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September 22, 2014

VIA HAND DELIVERY

Thomas W. Johnson
Chairman
Public Utilities Commission of Ohio
180 East Broad Street
Columbus, OH 43215

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2014 SEP 22 PM 2: 05

PUCO

S.C. # 14 - 1633

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

Dear Chairman Johnson:

Pursuant to R.C. 4903.13 and O.A.C. 4901-1-36, enclosed please find a copy of the Notice of Appeal of Appellants Ohio Edison Company, The Cleveland Electric Illuminating Company, and the Toledo Edison Company in the above-named matter. The Notice of Appeal will be filed at the Supreme Court of Ohio this afternoon.

Respectfully,



Eric B. Gallon

EBG
Enclosure

cc: Robert M. Endris, Esq.

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IN THE SUPREME COURT OF OHIO

CASE NO. 14 - 1633

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PUCO

Ohio Edison Company, The Cleveland
Electric Illuminating Company, and The
Toledo Edison Company,

Appellants,

v.

The Public Utilities Commission of Ohio,

Appellee.

Appeal from the Public Utilities
Commission of Ohio

Public Utilities Commission of
Ohio Case No. 12-2050-EL-ORD

**NOTICE OF APPEAL OF APPELLANTS OHIO EDISON COMPANY, THE
CLEVELAND ELECTRIC ILLUMINATING COMPANY, AND THE TOLEDO
EDISON COMPANY**

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*COUNSEL FOR APPELLEE, THE PUBLIC
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Notice of Appeal of Appellants Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company

Appellants, Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, the "Companies"), hereby give notice of their appeal, pursuant to R.C. 4903.11 and 4903.13 and Supreme Court Rule of Practice 10.02(A)(3), to the Supreme Court of Ohio and to Appellee, Public Utilities Commission of Ohio (Commission), from a Finding and Order entered on January 15, 2014 (Attachment A), an Entry on Rehearing entered on March 12, 2014 (Attachment B), a Second Entry on Rehearing entered on May 28, 2014 (Attachment C), and a Third Entry on Rehearing entered July 23, 2014, in Commission Case No. 12-2050-EL-ORD, as set forth below.

The Companies were and are a party of record in PUCO Case No. 12-2050-EL-ORD, and timely filed an Application for Rehearing of the Commission's January 15, 2014 Entry, and also timely filed Application for Rehearing of the Commission's May 28, 2014 Second Entry on Rehearing, both in accordance with R.C. 4903.10. The Companies' Application for Rehearing of the Commission's Second Entry on Rehearing was denied with respect to the issues raised herein by an Entry on Rehearing dated July 23, 2014.

The Companies complain and allege that the Commission's January 15, 2014 Entry, the Commission's May 28, 2014 Second Entry on Rehearing, and the Commission's July 23, 2014 Third Entry on Rehearing, are unlawful, unjust and unreasonable in the following respects, as set forth in the Companies' Applications for Rehearing:

1. The Commission acted unreasonably and unlawfully and exceeded the scope of its authority in finding that the credit paid to customer generators for excess generation must include both energy and capacity components of an electric distribution utility's Standard Supply Offer ("SSO") generation price.

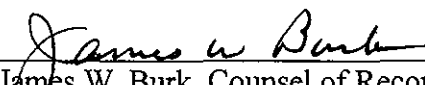
2. The Commission acted unreasonably and unlawfully to effect a taking of the Companies' property without just compensation when it failed to establish an explicit cost recovery mechanism associated with electric distribution utilities' mandated credits to customer-generators for their excess generation.

3. The Commission acted unreasonably and unlawfully when it found that any size or any number of turbines, limited only by the size of a customer's requirements for electricity, meets the statutory definition of a net metering system.

4. The Commission acted unreasonably and unlawfully when it created a new rebuttable presumption that a customer-generator who generates up to 120% of its annual requirements for electricity intends primarily to offset part or all of its requirements for electricity.

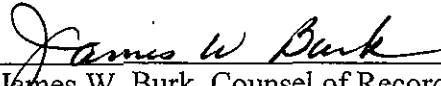
Wherefore, the Companies respectfully submit that the Commission's January 14, 2014 Finding and Order, May 28, 2014 Second Entry on Rehearing, and its July 23, 2014 Third Entry on Rehearing are unlawful, unjust, and unreasonable and should be reversed. The case should be remanded to the Commission with instructions to correct the errors complained of herein.

