

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

**In the Matter of the Commission's
Review of Chapter 4901:1-25 of the Ohio
Administrative Code Regarding Market
Monitoring.**

Case No. 12-2053-EL-ORD

**REPLY COMMENTS OF OHIO EDISON COMPANY,
THE CLEVELAND ELECTRIC ILLUMINATING COMPANY, AND
THE TOLEDO EDISON COMPANY**

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I. INTRODUCTION

Pursuant to the Commission's Entry of January 29, 2014, Ohio Edison Company ("Ohio Edison"), The Cleveland Electric Illuminating Company ("CEI"), and The Toledo Edison Company ("Toledo Edison") (collectively, the "Companies"), respectfully submit their reply comments to address initial comments filed regarding the review of the rules contained in Chapter 4901:1-25 of the Ohio Administrative Code ("O.A.C."). The Companies respectfully request the Commission consider their reply comments and appropriately modify and/or add the proposed rules.¹

II. COMMENTS

In their initial comments, the Office of the Ohio Consumers' Counsel ("OCC") recommends that information submitted by Competitive Retail Electric Services providers ("CRES") pursuant to 4901:1-25-02(A)(3) Ohio Administrative Code ("O.A.C.") be deemed public information. (OCC Comments p. 3, 4). The Companies oppose this recommendation.

The OCC notes that in Case No. 12-3151-EL-COI ("RMI proceeding"), Staff proposed that the Commission make public certain information required by O.A.C. 4901:1-25-02(A)(3)(b), including a CRES provider and governmental aggregator's number of customers served and amount of sales in megawatt hours. The current rule requires that this information remain confidential. And, as Staff indicates, so does Ohio law. Section 4928.06(F), Ohio Revised Code ("O.R.C.") provides:

An electric utility, electric services company, electric cooperative, or governmental aggregator subject to certification under section 4928.08 of the

¹ The Companies' decision not to include a reply comment on positions taken by other parties in their initial comments may not be interpreted as the Companies' agreement with those positions or their acquiescence thereto.

Revised Code shall provide the commission with such information, regarding a competitive retail electric service for which it is subject to certification, as the commission considers necessary to carry out this chapter. An electric utility shall provide the commission with such information as the commission considers necessary to carry out divisions (B) to (E) of this section. **The commission shall take such measures as it considers necessary to protect the confidentiality of any such information.** The commission shall require each electric utility to file with the commission on and after the starting date of competitive retail electric service an annual report of its intrastate gross receipts and sales of kilowatt hours of electricity, and shall require each electric services company, electric cooperative, and governmental aggregator subject to certification to file an annual report on and after that starting date of such receipts and sales from the provision of those retail electric services for which it is subject to certification. For the purpose of the reports, sales of kilowatt hours of electricity are deemed to occur at the meter of the retail customer. (emphasis added).

Moreover, the Companies' Commission-approved supplier tariffs also require that they keep this information confidential as it is the CRES provider's information. Maintaining competitively sensitive data as confidential supports the competitive market in Ohio and helps encourage competitive suppliers to participate in the Ohio competitive retail electric service market.

The only reason given by Staff in the RMI proceeding for recommending the public disclosure of this information – that other industries do it – is not sufficient to make a complete departure from previous policy without a compelling reason to do. The Companies and other parties opposed Staff's recommendation to publicly disclose the O.A.C. 4901:1-25-02(A)(3)(b) information.

However, the OCC recommendation in this case goes well beyond the Staff proposal in the RMI proceeding, which proposed to make public only the information submitted pursuant to subpart (b) of the Rule. The OCC proposes herein that all of the information provided by CRES pursuant to O.A.C. 4901:1-25-02(A)(3) be deemed public information. (Id. p. 4). The OCC offers that this information “may be helpful” to

customers making choices but fails to identify how the information would be helpful.

(Id. p. 3). Such speculation is insufficient justification for the Commission to abandon the measures to protect the confidentiality of this information as required by Section 4928.06(F), O.R.C. and current rule O.A.C. 4901:1-25-02.

III. CONCLUSION

The Companies appreciate the opportunity to submit reply comments regarding the proposed rule amendments. For all of the reasons stated above, the Companies urge the Commission to reject the OCC's proposal to make public the information submitted pursuant to 4901:1-25-02(A)(3), O.A.C.

/s/ James W. Burk

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been filed with the Commission's Docket Information System and is available for all interested parties.

/s/ Robert M. Endris

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Summary: Comments Reply Comments of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company electronically filed by Mr. Robert M. Endris on behalf of Burk, James W. Mr.