails to pay its bill.
- (7) A detailed description of the governmental aggregator's customer service procedures and dispute resolution processes, including notice of the customer's right to contact the commission and the commission's toll-free and TDD/TTY-Ohio relay service telephone numbers for its call center. These procedures and processes shall comport with the requirements specified in rule 4901:1-29-08 of the Administrative Code.
- (8) A detailed description of the policies associated with a customer moving into the aggregation or within the aggregation where the incumbent natural gas company considers the customer that is moving to be a new customer. If the policies provide that these customers will be automatically included in the aggregation, the governmental aggregator shall provide the customers an opportunity to ~~opt-out~~opt out of the

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aggregation in accordance with the procedures set forth in rule 4901:1-28-04 of the Administrative Code.

- (9) A detailed description of the policies associated with a customer moving within the aggregation where the customer is not assigned a new account number by the incumbent natural gas company. A customer in these circumstances may maintain the rate that the customer was charged at its previous location or, if the rate at the new location is higher than at the customer's previous location, the customer shall have the opportunity to opt out of the aggregation without penalty, pursuant to the procedures set forth in rule 4901:1-28-04 of the Administrative Code.
 - (10) A description of the governmental aggregator's policies regarding the ability of a customer who had previously opted out of the aggregation to join the aggregation, including identification of any associated conditions.
- (C) A governmental aggregator shall keep its operation and governance plan available for public inspection and shall, upon request, provide a copy of the plan to any existing or potential customer of the aggregation.
- (D) A governmental aggregator shall not alter its operation and governance plan in any way that would materially affect the customers of the aggregation without first providing notice to all affected customers and providing these customers the opportunity to opt out of the aggregation according to the procedures established for the initial ~~opt-out-opt-out~~ disclosure notice set forth in rule 4901:1-28-04 of the Administrative Code. The notice shall set forth the changes to the plan, inform the customer of its right to opt out of the aggregation without penalty, and identify the method and time frame for the customer to opt out.
- (E) No governmental aggregator shall send an opt-out disclosure notice to potential customers of an aggregation prior to the governmental aggregator being certified by the commission.

4901:1-28-04 Opt-out disclosure requirements.

- (A) Prior to including a customer's natural gas account or accounts in an aggregation, a governmental aggregator shall provide each eligible governmental aggregation customer written notice that the customer's account(s) will be automatically included in the aggregation unless the customer affirmatively opts out of the aggregation. The notice shall, at a minimum, include:

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- (1) The language on the front cover of the envelope or postcard providing the notice shall state "important natural gas aggregation information."
- ~~(1)~~(2) A summary of the actions that the governmental entity took to authorize the aggregation.
- ~~(2)~~(3) A description of the services that the governmental aggregator will provide under the aggregation.
- ~~(3)~~(4) Disclosure of the price that the governmental aggregator will charge customers for competitive retail natural gas service. The price shall be including:
 - ~~(a)~~ Expressed in dollars~~Dollars~~ and/or cents per hundred cubic feet of gas ("Ccf") or thousand cubic feet of gas ("Mcf"), depending on the unit that is used by the natural gas company that serves the customer, if the product is based on a per-unit price. For flat-monthly rate offers, If a variable rate is offered, it shall be accompanied by an understandable description-specific listing of the factors that will cause the price to vary (including any associated indices) and disclosure of how frequently the rate will change. If different rates will to be charged to different rate classes within the aggregation, per month for the governmental aggregator shall disclose duration of the applicable rate(s) to customers within the various rate classescontract.
 - ~~(b)~~ If a variable rate is offered, an understandable description of the factors that will cause the price to vary (including any associated indices) and disclosure of how frequently the rate will change.
 - ~~(c)~~ A statement that the retail natural gas supplier's or governmental aggregator's rate is exclusive of all applicable state and local taxes.
- ~~(5)~~ If different rates will be charged to different rate classes within the aggregation, the governmental aggregator shall disclose the applicable rate(s) to customers within the various rate classes.
- ~~(4)~~(6) An itemized list and explanation of all fees and charges that are not incorporated into the rates charged for natural gas that the governmental aggregator will charge the customer for participating in the aggregation, including any applicable switching fees or early termination penalties. These switching fees and/or early termination penalties shall not apply to a customer that moves out of the governmental aggregator's territory.

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- ~~(5)~~(7) Disclosure of the dates covered by the governmental aggregation program, including an estimated service commencement date and notice that the customer may opt out of the aggregation at least every two years without penalty.
- ~~(6)~~(8) Disclosure of any credit and/or deposit policies and requirements.
- ~~(7)~~(9) Disclosure of any limitations or conditions on customer acceptance into the aggregation.
- ~~(8)~~(10) A description of the process and associated time period for customers to opt out of the aggregation. The process shall include provisions for customers to return a post card or similar notice to the governmental aggregator or its agent. The process may include, in addition, other opt-out methods, such as telephonic or internet notice, provided that these methods provide for verification of a customer's election to opt out of the aggregation.
- (11) The time period for a customer to choose to opt out of the aggregation shall extend at least twenty-one days from the date of the post mark on the written notice. A customer's return post card or notice that is post marked before the opt-out deadline has elapsed shall be deemed to have opted out.
- ~~(9)~~(12) A local or toll-free telephone number that customers can call with questions regarding the formation or operation of the aggregation, including associated calling hours.
- ~~(10)~~The language, on the front cover of the envelope or postcard shall state: "~~Important natural gas aggregation information~~".
- (B) At least every two years from the establishment of its ~~initial governmental aggregation pool program~~, a governmental aggregator shall provide notice to all customers served by the aggregation of their right to opt out of the aggregation without penalty. This notice shall follow the procedures established for the initial opt-out notice set forth in this rule and shall prominently disclose to customers all changes to the terms and conditions associated with the aggregation.
- (C) No governmental aggregator or retail natural gas supplier serving a governmental aggregation shall impose any terms, conditions, fees, or charges on any customer served by a governmental aggregation unless the particular term, condition, fee, or charge was clearly disclosed to the customer at the time the customer chose not to opt out of the aggregation.

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(D) To assist its preparation and dissemination of required opt-out notices, a governmental aggregator that is certified by the commission may request that the incumbent natural gas company provide it with customer information consistent with paragraph (A) of rule 4901:1-28-05 of the Administrative Code. The governmental aggregator shall not, without the customer's express written consent or electronic authorization or unless pursuant to a court or commission order; ~~disclose or use for any purpose other than formation and operation of its aggregation a customer's account number or social security number or any customer information regarding customers. Before a governmental aggregator releases any customer account number, social security number, or any information related to a customer, the governmental aggregator shall obtain the customer's signature on a release. The release shall be on a separate piece of paper. The release shall be clearly identified on its face as a release of personal information and all text on the release shall be in at least sixteen point type. The following statements shall appear prominently on the release, just prior to the signature, in type larger and darker than the type in the surrounding sentences: "I realize that, under the rules and regulations of the Public Utilities Commission of Ohio, I may refuse to allow (name of aggregator) to release the information set forth above. By my signature, I freely give (name of aggregator) permission to release the information designated above." The information that the governmental aggregator seeks to release shall be specified on the form. Forms requiring a customer to circle or to check off preprinted types of information to be released may not be used.~~

(1) ~~Disclose or use for any purpose other than formation and operation of its aggregation a customer's account number or social security number or any customer information regarding customers. Before a governmental aggregator releases any customer account number, social security number, or any information related to a customer, the governmental aggregator shall obtain the customer's signature on a release. The release shall be on a separate piece of paper. The release shall be clearly identified on its face as a release of personal information and all text on the release shall be in at least sixteen point type. The following statements shall appear prominently on the release, just prior to the signature, in type larger and darker than the type in the surrounding sentences: "I realize that, under the rules and regulations of the Public Utilities Commission of Ohio, I may refuse to allow (name of aggregator) to release the information set forth above. By my signature, I freely give (name of aggregator) permission to release the information designated above." The information that the governmental~~

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~~aggregator seeks to release shall be specified on the form. Forms requiring a customer to circle or to check off preprinted types of information to be released may not be used.~~

(2) Release any customer account number, social security number, or any information related to a customer without first obtaining the customer's signature on a release form. Forms requiring a customer to circle or to check off preprinted types of information to be released may not be used. The release form shall:

(a) Be on a separate piece of paper.

(b) Be clearly identified on its face as a release of personal information and contain text that shall be in at least sixteen-point type.

(c) Contain the following statements prominently, just prior to the signature, in type larger and darker than the type in the surrounding sentences: "I realize that, under the rules and regulations of the public utilities commission of Ohio, I may refuse to allow (name of aggregator) to release the information set forth above. By my signature, I freely give (name of aggregator) permission to release the information designated above."

(d) Specify on the form the information sought to be released.

(E) Each governmental aggregator shall use its best efforts to ensure that only eligible governmental aggregation customer accounts within its governmental boundaries and customers who have not opted out are included in its aggregation. If ineligible accounts, accounts from outside of the governmental aggregator's governmental boundaries, or accounts for customers who opted out of the aggregation are switched to the governmental aggregation; ~~the governmental aggregator shall promptly contact the natural gas company to have the customer switched back to the customer's former supplier. The governmental aggregator or the natural gas company, whichever is at fault for an improper switch, shall reimburse the customer for any switching fees that were paid by the customer as a result of the improper switch. In addition, if the customer's former rate was less than the rate charged by the governmental aggregator and the higher rate was paid by the customer, then the governmental aggregator or the natural gas company, whichever is at fault for an improper switch, shall reimburse the customer the difference between the customer's former rate and the governmental aggregator's rate multiplied by the customer's~~

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~~usage during the time that the customer was served by the governmental aggregator.~~

- (1) ~~The governmental aggregator shall promptly contact the natural gas company to have the customer switched back to the customer's former supplier. The governmental aggregator or the natural gas company, whichever is at fault for an improper switch, shall reimburse the customer for any switching fees that were paid by the customer as a result of the improper switch. In addition, if the customer's former rate was less than the rate charged by the governmental aggregator and the higher rate was paid by the customer, then the governmental aggregator or the natural gas company, whichever is at fault for an improper switch, shall reimburse the customer the difference between the customer's former rate and the governmental aggregator's rate multiplied by the customer's usage during the time that the customer was served by the governmental aggregator.~~
 - (2) The governmental aggregator or the natural gas company, whichever is at fault for an improper switch, shall reimburse the customer for any switching fees that were paid by the customer as a result of the improper switch.
 - (3) The governmental aggregator or the natural gas company, whichever is at fault for an improper switch, shall reimburse the customer for the difference between the customer's former rate and the governmental aggregator's rate multiplied by the customer's usage during the time that the customer was served by the governmental aggregator, if the customer's former rate was less than the rate charged by the governmental aggregator and the higher rate was paid by the customer.
- (F) The governmental aggregator shall docket with the commission's docketing division an advance notice of the governmental aggregation opt-out program with the final ~~opt-out~~opt out or any supplemental opt-out customer notification no more than thirty days, but no less than ten days, prior to sending the opt-out notification to customers. The advanced notice to the commission shall identify the affected community and natural gas company involved, include the beginning and ending dates of the twenty-one day opt-out period, and provide the identification of the selected competitive retail natural gas service supplier.