Respectfully submitted,


James W. Burk, Counsel of Record
COUNSEL FOR APPELLANTS

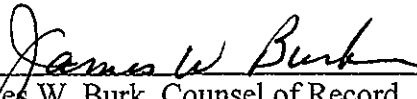
CERTIFICATE OF FILING

The undersigned counsel certifies that, in accordance with Supreme Court Practice Rule 3.11 (C)(2), Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company's Notice of Appeal has been filed with the docketing division of the Public Utilities Commission of Ohio and was served on the Chairman in Columbus, Ohio, in accordance with Rules 4901-1-02(A) and 4901-1-36 of the Ohio Administrative Code, on September 22, 2014.


James W. Burk, Counsel of Record

CERTIFICATE OF SERVICE

A Copy of the foregoing Notice of Appeal was served this 22nd day of September, 2014,
via electronic mail upon all counsel listed on the attached service list.


James W. Burk, Counsel of Record

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Attachment A

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

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

FINDING AND ORDER

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 electric service and safety (ESS) rules contained in Ohio Adm.Code Chapter 4901:1-10, 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; and
 - (d) The rules duplicate, overlap with, or conflict with other rules.

- (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 businesses; attempt to balance properly the critical objectives of regulation and the cost of compliance by the regulated parties; and amend or rescind rules that are unnecessary, ineffective, contradictory, redundant, inefficient, or needlessly burdensome, or that have had negative unintended consequences, or unnecessarily impede business growth.
- (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 16, 2012, a workshop was scheduled at the offices of the Commission on August 31, 2012, to engage interested stakeholders on the appropriate revisions to the rules contained in Ohio Adm.Code Chapter 4901:1-10. The workshop was held as scheduled and stakeholder comments were offered by multiple stakeholders.
- (6) Staff evaluated the rules contained in Ohio Adm.Code Chapter 4901:1-10, as well as the feedback received at the August 31, 2012 workshop and recommended amendments to several rules.
- (7) On November 7, 2012, the Commission issued an Entry seeking comments on Staff's proposed amendments and sent Staff's recommended changes and BIA to CSI in accordance with R.C. 121.82. Comments were filed by GEM Energy, Opower, Inc., Direct Energy Services, LLC, and Direct Energy Business, LLC,

(collectively, Direct Energy), Interstate Gas Supply, Inc., and Hull and Associates, Inc. (collectively, IGS), the Ohio Hospital Association (OHA), Ohio Power Company (Ohio Power), OMA Energy Group (OMA), Ohio Edison Company, the Toledo Edison Company, and the Cleveland Electric Illuminating Company (collectively, FirstEnergy), Retail Energy Supply Association (RESA), the Ohio Consumers' Counsel (OCC), FirstEnergy Solutions Corp. (FES), MetroCD Engineering (MetroCD), Buckeye Forest Council and the Ohio Environmental Council (collectively, OEC), the Dayton Power and Light Company (DP&L), Duke Energy Ohio, Inc. (Duke), Duke Energy Retail Sales, LLC (Duke Energy Retail), SolarVision, LLC, the Environmental Law and Policy Center, Sierra Club, OEC, Solar Energy Industries Association, and Vote Solar Initiative (collectively, Solar Advocates), Advanced Energy Economy-Ohio (AEE-Ohio), and Interstate Renewable Energy Council, Inc. (IREC). Reply comments were filed by Direct Energy, IGS, IREC, Ohio Power, OMA, FirstEnergy, Solar Advocates, OCC, DP&L, AEE-Ohio, Duke, Duke Energy Retail, and RESA.

- (8) On July 10, 2013, the Commission issued an Entry recognizing that Staff had further evaluated the rules contained in Ohio Adm.Code Chapter 4901:1-10, and was proposing additional amendments to Ohio Adm.Code 4901:1-10-01 and 4901:1-10-05 providing for an advanced meter opt-out service tariff and associated definitions. Supplemental comments were filed by Direct Energy, Ohio Partners for Affordable Energy (OPAE), OCC, Duke, FirstEnergy, IGS, DP&L, and Ohio Power. Supplemental Reply comments were filed by DP&L, Duke Energy Retail, OCC, FirstEnergy, and Ohio Power.
- (9) On October 16, 2013, the Commission adopted Ohio Adm.Code 4901:1-10-01 and 4901:1-10-05 for the purpose of establishing an advanced meter opt-out program. In its Finding and Order, the Commission indicated that it would reevaluate the proposed definitions that would apply to the rest of the rules in Ohio Adm.Code Chapter 4901:1-10. The Commission has further evaluated all of the definitions proposed by stakeholders. Any proposed definitions that are not addressed in this finding and order, or that were not addressed in the Commission's October 16, 2013, finding and order or its December 11, 2013, entry on rehearing, should be considered denied. Furthermore, Ohio

Adm.Code 4901:1-10-05 is not included in the attached packet of rules as it has already been fully addressed by the Commission in its October 16, 2013, finding and order and the subsequent entries on rehearing.

- (10) At this time, the Commission finds that the rules in Ohio Adm.Code Chapter 4901:1-10 should be filed with the Joint Committee on Agency Rule Review (JCARR), the Secretary of State, and the Legislative Service Commission. The Commission has carefully reviewed the existing rules; the proposed Staff changes, and the comments filed by interested parties in reaching its decisions regarding these rules. The Commission addresses the more relevant comments below. Any comments or recommended changes not addressed below or incorporated into the proposed rules have been considered by the Commission and should be considered denied.

Ohio Adm.Code Chapter 4901:1-10 - Electric Service and Safety

Comments on Ohio Adm.Code 4901:1-10-01 - Definitions

- (11) General. Staff proposes the addition of the following new or revised definitions: advanced meter, advanced meter opt-out service, customer energy usage data, time-differentiated rates, and traditional meter. The Commission finds that these definitions should be adopted. In addition, the Commission finds that the existing definitions for competitive retail electric service provider, electric distribution utility, and outage coordinator should be modified for clarity. The Commission finds that the definitions for de-identified energy usage data and third-party developer should be denied.
- (12) General. OHA proposes that an additional definition be added to define "critical human service facility," which would be any location incorporating a state recognized medical emergency service department or a state recognized labor and delivery department. OHA further recommends that several changes be made to the rules to improve the reliability of the electric distribution systems serving critically important acute healthcare facilities. (OHA Comments at 3.)

FirstEnergy opposes OHA's recommendation to add a definition for critical human service facility and expanded rule-driven reliability standards because identifying and keeping track of the facilities that meet the definition, as well as enforcing such reliability standards, would be unduly burdensome. (FirstEnergy Reply at 3-4.)

The Commission finds that OHA's proposed additional definition for the term "critical human service facility" should be denied. The Commission notes that it initially denied OHA's recommendation when it issued Ohio Adm.Code 4901:1-10-01 and 4901:1-10-05. The Commission has further evaluated OHA's recommendation and again finds that it should be denied.

- (13) Paragraph (I). Ohio Power proposes that the definition of "customer energy usage data" be revised to clarify that customer energy usage data is the data associated with customer usage and not customer information that is unrelated to usage (Ohio Power Comments at 1-2). FirstEnergy supports Ohio Power's proposal (FirstEnergy Reply at 1). OCC also proposes a revised definition for customer energy usage data, but OCC's proposal is more narrow than the one proposed by Ohio Power (OCC Comments at 3-4). DP&L opposes OCC's proposed definition of customer energy usage data (DP&L Reply at 1).

The Commission finds that Ohio Power's proposal should be adopted, with modification, and OCC's proposal should be denied. The Commission notes that the definition of customer energy usage data is intended to cover more than just the information provided by customers with advanced meters.

- (14) Paragraph (L). Staff's proposal includes an additional definition for the term "de-identified energy usage data," which would be the aggregated data that is not identifiable to an individual retail customer nor could be used to reasonably ascertain a customer's identity. OCC proposes a revised definition for de-identified energy usage data, which would include generic customer load pattern information (OCC Comments at 3-4). FirstEnergy opposes OCC's proposal (FirstEnergy Reply at 2).

The Commission finds that OCC's proposal should be denied. However, pursuant to OCC's proposal, the Commission believes

that the definition of de-identified customer energy usage data should be removed from the rules. Accordingly, the Commission finds that any reference to de-identified energy usage data should also be removed from the rules. Furthermore, the Commission notes that customer energy usage data and customer safeguards in the rules are not intended to apply to aggregated energy usage data that does not contain identifiable customer-specific energy usage data. Additionally, the Commission notes that it recognizes that new technology and meter capabilities will require more technical rules to provide for customer protection. The Commission will continue to evaluate provisions for the purpose of protecting customer information and data, and will consider further workshops and Commission-ordered investigations into ways to properly protect customer data and information.