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4901:1-28-05 Cooperation between natural gas companies and certified governmental aggregators.

- (A) Each natural gas company, each governmental aggregator, and each retail natural gas supplier of a governmental aggregator shall cooperate to facilitate the proper formation and functioning of governmental aggregations. To assist a certified governmental aggregator's compliance with the opt-out disclosure notice requirements established in division (D) of section 4929.26 of the Revised Code, upon request, the incumbent natural gas company shall provide, on a best efforts basis, an updated list of eligible customers, including: names, account numbers, and service and mailing addresses for all eligible governmental aggregation customers residing within the governmental aggregator's boundaries.
- (B) Governmental aggregators shall use the list of eligible governmental aggregation customers to distribute opt-out disclosure notices within thirty calendar days of the date the list is received from the natural gas company.
- (C) Charges and/or fees for services and information provided to governmental aggregators by natural gas companies shall be published in an approved tariff filed with the commission.
- (D) Unless the customer notifies the incumbent natural gas company of the customer's intent to not join a governmental aggregation by returning a confirmation notice or providing some other notice as provided by that natural gas company's tariffs, the incumbent natural gas company shall switch customer accounts to or from a governmental aggregation under the same processes and time frames provided in published tariffs for switching other customer accounts.

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4901:1-29-01 Definitions.

As used in this chapter:

- ~~(A)~~ "Ancillary service" has the meaning set forth in division ~~(B)~~ of section 4929.01 of the Revised Code.
- ~~(B)~~ ~~(A)~~ "Billing and collection agent" has the meaning set forth in division (I) of section 4929.01 of the Revised Code.
- ~~(C)~~ ~~(B)~~ "Ccf" means one hundred cubic feet of natural gas.
- ~~(D)~~ ~~(C)~~ "Commission" means the public utilities commission of Ohio.
- ~~(E)~~ ~~(D)~~ "Commodity sales service" has the meaning set forth in division (C) of section 4929.01 of the Revised Code.
- ~~(F)~~ ~~(E)~~ "Competitive retail natural gas service" has the meaning set forth in division (J) of section 4929.01 of the Revised Code.
- ~~(G)~~ ~~(F)~~ "Complaint" means any customer/consumer contact when such contact necessitates follow-up by or with the retail natural gas ~~company~~ supplier or governmental aggregator to resolve a point of contention.
- ~~(H)~~ ~~(G)~~ "Consumer" has the meaning set forth in division (E) of section 4929.01 of the Revised Code.
- ~~(I)~~ ~~(H)~~ "Contract" means an agreement between a customer and retail natural gas supplier or governmental aggregator that specifies the terms and conditions for provision of a competitive retail natural gas service.
- ~~(J)~~ ~~(I)~~ "Customer" means a person who contracts with or is solicited by a retail natural gas supplier or governmental aggregator for the provision of a competitive retail natural gas service.
- ~~(K)~~ ~~(J)~~ "Deposit" means a sum of money a retail natural gas supplier or governmental aggregator collects from a customer as a precondition for initiating service.
- ~~(L)~~ ~~(K)~~ "Direct solicitation or enrollment" means face-to-face solicitation or enrollment of a customer initiated by a retail natural gas supplier or governmental aggregator at the home of a customer or at a place other than the normal place of business of the retail natural gas supplier or governmental aggregator and includes door-to-door solicitations.

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~~(M)~~ (L) "Disclosure statement" means any communication between a customer and governmental aggregator including operation and governance plans and opt-out notices.

~~(N)~~ (M) "Distribution service" has the meaning set forth in division (F) of section 4929.01 of the Revised Code.

~~(O)~~ (N) "Eligible customer" means a person that is eligible to participate in a governmental aggregation in accordance with sections 4929.26 and 4929.27 of the Revised Code and does not include any of the following:

- ~~(1)~~ A person that is both a distribution service customer and a mercantile customer on the date of commencement of service to the governmental aggregation, or the person becomes a distribution service customer after the service commencement date and is also a mercantile customer.
- ~~(2)~~ A person that is supplied with commodity sales service pursuant to a contract with a retail natural gas supplier that is in effect on the effective date of the ordinance or resolution authorizing the aggregation.
- ~~(3)~~ A person that is supplied with commodity sales service as part of the percentage of income payment plan program or similar or successor program adopted by the commission under Chapter 4905. or 4929. of the Revised Code.
- ~~(4)~~ A customer that has failed to discharge, or enter into a plan to discharge, all existing arrearages owed to or being billed by the incumbent natural gas company.

~~(P)~~ (N) "Existing customer" means a person who has a contract with a retail natural gas supplier or governmental aggregator for the provision of competitive retail natural gas service.

~~(O)~~ "Gas company" means a company that meets the definition of a gas company set forth in section 4905.03 of the Revised Code and that also meets the definition of a public utility under section 4905.02 of the Revised Code.

~~(P)~~ (Q) "Governmental aggregator" has the meaning set forth in division (K)(1) of section 4929.01 of the Revised Code. For purposes of this chapter, "governmental aggregator" specifically excludes a municipal corporation acting exclusively under Section 4 of Article XVIII, Ohio Constitution, as an aggregator for the provision of competitive retail natural gas service.

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- ~~(Q)~~~~(R)~~ "Mcf" means one thousand cubic feet of natural gas.
- ~~(R)~~~~(S)~~ "Mercantile customer" has the meaning set forth in division (L) of section 4929.01 of the Revised Code.
- ~~(S)~~~~(T)~~ "Natural gas company" has the meaning set forth in division (G) of section 4929.01 of the Revised Code.
- ~~(T)~~~~(U)~~ "Opt-in governmental aggregator" means those governmental aggregators who perform aggregation pursuant to section 4929.27 of the Revised Code.
- ~~(U)~~~~(V)~~ "Opt-out governmental aggregator" means those governmental aggregators who perform automatic governmental aggregation pursuant to section 4929.26 of the Revised Code.
- ~~(V)~~~~(W)~~ "Person" has the meaning set forth in division (H) of section 4929.01 of the Revised Code.
- ~~(W)~~~~(X)~~ "Regulated sales service customer" means a person who has an agreement by contract and/or tariff with a natural gas company or gas company to receive regulated sales service.
- ~~(X)~~~~(Y)~~ "Residential customer' customer" means a customer who contracts for a competitive retail natural gas service for residential purposes.
- ~~(Y)~~~~(Z)~~ "Retail natural gas service" has the meaning set forth in division (M) of section 4929.01 of the Revised Code.
- ~~(Z)~~~~(AA)~~ "Retail natural gas supplier" has the meaning set forth in division (N) of section 4929.01 of the Revised Code.
- ~~(AA)~~~~(BB)~~ "Small commercial customer" means a commercial customer which is not a mercantile commercial customer under paragraph (S) of this rule.
- ~~(BB)~~~~(CC)~~ "Solicitation" means any communication intended to elicit a customer's agreement to purchase or contract for a competitive retail natural gas service.
- ~~(CC)~~~~(DD)~~ "Staff" means the commission staff.
- ~~(DD)~~~~(EE)~~ "Toll-free" means telephone access provided to a customer without toll charges to the customer.
- ~~(FF)~~ ~~TDD/TTY" means telecommunication device for the deaf/text telephone yoke as defined in 47 C.F.R. 64.601 as of January 1, 2006.~~

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4901:1-29-02 Purpose and scope.

(A) The rules in this chapter:

- (1) Apply to persons offering or providing any competitive retail natural gas service as defined by division (J) of section 4929.01 of the Revised Code.
- (2) Apply to the services of natural gas companies as necessary to implement the rules of this chapter.
- (3) Are intended to:
 - (a) Provide minimum standards for service quality, safety, and reliability.
 - (b) Provide customers with sufficient information to make informed decisions about competitive retail natural gas service.
 - (c) Protect customers against misleading, deceptive, unfair, and unconscionable acts and practices in the marketing, solicitation, and sale of competitive retail natural gas service and in the administration of any contract for that service.
 - (d) Promote nondiscriminatory access to competitive retail natural gas services, ensure timely enrollment with retail natural gas suppliers and governmental aggregators, maintain natural gas service, and timely and correctly switch retail natural gas suppliers and governmental aggregators.
- ~~(4) Apply to all jurisdictional customers unless otherwise specified.~~

(B) After notice and an opportunity for hearing, the commission may require a retail natural gas supplier, governmental aggregator or natural gas company to take any appropriate action necessary to comply with these rules and the state's policy as stated in section 4929.02 of the Revised Code, upon any of the following:

- (1) The commission's own motion.
- (2) Formal complaints brought to the commission.
- (3) The application of any retail natural gas supplier, governmental aggregator, natural gas company, or any person.

(C) 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, for good cause shown ~~or upon its own motion~~.