- (15) Paragraph (U). Ohio Power proposes that the definition of major event be revised and updated to reflect the 2012 version of the IEEE 1366, which has been recently revised, and the reference should be made to Section 3.5 of standard 1366-2012 (Ohio Power Comments at 2). OCC opposes Ohio Power's proposal in so far as OCC would like more time to evaluate the impacts of recognizing the updated IEEE standards (OCC Reply at 4).

The Commission finds that Ohio Power's proposal should be adopted. While the Commission recognizes that OCC would prefer more time to evaluate the impacts of this change, the Commission believes that the rules should continue to maintain consistency with the most recent version of the IEEE standards.

- (16) Paragraph (W). OCC recommends in its initial comments that a definition for momentary outages be added to coincide with the definition for sustained outages. OCC then recommends that standards be adopted concerning momentary outages. (OCC Comments at 4-5.)

FirstEnergy and DP&L oppose OCC's recommendation to add a definition for momentary outages, as well as standards for momentary outages. FirstEnergy and DP&L note that the only reason to include a definition for momentary outages would be for the adoption of momentary average interruption frequency index (MAIFI) standards and the time is not ripe for adoption of such standards. (FirstEnergy Reply at 2-3; DP&L Reply at 2.)

The Commission notes that it initially denied OCC's recommendation when it issued Ohio Adm.Code 4901:1-10-01 and 4901:1-10-05. The Commission has further evaluated OCC's recommendation and finds that it should be adopted, in part. In its October 16, 2013, the Commission indicated that it would continue to evaluate OCC's proposal, and it now believes that it would be appropriate to adopt a definition for the term "momentary interruption." The definition for momentary interruption will be an interruption of electric service with a duration of five minutes or less.

- (17) Paragraph (Z). FirstEnergy recommends that the definition of "postmark" be revised to conform to modern bulk mail service and the manner in which businesses, such as electric utilities, mail or electronically mail bills, documents and required notices. FirstEnergy notes that the existing rule prevents them from using bulk mail service and that changing the rule to permit bulk mail services could save the utilities and ratepayers money. (FirstEnergy Comments at 2-3.)

OCC and Duke Energy Retail oppose FirstEnergy's recommendation, noting that the purpose of the postmark was to give consumers a clear date for when time-sensitive responses were due. Furthermore, OCC indicates that using bulk mail service can take five days for delivery, whereas First Class Mail only takes two to three days. This would essentially decrease by two days the time that consumers have to respond to time-sensitive mailings, including bills. (OCC Reply at 2-3; Duke Energy Retail Reply at 1-2.)

The Commission finds that FirstEnergy's proposed revision to the definition of postmark should be denied. The Commission notes that it initially denied FirstEnergy's recommendation when it issued Ohio Adm.Code 4901:1-10-01 and 4901:1-10-05. The Commission has further evaluated FirstEnergy's recommendation and again finds that it should be denied. The Commission believes that FirstEnergy's recommendation could decrease the time that consumers have to respond to time-sensitive mailings, including bills, which would have a negative impact on consumers, and potentially business.

Ohio Adm.Code 4901:1-10-04 - Equipment for voltage measurements and system voltage and frequency requirements

- (18) Paragraphs (A) and (B). Ohio Power proposes that the term "annually" be revised to "once per calendar year." Additionally, Ohio Power proposes that the ANSI manual being referred to in Ohio Adm.Code 4901:1-10-04(B)(2) be revised to refer to the 2011 edition, instead of the 2012 edition.

The Commission finds that Ohio Power's proposal to add the term "once per calendar year" should be adopted. Additionally, for purposes of maintaining consistency with the most recent standards, Ohio Adm.Code 4901:1-10-04(B)(2) should refer to the 2011 edition of the ANSI manual.

Ohio Adm.Code 4901:1-10-05 - Metering

- (19) The Commission notes that it has already addressed Ohio Adm.Code 4901:1-10-05 when it adopted the advanced meter opt-out service provisions. The Commission issued its Finding and Order on Ohio Adm.Code 4901:1-10-05 on October 16, 2013, in this case docket.

Ohio Adm.Code 4901:1-10-07 - Outage Reports

- (20) Paragraph (A). OHA proposes that the Commission adopt provisions for reporting outages to affected essential facilities (OHA Comments at 4.) FirstEnergy, Ohio Power, and DP&L all oppose OHA's proposal because they argue it is unnecessary and it would be unduly burdensome (FirstEnergy Reply at 7; Ohio Power Comments at 3-4; DP&L Reply at 3.)