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- (D) The rules in this chapter shall not relieve a retail natural gas suppliers-supplier or governmental aggregators-aggregator from complying with all applicable federal, state, and local laws.
- (E) The rules of this chapter supersede any inconsistent provisions, terms, and conditions of the retail natural gas supplier's contracts entered into after the effective date of this chapter or other documents describing service offerings for customers or potential customers in Ohio or any inconsistencies found in the natural gas company tariffs.
- (F) Enforcement of any rule in this chapter or commission order adopted thereunder will be conducted in accordance with Chapter 4901:1-34 of the Administrative Code.
- (G) The rules in this chapter shall not apply to transactions which involve the supplying or the arranging for the supply of natural gas service to mercantile customers. However, "mercantile customer" excludes a customer for which a declaration has been filed under division (L)(2) of section 4929.01 of the Revised Code.
- (H) The governmental aggregator may choose to have the retail natural gas supplier perform certain functions as the governmental aggregator's agent. However, the governmental aggregator is still responsible for ensuring that the requirements of this chapter are met.

4901:1-29-03 General provisions.

- (A) A Retail-retail natural gas suppliers-supplier or and governmental aggregators aggregator shall not engage in unfair, misleading, deceptive, or unconscionable acts or practices related to, without limitation, the following activities:
 - (1) Marketing, solicitation, or sale of a competitive retail natural gas service.
 - (2) Administration of contracts for such service.
 - (3) Provision of such service, including interactions with consumers.
- (B) A Retail-retail natural gas suppliers-supplier shall maintain an employee and an office open for business in the state of Ohio.
- (C) A Retail-retail natural gas suppliers-supplier and or governmental aggregators aggregator shall not cause or arrange for the disconnection of distribution service, or employ the threat of such actions, as a consequence of contract termination, customer nonpayment, or for any other reason.

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- (D) ~~A Retail-retail natural gas suppliers-supplier or and governmental aggregators aggregator shall not change or authorize the changing of a customer's supplier of competitive retail natural gas service without the customer's prior consent, as provided for under rule 4901:1-29-06 of the Administrative Code. For the purpose of procuring competitive retail natural gas services, this requirement does not apply to automatic governmental aggregation and for the percentage of income payment program, or a commission approved exemption pursuant to section 4929.04(A) of the Revised Code.~~
- (E) ~~Each retail natural gas suppliers-supplier and governmental aggregators aggregator shall include, in their its certification application, the name, telephone number, and e-mail address of a contact person who will respond to commission concerns pertaining to consumer complaints. If any of the required information relating to the contact person should change, the retail natural gas supplier or governmental aggregator shall file notice of such changes to the commission within thirty days of such material change, consistent with paragraphs (A) and (B)(8) of rule 4901:1-27-10 4901:1-27-11 of the Administrative Code. For the purposes of market monitoring and providing the public comparative information from retail natural gas suppliers' residential contract offers, retail natural gas suppliers shall furnish in a manner designated by the director of the service monitoring and enforcement department, at least one current offer for posting on the apples to apples chart within four calendar days of making such offers to Ohio customers.~~

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4901:1-29-04 Records and retention.

- (A) Each natural gas company (for records retention related to competitive retail natural gas services), each retail natural gas supplier and each governmental aggregator shall establish and maintain records and data sufficient to:
- (1) Verify its compliance with the requirements of any applicable commission rules.
 - (2) Support any investigation of customer complaints.
- (B) Unless otherwise prescribed in this chapter, all records required by this chapter shall be retained for no less than two years.

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- (C) Unless otherwise prescribed by the commission or its authorized representatives, all records required by this chapter shall be provided to the staff within three business days of its request.

4901:1-29-05 Marketing, and solicitation, and customer information.

- (A) Each retail natural gas supplier and governmental aggregator that offers competitive retail natural gas service to customers shall provide, in marketing materials that include or accompany a service contract, sufficient information for customers to make informed cost comparisons.

- (1) For fixed-rate offers, such information shall, at minimum, include:

- (a) The cost per Ccf or Mcf, whichever is consistent with the incumbent natural gas company's billing format, for natural gas supply, if the product is based on a per-unit price or, for flat-monthly rate offers, a specific listing of the rate to be charged per month for the duration of the contract.
- (b) The amount of any other recurring or nonrecurring retail natural gas supplier or governmental aggregator charges.
- (c) A statement that the retail natural gas supplier's or governmental aggregator's rate is exclusive of all applicable state and local taxes and the incumbent natural gas company's service and delivery charges.

- (2) For variable-rate offers, such information shall, at minimum, include:

- (a) A clear and understandable explanation of the factors that will cause the price to vary (including any related indices) and how often the price can change.
- (b) The amount of any other recurring or retail natural gas supplier or governmental aggregator charges.
- (c) A statement that the retail natural gas supplier's or governmental aggregator's rate is exclusive of all applicable state and local taxes and the incumbent natural gas company's service and delivery charges.

- (B) Competitive retail natural gas suppliers serving a natural gas company's MVR tariff customers shall provide to the customer the information required in paragraph (A) of this rule upon enrollment.

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(BC) A retail natural gas supplier's or governmental aggregator's promotional and advertising material shall be provided to the commission or its staff within three business days of a request by the commission or its staff.

(ED) No retail natural gas supplier or governmental aggregator may engage in marketing, solicitation, sales acts, or practices which are unfair, misleading, deceptive, or unconscionable in the marketing, solicitation, or sale of a competitive retail natural gas service. Such unfair, misleading, deceptive, or unconscionable acts or practices include, but are not limited to, the following:

- (1) Soliciting customers for a competitive retail natural gas service after suspension, rescission, or conditional rescission of certification by the commission or after denial of certification renewal by the commission.
- (2) Failing to comply with paragraph (A) of this rule when soliciting a sale of competitive retail natural gas service and failing to disclose all terms, conditions, and limitations, including but not limited to contract length, prices, fees and termination fees, or penalties, and any discretionary charges.
- (3) Failing to provide in or with its advertisements and promotional materials that make an offer for sale, a toll-free/local telephone number (and address for printed materials) which the potential customer may call or write to request detailed information regarding the price, terms, conditions, limitations, and restrictions.
- (4) Soliciting via telephone calls initiated by the retail natural gas supplier or governmental aggregator (or its agent) without first obtaining the list of Ohio customers who have requested to be placed on the federal trade commission's "do not call" registry and obtaining ~~every thirty-one days~~ monthly updates of the federal trade commission's "do not call" registry for the appropriate area code.
- (5) Engaging in ~~telephone~~ any solicitation that leads the customer to believe that the retail natural gas supplier or governmental aggregator or its agent is soliciting on behalf of or is an agent of any entity other than the competitive retail natural gas supplier or governmental aggregator. ~~of Ohio customers who have been placed on the federal trade commission's "do not call" registry.~~
- (6) Engaging in telephone solicitation ~~to~~ of residential customers either before nine a.m. or after nine p.m.-

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- (7) Knowingly taking advantage of a customer's inability to reasonably protect their interests because of physical or mental infirmities, ignorance, illiteracy, or inability to understand the language of an agreement.
- (8) Advertising or marketing offers that:
- (a) Claim that a specific price advantage, savings, or guarantee exists if it does not, ~~or may exist if it will not.~~
 - (b) Claim to provide a competitive retail natural gas service when such an offer is not a bona fide offer to sell such services.
 - (c) Offer a fixed price per Ccf or Mcf, whichever is consistent with the incumbent natural gas company's billing format, for competitive retail natural gas service without disclosing all recurring and nonrecurring charges.
 - (d) Offer a variable price per Ccf or Mcf, whichever is consistent with the incumbent natural gas company's billing format, for competitive retail natural gas service without disclosing all recurring and nonrecurring charges.
 - (e) Fail to disclose all material limitations, exclusions, and offer expiration dates.
 - (f) Fail to fully disclose, in an appropriate and conspicuous type-size, an affiliate relationship or branding agreement on advertising or marketing offers that use ~~affiliated natural gas company~~ an Ohio utility's name and logo.
- (E) Retail natural gas suppliers or governmental aggregators when engaging in direct solicitation shall:
- (1) Perform a criminal background check on all employees and agents of retail natural gas suppliers or governmental aggregators engaged in door-to-door solicitation. The criminal background check shall be done by an independent contractor and the retail natural gas supplier or governmental aggregator shall confirm that the independent contractor has performed the comprehensive criminal background check on its employees or agents in accordance with this rule.
 - (2) Comply with all applicable ordinances and laws of the customer's jurisdiction, when engaged in direct solicitation door-to-door. Where the applicable

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ordinances and laws do not limit the hours of direct solicitation door-to-door, not solicit customers before the hour of nine a.m. or after the hour of seven p.m.

- (3) Leave the premises of a customer when requested to do so by the customer or the owner or occupants of the premises, when engaging in direct solicitation door-to-door.
- (4) Ensure when in direct solicitation of customers that the retail natural gas supplier's or governmental aggregator's sales agent displays a valid retail natural gas supplier or governmental aggregator photo identification, preapproved by the staff. The retail natural gas supplier or governmental aggregator shall display to a customer at the first opportunity their photo identification. If a customer is enrolled by a retail natural gas supplier or governmental aggregator, the retail natural gas supplier or governmental aggregator shall offer to leave a form of identification with the customer.

4901:1-29-06 Customer enrollment and consent.

- (A) The retail natural gas supplier and governmental aggregator shall coordinate customer enrollment with the incumbent natural gas company in accordance with the procedures set forth in this chapter.
- (B) A ~~Retail~~ retail natural gas suppliers--supplier and governmental aggregators aggregator is are prohibited from enrolling potential customers without their consent and proof of that consent as delineated in paragraphs (DC), (ED) and (FE) of this rule. This requirement does not apply to opt-out governmental aggregation and for the percentage of income payment program.
- (C) ~~The incumbent natural gas company shall provide a written notice to customers that allows customers to rescind their enrollment with a retail natural gas supplier or governmental aggregator within seven business days from the postmark date of the notice. A retail natural gas supplier or governmental aggregator is prohibited from enrolling a potential customer that has failed to discharge, or enter into a plan to discharge, all existing arrearages owed to or being billed by the incumbent natural gas company including those customers enrolled in the percentage of income payment plan plus program (PIPP Plus).~~
- (D) Mailings, facsimiles, and direct solicitation enrollment
 - (1) Where enrollment occurs by mail, facsimile, or direct solicitation, the customer's signature on a contract shall constitute consent.

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- (2) Consistent with rule 4901:1-29-05 of the Administrative Code, prior to entering into a contract for service, a retail natural gas suppliers-supplier or and governmental aggregators-aggregator shall provide each customer with enrollment documents that contain, at a minimum, clear and understandable pricing, terms and conditions of service, the dollar amount of all recurring and nonrecurring charges (including any fees for early termination of the contract), and the duration of the contract.
- (3) Before obtaining a signature from the applicant, a retail natural gas suppliers-supplier or and governmental aggregators-aggregator shall provide each customer a reasonable opportunity to read all enrollment documents and shall answer any and all questions posed by any applicant about information contained in the documents.
- (4) Immediately upon obtaining the customer's signature, a retail natural gas suppliers-supplier and governmental aggregators-aggregator shall provide the applicant a legible copy of the signed contract, unless the retail natural gas supplier or governmental aggregator has already provided the customer with a separate, complete copy of the terms and conditions for the customer's records and the retail natural gas supplier or governmental aggregator has complied with paragraph (C) of rule 4901:1-29-10 of the Administrative Code.
- (5) Where enrollment occurs by direct solicitation, customers shall be advised both verbally and in the contract that:
 - (a) The incumbent natural gas company will be sending a confirmation notice of the transfer of service.
 - (b) The customer is allowed a seven-business-day period from the confirmation notice postmark date to rescind the enrollment.
 - (c) The customer must contact the incumbent natural gas company to rescind the enrollment.
- (6) Direct enrollment of a residential or small commercial customer door-to-door by a ~~Where the retail natural gas supplier or governmental aggregator conducts direct solicitation through "door-to-door" sales of residential customers, the retail natural gas supplier or governmental aggregator must comply with the following minimum requirements:~~

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(a) Acknowledgment forms

~~A Retail-retail natural gas suppliers-supplier or governmental aggregators aggregator enrolling customers performing through~~ door-to-door solicitation shall have the customer execute an acknowledgment form as part of and at the time of the door-to-door enrollment process. The acknowledgment form shall include, at a minimum, the following statements or questions:

- (i) Did the representative state he/she was representing a [retail natural gas supplier or governmental aggregator] and was not from the natural gas company?
- (ii) Did the representative explain that by signing the enrollment form you were entering into an agreement/contract for [retail natural gas supplier or governmental aggregator] to supply your natural gas?
- (iii) Did the representative explain the price for natural gas under the contract you signed is \$_____ per [Ccf or Mcf, whichever is consistent with the incumbent natural gas company's billing format] plus sales tax?
- (iv) Did the representative explain that the contract term is ____ year(s)?
- (v) Did the representative orally explain your right to cancel?
- (vi) Did the representative leave two completed right to cancel notices with you?
- (vii) Did the representative disclose whether or not an early termination liability fee would apply if you cancel the contract before the expiration of the contract term? If such a fee does apply to your contract, did the representative disclose the amount of the fee?

(b) Third-party verification

~~An independent third-party verification shall be conducted to ensure the validity of enrollment. The third-party verifier must successfully contact and survey at least fifty per cent of all customers enrolled by door-to-door solicitation. The verification process should be performed prior to submitting the enrollment information to the incumbent natural gas company. The retail natural gas supplier or governmental aggregator must provide a copy of the survey to the incumbent natural gas company or the commission upon~~

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~~request within three business days of any such request. If the third party verification does not confirm that the residential customer enrolled with the retail natural gas supplier or governmental aggregator, then the retail natural gas supplier or governmental aggregator shall not submit the enrollment information of that residential customer to the incumbent natural gas company. A retail natural gas supplier or governmental aggregator enrolling customers through door-to-door solicitation shall provide for an independent third-party verification to ensure the validity of enrollment prior to submission to the incumbent natural gas company and shall not initiate enrollment with the incumbent natural gas company without a valid independent third-party verification. The independent third-party verification shall be conducted in accordance with paragraph (E)(1) of rule 4901:1-29-06 of the Administrative Code and the process shall include the following:~~

- ~~(i) The representative of the retail natural gas supplier or governmental aggregator shall contact the independent third-party verifier at the conclusion of customer enrollment to initiate the independent third-party verification process.~~
- ~~(ii) The independent third-party verifier must confirm with the customer that the representative of the retail natural gas supplier or governmental aggregator has left the property of the customer. The representative of the retail natural gas supplier or governmental aggregator is not to return before, during, or after the independent third-party verification process.~~
- ~~(iii) The independent third-party verifier shall structure the independent third-party verification interview to give the customer adequate time to respond to questions and shall not prompt answers from the customer in their response.~~
- ~~(iv) The retail natural gas supplier or governmental aggregator must retain the audio recording of the customer's enrollment for one year after the contract with the customer is terminated.~~
- ~~(v) The retail natural gas supplier or governmental aggregator must provide a copy of the independent third-party verification to the incumbent natural gas company or the staff within three business days of any such request.~~

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(c) Terms and conditions print specifications

The terms and conditions must be provided to the residential customer at the time of sale. Paper copies of the terms and conditions and must be printed in dark ink on white or pastel paper and be ten-point type or greater. Electronic copies of the signed contract may be provided in the following conditions:

- (i) The customer has agreed to receive an electronic copy of the contract and provides his/her electronic mail address.
- (ii) The third-party verification conducted in accordance with paragraph (D)(6)(b) of this rule shall include a verbal statement and the customer's acknowledgment that the customer consents to receive a copy of the terms and conditions via electronic mail.
- (iii) The customer is offered an unsigned paper copy which includes a version number that matches the signed electronic copy.
- (iv) The terms and conditions are electronically mailed to the customer at the time of sale.
- (v) The retail natural gas supplier shall provide a mechanism by which both the submission and receipt of the electronic terms and conditions are recorded by time and date.

~~(d) Uniform~~

~~Each door to door solicitor must display a valid photo identification of the approved retail natural gas supplier or governmental aggregator he/she represents. The format for this identification shall be pre-approved by the staff.~~

- (d) Retail natural gas suppliers or governmental aggregators shall remove a customer's name from the marketing/sales database upon the customer's request.

- (7) The retail natural gas supplier and governmental aggregator shall send an electronic enrollment request to the incumbent natural gas company within three business days following receipt of the contract executed by the customer, unless a later enrollment transmittal date is agreed to in the contract by the customer or if the customer rescinds the enrollment.

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(E) Telephonic enrollment

- (1) To enroll a customer telephonically, a retail natural gas supplier, or governmental aggregator, or an independent third-party verifier shall make a date- and time-stamped audio recording of the sales portion of the call, if the customer is enrolled, and before the completion of the enrollment process, a date- and time- stamped audio recording by an independent third-party verifier that verifies, at a minimum, the following:
 - (a) The retail natural gas supplier, governmental aggregator, or the independent third-party verifier identity and the exact purpose of the call.
 - (b) A verbal statement and the customer's acknowledgement that the call is being recorded.
 - (c) A verbal statement and customer's acknowledgement that the retail natural gas supplier or governmental aggregator is not the customer's natural gas company and that the customer may choose to remain with the natural gas company's applicable tariff or default service.
 - ~~(e)—(d)~~ A verbal question and the customer's acknowledgement that the customer ~~wishes~~ has given consent to enroll with the retail natural gas supplier or governmental aggregator.
 - ~~(d)—(e)~~ A verbal question and the customer's acknowledgement that the customer is the customer of record or is authorized to switch the retail natural gas supplier ~~and or~~ governmental aggregator by for the customer of record.
 - ~~(e)—(f)~~ In accordance with rule 4901:1-29-11 of the Administrative Code, a verbal statement and the customer's acceptance of each of the principal terms and conditions for the service that will be provided, including, but not limited to:
 - (i) The service(s) that will be provided.
 - (ii) The price per Ccf or Mcf, whichever is consistent with the incumbent natural gas company's billing format if the product is based on a per-unit price, or for flat-monthly rate offers, a specific listing of the rate to be charged per month for the duration of the contract.

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- (iii) The length of the contract term.
- (iv) An approximate service commencement date.
- (v) The contract termination date, and any fees for customer cancellation prior to such date.
- (vi) Any material limitations, conditions, or exclusions.
- (vii) Any fees or costs to the customer.
- (viii) If applicable, whether the retail natural gas supplier or governmental aggregator will perform a credit check and require a deposit, including the amount.
- (ix) Who will bill for the retail natural gas supplier's and governmental aggregator's service(s).
- (x) The enrollment confirmation number.
- ~~(f)~~—~~(g)~~ A verbal statement and the customer's acknowledgement that the retail natural gas supplier or governmental aggregator will, within one business day, send the customer a written contract that details the terms and conditions that were summarized in the telephone call.
- ~~(g)~~—~~(h)~~ Customers are advised both verbally and in the contract of all of the following:
 - (i) The incumbent natural gas company will be sending a confirmation notice of the transfer of service.
 - (ii) The customer is allowed a ~~seven-business-day~~seven-business-day period from the confirmation notice postmark date to rescind the enrollment.
 - (iii) The customer should contact the incumbent natural gas company to rescind the enrollment.
- ~~(h)~~—~~(i)~~ The incumbent natural gas company's toll-free or local telephone number that the customer can call to rescind the enrollment.
- ~~(i)~~—~~(j)~~ A verbal request for and the customer's provision of the customer's natural gas company's account number.

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- ~~(j)~~—(k) A verbal request for and the customer's provision of the customer's mailing address.
 - (2) Following telephonic enrollment, the retail natural gas supplier or governmental aggregator shall:
 - (a) Within one business day, send the customer a written contract that details the terms and conditions summarized in the telephone call pursuant to rule 4901:1-29-11 of the Administrative Code. Such contract shall in no way alter the terms and conditions to which the customer agreed in the telephone call.
 - (b) Retain the audio recording of the customer's enrollment for one year after the contract with the customer is terminated.
 - (c) Provide a copy of the audio recording to the commission or its staff within three business days of a request.
 - (3) The retail natural gas supplier or governmental aggregator shall not initiate enrollment with the incumbent natural gas company prior to the completion of the enrollment transaction with the customer.
 - (4) The retail natural gas supplier or governmental aggregator shall send an electronic enrollment request to the incumbent natural gas company within three business days after sending the customer the written contract, unless a later enrollment transmittal date is agreed to in the contract by the customer or if the customer rescinds the enrollment.
- (F) Internet enrollment
- (1) Where enrollment occurs by internet, prior consent shall be obtained by encrypted customer input on a retail natural gas supplier's or governmental aggregator's internet website.
 - (2) The internet enrollment website shall, at a minimum, include:
 - (a) A copy of the retail natural gas supplier's or governmental aggregator's customer contract with all terms and conditions as required by rule 4901:1-29-11 of the Administrative Code.
 - (b) A statement advising customers both at the website and in the contract that:
 - (i) The incumbent natural gas company will be sending a confirmation notice of the transfer of service.