Regarding Paragraphs (A)(1) and (A)(2), OCC recommends that they include the projected or actual period for the outage (OCC Comments at 7.) FirstEnergy, Duke, and DP&L all oppose the change as an unnecessary addition (FirstEnergy Reply at 7-8; Duke Reply at 2-3; DP&L Reply at 3.)

The Commission finds that OHA's proposal should be denied. While the Commission notes that provisions for reporting outages to affected essential facilities are necessary, these provisions already exist in the rules. Accordingly, the Commission finds that

OHA's proposal is unnecessary. Additionally, the Commission finds that OCC's proposal should be adopted and that the actual period, if available, may be used.

- (21) Paragraph (B). Duke requests clarification on how an outage should be reported (Duke Comments at 2). Similarly, Ohio Power indicates that it is concerned that the Commission may unilaterally change the reporting system in a manner that will require extensive updates without assurance of cost recovery (Ohio Power Comments at 3-4.) OCC recommends that the electric utility be required to report each outage to OCC as well as to the Commission's outage coordinator (OCC Comments at 8.) OCC also recommends that the electric utility should be required to provide its emergency plan to OCC (OCC Comments at 9.)

The Commission finds that Staff's proposal should be adopted and the recommendations by Ohio Power, Duke, and OCC should each be denied. The Commission notes that the outage reporting process is well established and that any questions regarding the process may be directed to the Commission's outage coordinator. Additionally, the Commission notes that OCC's proposal is overly burdensome and unnecessary. However, OCC may request these reports from the Commission.

Ohio Adm.Code 4901:1-10-08 - Emergency plan; annual emergency contact report and annual review of emergency plan; critical customers; emergency exercise; and coordination.

- (22) Paragraph (A). OCC proposes that Paragraph (A)(1) be revised so that the emergency plans indicate the circumstances that warrant their implementation (OCC Comments at 9). FirstEnergy opposes OCC's proposal as unnecessary (FirstEnergy Reply at 9).

OMA proposes Paragraph (A)(18) that would indicate policies and procedures which promote lengthening of backup power operating time at critical and business-critical facilities, specifically, encouraging energy-efficient best available technology of critical equipment connected to backup power, and policies encouraging combined-heat and power (CHP) at hospitals, manufacturers, and other appropriate facilities. Additionally, OMA proposes that promotion of these policies should be coordinated with the utilities' demand-side management programs or as separate programs if

demand-side management programs have not been established. (OMA Comments at 4). FirstEnergy opposes OMA's proposal on the grounds that "business-critical facility" is not a defined term and FirstEnergy does not believe that business-critical facilities warrant priority treatment (FirstEnergy Reply at 10). DP&L also opposes OMA's proposal on the grounds that Ohio Adm.Code 4901:1-10-08 is not the appropriate place for OMA's proposed provision.

The Commission finds that OCC's proposal should be denied, as the Commission agrees with FirstEnergy that it would be an unnecessary addition to the rule. Additionally, the Commission finds that OMA's proposal should be denied. The Commission agrees with FirstEnergy that business-critical facilities should not receive priority treatment in emergency situations. The Commission believes that critical care facilities, and even potentially residential facilities or areas, should receive priority over business facilities.

- (23) Paragraph (B). OCC proposes that the electric utilities should be required to provide their emergency plans to OCC (OCC Comments at 9). FirstEnergy, DP&L, and Ohio Power each oppose OCC's proposal (FirstEnergy Reply at 10-11; DP&L Reply at 4; Ohio Power Reply at 7-8).

The Commission finds that OCC's proposal should be denied. The Commission notes that emergency plans contain critical infrastructure information, and control of that data should remain with the utilities. The Commission believes that the Commission's outage coordinator and Staff have sufficient authority and oversight to ensure that the utilities maintain proper and effective emergency plans.

- (24) Paragraph (I). OCC proposes that Paragraph (I)(1) be revised to require each electric utility to update and verify its list of critical customers on a quarterly basis (OCC Comments at 9.) FirstEnergy opposes OCC's proposal on the grounds that it would be administratively burdensome (FirstEnergy Reply at 11.) DP&L also opposes OCC's proposal (DP&L Reply at 4.) Ohio Power asserts that updating a customer's critical status is the customer's responsibility (Ohio Power Reply at 8.)