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- (ii) The customer is allowed a ~~seven-business-day~~ seven-business-day period from the confirmation notice postmark date to rescind the enrollment.
 - (iii) The customer should contact the incumbent natural gas company to rescind the enrollment.
- (c) A prompt for the customer to print or save a copy of the contract.
- (3) The retail natural gas supplier or governmental aggregator shall not initiate enrollment with the incumbent natural gas company prior to the completion of the enrollment transaction with the customer.
- (4) The retail natural gas supplier or governmental aggregator shall send an electronic enrollment request to the incumbent natural gas company within three business days following the completion of the enrollment transaction with the customer, unless a later enrollment transmittal date is specified and agreed to in the contract by the customer or if the customer rescinds the enrollment.
- (5) Any electronic version of the contract shall be identified by version number, in order to ensure the ability to verify the particular contract to which the customer agrees.
- (6) Throughout the duration of the contract, the retail natural gas supplier or governmental aggregator shall retain and, within three business days of the customer's request, provide to the customer an ~~e-mail~~ electronic mail message, paper, or facsimile copy of the terms and conditions of the numbered contract version to which the customer contracted.
- (7) The retail natural gas supplier or governmental aggregator shall require the customer to complete an electronic customer consent form in a format retrievable by the retail natural gas supplier or governmental aggregator that includes:
 - (a) The customer's agreement to the terms and conditions.
 - (b) An electronic agreement version number.
 - (c) The name of the retail natural gas supplier or governmental aggregator.
 - (d) The date the customer electronically enrolled.
 - (e) The name of the account holder.

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- (f) The incumbent natural gas company account number.
- (g) The account holder's U.S. mailing address.
- (8) The retail natural gas supplier or governmental aggregator shall provide a mechanism by which both the submission and receipt of the electronic customer consent form are recorded by time and date.
- (9) After the customer completes the electronic customer consent form, the internet enrollment process shall disclose conspicuously that the customer has been enrolled and the retail natural gas supplier or governmental aggregator shall provide the customer an enrollment confirmation number.
- (G) In customer enrollment, if the incumbent natural gas company rejects a customer from enrollment, the retail natural gas supplier or governmental aggregator shall notify the customer within three business days from the incumbent natural gas company's notification of rejection that the customer will not be enrolled or enrollment will be delayed, along with the reason(s) ~~therefor~~.
- (H) The incumbent natural gas company shall, within two business days of confirming a retail natural gas supplier's or governmental aggregator's valid electronic enrollment request and prior to commencing ~~competitive retail natural gas service enrollment~~, mail the customer a competitively neutral confirmation notice stating:
 - (1) The incumbent natural gas company has received a request to enroll the customer for competitive retail natural gas service with the named retail natural gas supplier or governmental aggregator.
 - (2) The date such service is expected to begin.
 - (3) The customer has seven business days from the postmark date on the notice to contact the incumbent natural gas company to rescind the enrollment request or notify the incumbent natural gas company that the change of the retail natural gas supplier or governmental aggregator was not requested by the customer.
 - (4) The incumbent natural gas company's toll-free or local telephone number.
- (I) Within two business days after receiving a customer's request to rescind enrollment with the retail natural gas supplier or governmental aggregator, the incumbent natural gas company shall initiate such rescission and inform the retail natural gas supplier or governmental aggregator that such action has been taken.

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- (J) Customers may request an actual meter reading prior to the transfer of the service to the new retail natural gas supplier or governmental aggregator in accordance with paragraph (G)(5) of rule 4901:1-13-04 of the Administrative Code.
- (K) Customers returning to the incumbent natural gas company's commodity service-;
- (1) Any customer returning to the incumbent natural gas company's commodity service due to default, abandonment, slamming, or certification rescission of a retail natural gas supplier or governmental aggregator will not be liable for any costs associated with the switch.
 - (2) Any switching fee applicable to customers switching from one marketer to another marketer shall also apply to customers switching from a marketer to the incumbent natural gas company's commodity sales service.
 - (3) Customers participating in an opt-out governmental aggregation program will not be charged a switching fee upon returning to regulated sales service due to either termination of the aggregation or the aggregator switching suppliers.
 - (4) Any customer returned to the incumbent natural gas company's commodity service shall pay the applicable regulated sales service rate while taking such service.
 - (5) Within two business days after confirming the validated electronic data file for a retail natural gas supplier's or governmental aggregator's customer-drop request, the incumbent natural gas company shall mail the customer a notice stating:
 - (a) The incumbent natural gas company has received a request to drop the customer from competitive retail natural gas service with the named retail natural gas supplier or governmental aggregator.
 - (b) The retail natural gas supplier's or governmental aggregator's toll-free telephone number.
- (L) In an instance where the customer and retail natural gas supplier or governmental aggregator agree to a material change to an existing contract, the retail natural gas supplier or governmental aggregator shall obtain proof of the customer's consent to the material change as delineated in paragraphs (D), (E), and (F) of this rule and in accordance with the applicable enrollment process for that customer.

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“No Change”

4901:1-29-07 Credit and deposits.

Each retail natural gas supplier or governmental aggregator must establish reasonable and nondiscriminatory creditworthiness standards and may require a deposit or other reasonable demonstration of creditworthiness from a customer as a condition of providing service. In the application of such standards, deposits, or creditworthiness procedures, the retail natural gas supplier or governmental aggregator shall:

- (A) Disclose in service contracts with customers its nondiscriminatory policies regarding creditworthiness and deposits, including the amount of any deposit, the allocation of the deposit, and the return of any deposit balance.
- (B) Accept a reasonable and nondiscriminatory deposit as sufficient evidence of the customer's creditworthiness to initiate service.
- (C) Disclose whether interest will be paid on deposits and the applicable rate of interest.
- (D) Provide the customer a receipt for any deposit within ten business days of the date that the deposit is collected.
- (E) Return the deposit within seven business days if the customer cancels the contract during the rescission period.
- (F) Apply the deposit to the final bill and promptly refund any excess to the customer when service is terminated.
- (G) Not require an applicant to pay the balance due another retail natural gas supplier or governmental aggregator as a condition of establishing credit or providing competitive retail natural gas service.

4901:1-29-08 Customer access and complaint handling.

(A) Customer access

- (1) Each retail natural gas supplier or governmental aggregator shall ensure customers reasonable access to its service representatives to make inquiries and complaints, discuss charges on customer bills, terminate competitive service, and transact any other pertinent business.

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- (2) Telephone access shall be toll free or local and afford customers prompt answer times during normal business hours.
 - (3) Each retail natural gas supplier or governmental aggregator shall provide a twenty-four hour automated telephone message instructing callers to report any service interruptions or natural gas emergencies to the incumbent natural gas company.
- (B) Customer complaints
- (1) Each retail natural gas supplier or governmental aggregator (and/or its agent) shall investigate customer complaints (including customer complaints referred by the natural gas company) and provide a status report within three business days following receipt of the complaint to:
 - (a) The customer, when the complaint is made directly to the retail natural gas supplier or governmental aggregator.
 - (b) ~~The customer and staff~~, when a complaint is referred to the retail natural gas supplier or governmental aggregator by the staff.
 - (2) If an investigation is not completed within ten business days, the retail natural gas supplier or governmental aggregator (and/or its agent) shall provide status reports to the customer, or if applicable, to the ~~customer and staff~~. Such status reports shall be provided at three business day intervals until the investigation is complete, unless the action that must be taken will require more than three business days and the customer has been so notified.
 - (3) The retail natural gas supplier or governmental aggregator (and/or its agent) shall inform the customer, or the ~~customer and staff~~, of the results of the investigation, orally or in writing, no later than three business days after completion of the investigation. The customer or staff may request the report in writing.
 - (4) If a customer disputes the retail natural gas supplier's or governmental aggregator's (and/or its agent's) report, the retail natural gas supplier or governmental aggregator shall inform the customer that the staff is available to mediate complaints. The retail natural gas supplier or governmental aggregator (and/or its agent) shall provide the customer with the address, local/toll-free telephone numbers, and ~~TDD/TTY~~ Ohio relay service telephone number of the commission's call center.

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- (5) Each retail natural gas supplier or governmental aggregator shall retain records of customer complaints, investigations, and complaint resolutions for two years after the occurrence of such complaints and shall provide such records to the staff within three business days of request.
- (6) Each retail natural gas supplier or governmental aggregator shall make good faith efforts to resolve disputes and cooperate with the resolution of any joint issues with the incumbent natural gas company.
- (C) If ~~a customers~~ customer ~~contact~~ contacts the incumbent natural gas company concerning competitive retail natural gas service issues, the incumbent natural gas company shall:
 - (1) Review the issue with the customer to determine whether it also involves the incumbent natural gas company.
 - (2) Cooperate with the resolution of any joint issues with the retail natural gas supplier or governmental aggregator.
 - (3) Refer the customer to the appropriate retail natural gas supplier or governmental aggregator in those instances where the issue lacks incumbent natural gas company involvement.
- (D) Slamming complaints
 - (1) A slamming complaint is a customer's allegation that the customer's retail natural gas supplier or governmental aggregator has been switched without the customer's authorization.
 - (2) If a customer contacts a natural gas company, retail natural gas supplier, or governmental aggregator alleging that the customer's supplier has been switched without the customer's authorization, the natural gas company, retail natural gas supplier, or governmental aggregator shall:
 - (a) Provide the customer any evidence relating to the customer's enrollment.
 - (b) Refer the customer to the commission's call center.
 - (c) Provide the customer with the local/toll-free telephone numbers of the commission's call center.

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- (d) Cooperate with the staff in any subsequent investigations of the slamming complaint.
- (3) If a customer initiates a slamming complaint with staff within thirty calendar days after being issued a bill from the alleged slammer, the customer shall not be required to pay the current charges assessed by the alleged slammer until the staff determines that the change in the customer's natural gas supplier was authorized. This rule does not apply to governmental aggregation customers whose remedies are found in paragraph (E) of rule 4901:1-28-04 of the Administrative Code.
- ~~(3)~~—(4) Except as otherwise provided in Chapter 4901:1-28 of the Administrative Code or a commission-approved exemption pursuant to division (A) of section 4929.04 of the Revised Code, if the retail natural gas supplier or governmental aggregator cannot produce valid documentation confirming that the customer authorized the switch, there shall be a rebuttable presumption that the customer was switched without authorization. Such documentation includes one of the following, in conformance with the requirements of rule 4901:1-29-06 of the Administrative Code:
- (a) A signed contract, in the case of direct enrollment.
 - (b) An audio recording, in the case of telephonic enrollment.
 - (c) Electronic consent, in the case of internet enrollment.
- ~~(4)~~(5) In the event that the customer was switched from one retail natural gas supplier or governmental aggregator to a different retail natural gas supplier or governmental aggregator without authorization, the customer's previous retail natural gas supplier or governmental aggregator shall re-enroll the customer without penalty under such customer's original contract price for the duration of the original term and send the incumbent natural gas company an electronic enrollment request. If the original retail natural gas supplier or governmental aggregator is unable to return the customer to the original contract price, the original retail natural gas supplier or governmental aggregator may enroll the customer in a new contract pursuant to the provisions of rule 4901:1-29-06 of the Administrative Code, or the customer may select a new retail natural gas supplier or return to the incumbent natural gas company's regulated sales service.

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- (5)(6) In the event that a customer was switched from a natural gas company regulated sales service commodity service to a retail natural gas supplier or governmental aggregator without authorization, the natural gas company shall switch the customer back to the natural gas company's regulated sales service without penalty.

4901:1-29-09 Customer information.

(A) A retail natural gas supplier or governmental aggregator (and/or its agent) shall:

- (1) Not disclose or use a customer's account number or any customer information for any purpose other than for operation, maintenance, assignment, and transfer of a customer's account, or for performing collection and credit reporting activities, and not disclose or use a customer's social security number for any purpose other than a to perform a credit check, without the customer's express written or electronic authorization on a release form or pursuant to a court or commission order. Forms requiring a customer to circle or to check off preprinted types of information to be released may not be used. The release form shall:

- (a) Be on a separate piece of paper.
- (b) Be clearly identified on its face as a release of personal information and all text shall be in at least sixteen-point type.
- (c) Contain the following statements prominently, just prior to the signature, in type larger and darker than the type in surrounding sentences: "I realize that, under the rules and regulations of the public utilities commission of Ohio, I may refuse to allow (name of the retail natural gas supplier or governmental aggregator) to release the information set forth above. By my signature, I freely give (name of the retail natural gas supplier or governmental aggregator) permission to release the information designated above."
- (d) Specify the information to be released.

- (2) Timely provide the customer's payment history for services rendered by the retail natural gas supplier or governmental aggregator (up to twenty-four months) to the customer without charge.

- (B) Customer account numbers obtained from participation in a natural gas company's standard choice offer program shall not be used by retail natural gas suppliers in the marketing materials of competitive retail natural gas service. Account numbers must

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be provided by the customer prior to enrollment in any alternative offer to the standard choice offer.

(C) A natural gas company shall:

- (1) Except as provided for in rule 4901:1-13-12 of the Administrative Code, not disclose or use a customer's social security number, account number, or any customer information, without the customer's express written or electronic authorization on a release form or pursuant to a court or commission order.
- (2) Upon request, timely provide a customer's usage history (twelve months) and payment history (twenty-four months) to the customer without charge.
- (3) Provide generic customer and usage information, in a universal file format, to other retail natural gas suppliers on a comparable and nondiscriminatory basis.
- (4) Provide customer-specific information to retail natural gas suppliers and governmental aggregators on a comparable and nondiscriminatory basis as prescribed in paragraph (C) of rule 4901:1-29-13 of the Administrative Code, unless the customer objects to the disclosure of such information.
- (5) Prior to issuing any eligible-customer lists and at least four times per calendar year, provide all customers clear written notice, in billing statements or other communications, of their right to object to being included on such lists. Such notice shall include instructions for reporting such objection. This notice shall read as follows: "We are required to include your name, address, and usage information on a list of eligible customers that is made available to other retail natural gas suppliers or governmental aggregators. If you do not wish to be included on this list, please call _____ or write _____, or complete the appropriate form on _____ website".
- (6) Not release such information unless and until the customer affirmatively indicates that the information may be released, if a customer reports such objection as provided in paragraphs (C)(4) and (C)(5) of this rule.

4901:1-29-10 Contract administration and renewals.

- (A) A retail natural gas supplier or opt-in governmental aggregator shall arrange for the provision of competitive retail natural gas service by contracting with its customers. In its administration of such contracts, a retail natural gas supplier or opt-in

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governmental aggregator is prohibited from engaging in unfair, deceptive, misleading, and unconscionable acts and practices.

- (B) A retail natural gas supplier or opt-in governmental aggregator shall maintain copies of individual customer contracts for no less than two years after such contracts terminate. Copies may be saved in electronic formats if such preserves the image of the original signatures on signed documents.
- (C) For any contract where the customer's signature is not physically on the same document as the complete terms and conditions of such contract, the retail natural gas supplier or opt-in governmental aggregator must assign a unique version number to each version of the contract. Such version number must appear on the document containing the customer's actual signature, on the copy of the terms and conditions left with the customer, and on a master copy of the complete terms and conditions of the contract. Both the document containing the customer's physical signature and the master copy of the complete terms and conditions must be retained in accordance with this rule. This provision shall not apply where the retail natural gas supplier or opt-in governmental aggregator has obtained the customer's consent by telephone or internet enrollment.
- (D) In its administration of customer contracts, a retail natural gas supplier or opt-in governmental aggregator shall:

 - (1) Not assign a customer contract to another retail natural gas supplier or opt-in governmental aggregator without:

 - (a) Providing a minimum of fourteen days written notice to the commission's staff and any affected natural gas company before the contract assignment. Such notice shall include:

 - (i) The name of the retail natural gas supplier or opt-in governmental aggregator to whom the contract(s) will be assigned.
 - (ii) The type of contract(s) to be assigned (e.g., residential, small commercial).
 - (iii) The number of contracts to be assigned.
 - (iv) The incumbent natural gas company involved.
 - (v) The date of the assignment.
 - (vi) A copy of the customer notification.

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- (b) Providing prior written notice to the customer.
- (2) When assigned a contract previously administered by another retail natural gas supplier or opt-in governmental aggregator, comply with all terms and conditions in effect for the contract before the assignment occurred.
- (3) Comply in a timely manner with all valid notices from customers to cancel or terminate the contract as provided for by the contract and by this chapter.
- (4) Assign a number to each version of its standard contract form (including changes in contract price), retain such forms for no less than two years, and provide copies to staff within three business days of request.
- (E) A customer shall have the right to rescind his/her contracts, within seven business days following the postmark date on the natural gas company's confirmation notice:
- (1) By calling the incumbent natural gas company at the designated toll-free or local telephone number.
- (2) By written notice to the incumbent natural gas company which is effective as of the date of the postmark.
- (F) The retail natural gas supplier or opt-in government aggregator shall furnish written notice to residential and small commercial customers of pending contract expiration between forty-five and ninety calendar days before the contract expires. Such notice shall be made by separate mailing (envelope or postcard), or by conspicuously placed bill message or bill insert. The front cover of such mailing shall contain the following statement: "Important notice regarding your natural gas service contract's expiration." This notice may be combined with a renewal notice. This paragraph does not apply to the expiration of contract periods of one month or less.
- If the contract does not contain an automatic renewal clause, the notice shall include a statement explaining the service to which the customer will default.
- (G) Contract renewals.
- (1) The provisions of this paragraph apply to all residential and small commercial contracts that contain automatic renewal clauses, except those which renew on a month-to-month basis.
- (2) For contracts that contain an early termination or cancellation option with no fee for early termination or cancellation, upon renewal, the retail natural gas supplier or opt-in governmental aggregator shall, in a separate notice, notify

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customers of such expiration at least forty-five calendar days, but not more than ninety calendar days, in advance of the contract expiration date. Such notice shall accurately describe or highlight any changes and state that the customer contract will renew at the specified rate unless the customer affirmatively cancels the contract. Such notices must clearly and accurately describe the manner in which the customer may cancel the contract and the time during which the customer must act to cancel the contract.

- (a) The notice shall be made by separate mailing (envelope or postcard), the front cover of which shall state: "Important notice regarding your electric service contract."
 - (b) The notice shall, at a minimum, state any renewal period and how the customer may terminate, renew, and/or extend the contract.
 - (c) The renewal period for contracts with renewal provisions shall not exceed the initial contract period.
- (3) For contract renewals that contain an early termination or cancellation option with a fee of twenty-five dollars or less for early termination or cancellation, upon renewal, the retail natural gas supplier or opt-in governmental aggregator shall provide the customer with two separate notices that accurately describe or highlight any changes and state that the customer contract will renew at the specified rate unless the customer affirmatively cancels the contract. Such notices must clearly and accurately describe in understandable language the manner in which the customer may cancel the contract and the time during which the customer must act to cancel the contract. The first notice shall be in writing in accordance with the requirements of this rule and shall be provided at least forty-five calendar days, but no more than ninety calendar days in advance of the contract expiration date. The second notice may be in writing in accordance with paragraphs (G)(2)(a) to (G)(2)(c) of this rule, by telephone, by a notice on the customer's monthly bill, or by electronic mail. The second notice shall be provided at least thirty-five calendar days in advance of the contract expiration and must contain the rate at which the customer contract will renew, or in the case of a variable rate, the applicable formula.
- (a) In the event that the competitive retail natural gas supplier or opt-in governmental aggregator provides the second notice by telephone, the retail natural gas supplier or opt-in governmental aggregator must confirm that the customer of record is on the line, clearly explain both the new contract price and the manner in which the customer may cancel the

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- contract, record the entire conversation, and retain such recording in a manner consistent with rule 4901:1-29-06 of the Administrative Code.
- (b) In the event that the retail natural gas supplier or opt-in governmental aggregator provides the second notice on the customer's monthly bill, such notice must be in a different color, highlighted, or otherwise differentiated from the remainder of the bill.
- (c) In the event that the retail natural gas supplier or opt-in governmental aggregator provides the second notice by electronic mail, the notice must:
- (i) State "Important notice regarding your electric service contract" in the subject area of the message.
- (ii) Be from an electronic mail address that is readily identifiable as the retail natural gas supplier or opt-in governmental aggregator.
- (iii) Include a receipt returned to the sender which confirms that the addressee has opened the document.
- (d) This paragraph shall not apply to contract renewals which renew on a month-to-month basis.
- (4) For contract renewals that contain an early termination or cancellation option with a fee greater than twenty-five dollars for early termination or cancellation or which contain no option for early termination or cancellation, upon renewal, the retail natural gas supplier or opt-in governmental aggregator shall notify the customer of any changes, describe or highlight each change, and also obtain the customer's affirmative consent to such changes pursuant to any of the enrollment procedures established in rule 4901:1-29-06 of the Administrative Code. In addition, the retail natural gas supplier or opt-in governmental aggregator shall notify the customer that no response will result in the customer automatically reverting to the natural gas company unless the customer chooses another retail natural gas supplier or opt-in governmental aggregator. The notice shall be provided at least forty-five calendar days, but not more than ninety calendar days, in advance of the contract expiration date, and comply with paragraphs (G)(2)(a) to (G)(2)(c) of this rule. This paragraph shall not apply to contract renewals which renew on a month-to-month basis.
- (H) Each customer shall have the right to terminate the contract with a retail natural gas supplier or opt-in governmental aggregator, without penalty, in either of the following two circumstances:

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- (1) The customer relocates outside the territory of the incumbent natural gas company or within the territory of an incumbent natural gas company that does not permit portability of the contract.
- (2) The contract allows the retail natural gas supplier or opt-in governmental aggregator to terminate the contract for any reason other than customer nonpayment or the occurrence of a force majeure event, including, but not limited to a change in any governing law or regulation that physically prevents or legally prohibits the retail natural gas supplier or opt-in governmental aggregator from performing under the terms of the contract.
- (I) No retail natural gas supplier or opt-in governmental aggregator contract shall limit or preclude a customer's right to make formal or informal complaints to the commission. A retail natural gas supplier or opt-in governmental aggregator shall not require a customer, as part of the terms of service, to engage in alternative dispute resolution.

4901:1-29-11 Contract disclosure.

All retail natural gas supplier and opt-in governmental aggregator customer contracts shall include, but not be limited to, the following information, which shall be stated in clear and understandable language:

- ~~(A) All retail natural gas supplier and opt-in governmental aggregator customer contracts shall include, but not be limited to, the following information:~~
 - ~~(1) (A) A notification that switching fees may apply to a customer under the incumbent natural gas company's tariff.~~
 - ~~(2) (B) A notification that the customer has the right to request from the retail natural gas supplier and or opt-in governmental aggregator up to twenty-four months of the customer's payment history for services rendered by the retail natural gas supplier or governmental aggregator without charge.~~
- ~~(B) (B) In addition, all retail natural gas supplier and opt-in governmental aggregator contracts with customers shall include, but not be limited to, the following information (to be stated in clear and understandable language):~~
 - ~~(1) (C) The retail natural gas supplier's and or opt-in governmental aggregator's name, mailing address, internet address (if applicable), and a toll-free telephone number (with hours of operation and time zone reference) for customer contacts.~~

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- (2)—(D) The services to be provided by the retail natural gas supplier or opt-in governmental aggregator and those to be provided by the incumbent natural gas company, including which entity will bill for those services.
- (3)—(E) The seven-business-day period during which a customer has to rescind such contract without penalty and the methods for customers to make such rescission by contacting the incumbent natural gas company (orally or in writing).
- (4)—(F) The respective policies, procedures, and any penalties for contract termination by the retail natural gas supplier ~~and~~or opt-in governmental aggregator and by the customer after the rescission period, including any change in such policies, procedures, and penalties that will become effective upon renewal of the contract.
- (5)(G) A notification as to the consequences of nonpayment:
- (a)—(1) In the case where a retail natural gas supplier ~~and~~/or opt-in governmental aggregator bills for its own services, a notification that, should the customer fail to pay the bill or fail to meet any agreed-upon payment arrangement, the customer's contract may be terminated by the retail natural gas supplier ~~and~~/or opt-in governmental aggregator on fourteen days' notice and that early termination penalties may apply.
 - (b)—(2) In the case where the natural gas company bills for the commodity service of a retail natural gas supplier and/or opt-in governmental aggregator, a notification that, should the customer fail to pay the bill or fail to meet any agreed-upon payment arrangement, the customer's service may be terminated in accordance with the incumbent natural gas company's tariffs and the customer's contract with its retail natural gas supplier and/or opt-in governmental aggregator may be automatically terminated, leading to early termination penalties.
- (6)—(H) A statement that the contract automatically terminates if any of the following occurs:
- (a)(1) The requested service location is not served by the incumbent natural gas company.
 - (b)(2) The customer moves outside the incumbent natural gas company service area or to an area not served by the retail natural gas supplier or opt-in governmental aggregator.

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- ~~(e)~~(3) The retail natural gas supplier or opt-in governmental aggregator returns the customer to the customer's incumbent natural gas company's sales-applicable tariff service, provided that the retail natural gas supplier or opt-in governmental aggregator is permitted to terminate the contract under the terms and conditions of the contract.
- ~~(7)~~(I) Notification regarding contract termination by the customer:
- ~~(a)~~(1) A statement that the customer has a right to terminate the contract without penalty in the event the customer relocates outside the service territory of the incumbent natural gas company or within the service territory of an incumbent natural gas company that does not permit portability of the contract.
- ~~(b)~~(2) If the contract allows the retail natural gas supplier or opt-in governmental aggregator the right to terminate the contract for any reason other than those reasons set forth in paragraph ~~(F)~~(H)(2) of rule 4901:1-29-10 of the Administrative Code, then a statement that the customer has a right to terminate the contract without penalty at any time.
- ~~(8)~~(I) An itemized list and explanation of all prices in clear and understandable language and all fees associated with the service such that:
- ~~(a)~~(1) For fixed-rate offers, such information shall, at minimum, include: the cost per Ccf or Mcf, whichever is consistent with the incumbent natural gas company's billing format, for competitive retail natural gas service, if the product is based on a per-unit price, or for flat-monthly rate offers, a specific listing of the rate to be charged per month for the duration of the contract; the amount of any other recurring or nonrecurring retail natural gas supplier or opt-in governmental aggregator charges; and a statement that the customer will incur additional charges for the incumbent natural gas company's services.
- ~~(b)~~(2) For variable-rate offers, such information shall, at minimum, include the amount of any other recurring or nonrecurring retail natural gas supplier or opt-in governmental aggregator charges; a statement that the customer will incur additional charges for the incumbent natural gas company's services; and either of the following options:
- ~~(i)~~(a) A clear and understandable formula, based on publicly available indices or data, that the retail natural gas supplier or opt-in governmental aggregator will use to determine the rate that will be charged.

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- (ii)(b) A clear and understandable explanation of the factors that will cause the price per Ccf or Mcf, whichever is consistent with the incumbent natural gas company's billing format, to vary (including any related indices) and how often the price can change. In the event that the retail natural gas supplier or opt-in governmental aggregator chooses to follow this option, then no early termination fee may be charged.
- (9)(K) The terms and conditions of service, including any restrictions and limitations associated with the service or product offered.
- (10)(L) Procedures for handling complaints and disputes, including the following:
- "If your complaint is not resolved after you have called (name of retail natural gas supplier or opt-in governmental aggregator), or for general utility information, residential and business customers may contact the Public Utilities Commission public utilities commission of Ohio (PUCO) for assistance at 1-800-686-7826 (toll free) or for TTY at 1-800-686-1570 (toll free) from 8:00 eight a.m. to 5:00 five p.m. weekdays, or at www.puco.ohio.gov<http://www.puco.ohio.gov>. Hearing or speech impaired customers may contact the PUCO via 7-1-1 (Ohio relay service)."
- (11)(M) A statement that:
- "Residential customers may also contact the Ohio The Ohio Consumers' Counsel consumers' counsel (OCC) represents residential utility customers in matters before the PUCO. The OCC can be contacted for assistance with complaints and utility issues at 1-877-742-5622 (toll free) from 8:00 a.m. eight a.m. to 5:00 five p.m. weekdays, or at www.pickocc.org<http://www.pickocc.org>."
- (12)(N) Billing intervals and any late payment fees.
- (13)(O) Contract duration, including the estimated starting and expiration month and year.
- (14)(P) Whether the contract contains an automatic renewal provision and the terms of such provision.
- (15)(Q) Any credit, deposit, and collection procedures, including terms and conditions associated with the return of any deposit at the time of contract termination.
- (16)(R) Who will bill for the retail natural gas supplier's and/or opt-in governmental aggregator's service(s).

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- (17)(S) A notification that the customer's social security number, ~~and/or account number(s), or any customer information~~ will not be released without the customer's affirmative express written consent except in accordance with rules 4901:1-28-04 and 4901:1-29-09 of the Administrative Code. ~~where such release is required by court order or by commission order or rule.~~
- (18)(T) If applicable, a notification that, if the customer voluntarily returns to the incumbent natural gas company after choosing a retail natural gas supplier or opt-in governmental aggregator, the customer may be charged a price other than the incumbent natural gas company's regulated sales service applicable tariff rate.
- (U) If, due to a change in market conditions, the retail natural gas supplier wishes to lower the price per Ccf or Mcf charged to the customer under an existing contract, it may do so without consent provided there are no other changes to the terms and conditions to the contract.

4901:1-29-12 Customer billing and payments.

- (A) A retail natural gas supplier or, governmental aggregator (and/or its, or an agent) may bill customers directly for competitive retail natural gas services pursuant to this rule. A retail natural gas supplier or governmental aggregator may bill for consolidated services if it can demonstrate, pursuant to the standards contained in the incumbent natural gas company tariffs, to the incumbent natural gas company and the commission it has the capability to bill customers for such services.
- (B) Customer bills issued by or for retail natural gas suppliers and governmental aggregators shall be accurate and understandable, be rendered at intervals consistent with those of the customer's natural gas company, and contain sufficient information for customers to compute and compare the total cost of competitive retail natural gas service(s). Such bills shall also include:
- (1) The customer's name, billing address, service address, the customer's natural gas company account number, and, if applicable, the retail natural gas supplier or governmental aggregator account number.
 - (2) The dates of service covered by the bill, an itemization of each type of competitive retail natural gas service covered by the bill, any related billing components, the charge for each type of natural gas service, and an itemization of all other fees and charges.

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- (3) The customer's historical consumption during each of the preceding twelve months or each of the preceding months that the customer has been a customer of the retail natural gas supplier or governmental aggregator, whichever is less; with a total consumption and an overall average monthly consumption for such period.
- (4) The applicable billing determinants, including beginning meter reading(s), ending meter reading(s), multiplier(s), and any other consumption(s) adjustments.
- (5) The unit price charged per Ccf or Mcf, whichever is consistent with the incumbent natural gas company's billing format, if the product is based on a per-unit price for competitive retail natural gas service, as calculated by dividing current-period competitive retail natural gas service charges by the current-period consumption. For monthly-rate offers, a specific listing of the rate being charged per month for the duration of the contract.
- (6) An identification of the retail natural gas supplier or governmental aggregator of each retail natural gas service appearing on the bill.
- (7) The amount billed for the current period, any unpaid amounts due from previous periods, any payments or credits applied to the customer's account during the current period, any late payment charges or gross and net charges, if applicable, and the total amount due and payable.
- (8) The due date for payment to keep the account current. Such due date shall be consistent with that provided by the incumbent natural gas company for its charges.
- (9) Current balance of the account, if a residential customer is billed according to a budget plan.
- (10) Options and instructions on how customers may make their payments.
- (11) A toll-free or local telephone number and address for customer billing questions or complaints must appear for any retail natural gas supplier or governmental aggregator whose charges appear on the bill.
- (12) The following statement: "If your complaint is not resolved after you have called (name the retail natural gas company or governmental aggregator), or for general utility information, residential and business customers may contact the public utilities commission of Ohio (PUCO) for assistance at 1-800-686-7826 (toll

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free) from eight a.m. to five p.m. weekdays, or at <http://www.puco.ohio.gov>. Hearing or speech impaired customers may contact the PUCO via 7-1-1 (Ohio relay service).

The Ohio consumers' counsel (OCC) represents residential utility customers in matters before the PUCO. The OCC can be contacted at 1-877-742-5622 (toll free) from eight a.m. to five p.m. weekdays, or at <http://www.pickocc.org>."

- (13) The incumbent natural gas company's twenty-four hour local/toll-free telephone number for reporting service emergencies.
- (14) Identification of estimated bills or bills not based upon actual end-of-period meter readings for the period.
- (15) An explanation of any codes and abbreviations used.
- (C) If applicable, each retail natural gas supplier and governmental aggregator shall, upon request, provide customers with the name and street address/location of the nearest payment center and/or authorized payment agent and disclose any fee associated with using such payment center and/or agent.
- (D) When a customer pays the bill at a payment center or to an authorized payment agent, such payment shall be credited to the customer's account as of the day it is received by such payment center or agent.
- (E) Each retail natural gas supplier and governmental aggregator shall establish policies and procedures for handling billing disputes and requests for payment arrangements.
- (F) Partial payments applied towards any past due amount on a bill or the balance due on a disconnection notice must be apportioned to past due natural gas company service and delivery charges, then to any current natural gas company service and delivery charges before being applied to any retail natural gas supplier or governmental aggregator charges, unless the customer pays the entire amount past due or more. In that case, any amount paid over the amount past due shall be applied first to natural gas company service and delivery charges.
- (G) Natural gas companies shall make dual billing and consolidated billing available to retail natural gas suppliers and governmental aggregators.

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- (1) If the retail natural gas supplier or governmental aggregator elects for its charges to be included on the incumbent natural gas company's consolidated bill:
 - (a) The retail natural gas supplier or governmental aggregator shall furnish the incumbent natural gas company sufficient bill contents as required by paragraph (B) of this rule.
 - (b) The incumbent natural gas company shall produce a consolidated bill including all such required contents provided by the retail natural gas supplier or governmental aggregator if it is not already on the customer's bill from the incumbent natural gas company. However, the consolidated bill may provide the following amounts on a consolidated basis only: budget amounts, past due balances, and payments applied.
 - (c) The consolidated bill shall state the name of the applicable retail natural gas supplier or governmental aggregator in close proximity to the retail natural gas supplier or governmental aggregator commodity charges.
 - (d) The incumbent natural gas company shall offer budget billing of retail natural gas supplier and governmental aggregator charges as a customer-elected option.
- (2) If the retail natural gas supplier or governmental aggregator elects a dual billing arrangement, the incumbent natural gas company's bill shall include the name of the applicable retail natural gas supplier or governmental aggregator and a statement that such retail natural gas supplier or governmental aggregator is responsible for billing the retail natural gas supplier or governmental aggregator charges.
- (H) Customer bills issued by or for a natural gas company shall state the customer's historical consumption during each of the preceding twelve months, with a total and average consumption for such twelve-month period.
- (I) Natural gas companies shall prominently display the "apples to apples" notice on customer bills for customers in accordance with rule 4901:1-13-11 of the Administrative Code. ~~The staff shall review such notice.~~
- (J) Natural gas companies shall comply with chapter 4901:1-18 of the Administrative Code regarding disconnection of ~~not disconnect~~ a customer's natural gas service ~~in the event the customer has registered a complaint with the commission's call-center or filed a formal complaint with the commission which reasonably asserts a bona~~

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~~file dispute. In that case, the company shall not disconnect service if the customer pays either the undisputed portion of the bill, if known or can reasonably be determined, or the amount billed for the same billing period in the previous year.~~

- (K) For the purposes of this rule, full payment of a budget amount due shall not be construed as a partial payment.
- (L) In the event the retail natural gas supplier and/or opt-in governmental aggregator bills for its own services, the retail natural gas supplier and/or governmental aggregator may terminate the contract for customer nonpayment only upon fourteen days' notice.
- (M) Any competitive retail natural gas service supplier that bills for both regulated and unregulated service shall comply with paragraphs (E) and (F) of rule 4901:1-13-11 of the Administrative Code.

4901:1-29-13 Coordination between natural gas companies and retail natural gas suppliers and governmental aggregators.

- (A) At a minimum, the incumbent natural gas company tariff shall include provisions governing the relationship between the retail natural gas supplier and the governmental aggregator for competitive retail natural gas service. Such provisions shall address:
 - (1) Nomination and deliveries.
 - (2) Billing (between the incumbent natural gas company and the retail natural gas supplier or governmental aggregator).
 - (3) Customer billing (options, collection, application of customer payments).
 - (4) Measurement of delivered volume.
 - (5) Shrinkage and retainable factors.
 - (6) Customer enrollment process information exchange.
 - (7) Dispute resolution process (between the incumbent natural gas company and the retail natural gas supplier or governmental aggregator).
 - (8) Standard operating rules.

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- (9) Performance standards of the retail natural gas supplier or governmental aggregator.
- (10) Creditworthiness and default security.
- (11) Supplier agreement.
- (12) A listing and description of all fees and charges assessed to retail natural gas suppliers or governmental aggregators.
- (13) Service termination and disconnection (of end-user customer).
- (14) *Conditions and processes for returning customers to the incumbent natural gas company's commodity service.*
- (15) Customer enrollment and switching.
- (16) Supplier proof of certification.
- (B) A natural gas company shall execute a supplier agreement with each retail natural gas supplier and governmental aggregator to operate under the terms of the natural gas company's tariff. At a minimum, the supplier agreement shall include representations and warranties, indemnification, limitations on liability, default (breach), remedies, force majeure, commencement, and term.
- (C) Natural gas companies shall make eligible-customer lists available to certified retail natural gas suppliers and governmental aggregators via electronic media. Such lists shall be updated quarterly and shall, at a minimum, contain customer name, service and mailing addresses, load profile reference category, meter read date or schedule, and historical consumption data for each of the most recent twelve months.
- (D) Customers returning to the incumbent natural gas company.
 - (1) Any customer returning to the incumbent natural gas company's commodity service due to default, abandonment, slamming, or certification rescission of a retail natural gas supplier or governmental aggregator will not be liable for any costs associated with the switch.
 - (2) Any switching fee applicable to customers switching from one marketer to another marketer shall also apply to customers switching from a marketer to a natural gas company's applicable tariff ~~regulated sales service~~.

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- (3) Customers participating in an opt-out government aggregation program will not be charged a switching fee upon returning to ~~regulated sales~~ a natural gas company's applicable tariff service due to either termination of the aggregation or the aggregator switching suppliers.
- (4) Any customer returned to the incumbent natural gas company's ~~regulated sales~~ applicable tariff service shall pay the applicable ~~regulated sales~~ service rate while taking such service.
- (5) Within two business days after confirming the validated electronic data file for a retail natural gas supplier's or governmental aggregator's customer drop request, the incumbent natural gas company shall mail the customer a notice stating both of the following:
 - (a) The incumbent natural gas company has received a request to drop the customer from competitive retail natural gas service or governmental aggregation with the named retail natural gas supplier or governmental aggregator.
 - (b) The retail natural gas supplier's or governmental aggregator's toll-free telephone number.
- (E) Within three business days of notifying a retail natural gas supplier of a customer cancellation the incumbent natural gas company shall provide to the customer by mail a notice stating all of the following:
 - (1) The incumbent natural gas company has received the cancellation request from the customer and has notified the customer's retail natural gas supplier of the cancellation.
 - (2) The date the incumbent natural gas company received the cancellation.
 - (3) The incumbent natural gas company's toll-free telephone number.