OCC also proposes Paragraphs (I)(4) and (I)(5), which would contain additional language to maintain contact information for persons that provide care for critical customers and inform them during planned and sustained outages, as well as provide response on a reasonable attempt basis to restore service for critical customers following sustained outages (OCC Comments at 9-10.) FirstEnergy opposes OCC's proposals and contends that they would be administratively burdensome (FirstEnergy Reply at 11.) DP&L is also opposed to OCC's proposal (DP&L Reply at 4.)

The Commission finds that OCC's proposals should be denied. The Commission believes that requiring the electric utilities to quarterly update and verify their critical customer lists is unduly burdensome, as well as potentially costly. Additionally, the Commission notes that the rules already require the utilities to reasonably respond to customers following sustained outages. Furthermore, the Commission believes that maintaining up-to-date contact information is the customers' burden. While the electric utilities are expected to make reasonable attempts to maintain their contact lists, customers have the responsibility to notify the utility if there is a change in contact information.

- (25) Paragraph (K). OCC proposes that the report to waive the testing and evaluation of an electric utility's emergency plan for the three-year period during which implementation occurred, which is provided to the Commission's outage coordinator, should also be provided to OCC (OCC Reply at 12.)

The Commission finds that OCC's proposal should be denied. The Commission notes that OCC may request these reports from the Commission. However, the Commission does not believe that the rules should require the electric utilities to provide the reports to OCC.

Ohio Adm. Code 4901:1-10-09 - Minimum customer service levels

- (26) Paragraph (A). Ohio Power and DP&L propose that this paragraph be revised to provide that the reporting requirements be done on an annual basis, as opposed to the calendar month basis currently contemplated in the rule (Ohio Power Comments at 5; DP&L Comments at 2). FirstEnergy supports the proposal (FirstEnergy Reply at 13).

Ohio Power proposes a Paragraph (A)(1)(d), which would indicate that companies that have less than 25 percent of their customers with meters capable of starting and stopping service remotely should not have to report on those meters separately (Ohio Power Comments at 6.) FirstEnergy supports Ohio Power's proposal (FirstEnergy Reply at 14.)

Regarding Paragraph (A)(3), Ohio Power proposes that it be revised to permit more than just written notification in instances where it cannot complete the requested service installation and the requested completion date is delayed more than two business days (Ohio Power Comments at 6.)

The Commission finds that the proposals for doing reporting on an annual basis, as opposed to a calendar month basis, should be denied. The Commission notes that submitting annual figures diminishes the value of the reports, as well as undermines the purpose of the rules to maintain new service and service upgrade standards. Additionally, the Commission finds that Ohio Power's proposal for Paragraph (A)(1)(d) should be denied. The Commission believes that Ohio Power's proposal would make the rule conditional, which would undermine the purpose of the rule. Finally, the Commission finds that Ohio Power's proposal for Paragraph (A)(3) should be granted, in part, and denied, in part. The Commission finds that written notification or email notification is permissible, but service calls are not. The Commission notes that the rule contemplates written notification, which is an additional burden and expense, to ensure that the utilities engage in proper time management practices to complete the requested service installation in a timely manner.

- (27) Paragraph (B). Ohio Power and DP&L propose that this paragraph be revised so that the reporting requirements are done on an annual basis, not a calendar month basis (Ohio Power Comments at 5; DP&L Comments at 2) FirstEnergy supports this recommendation (FirstEnergy Reply at 13.)

The Commission finds that this recommendation should be denied. The Commission believes that reporting on a calendar month basis is not unduly burdensome and provides more current and accurate information.

- (28) Paragraph (C). Ohio Power proposes that reporting requirements be done on a twelve-month basis, and not for two months within any twelve month period (Ohio Power Comments at 4-5). FirstEnergy and DP&L support Ohio Power's proposal (FirstEnergy Reply at 13; DP&L Comments at 2.) OCC opposes Ohio Power's proposal (OCC Reply at 6.)

Regarding Paragraph (C)(3), FirstEnergy proposes that it be revised to make the exclusion for performance data optional to the electric distribution utility, which would allow them to include in their reporting all calls during a major event (FirstEnergy Comments at 6.)

The Commission finds that Ohio Power's proposal should be denied. The Commission notes that the provisions provide minimum monthly service levels, not minimum annual service levels. Accordingly, the reporting requirement should apply for two months within any twelve-month period. Additionally, the Commission finds that FirstEnergy's proposal is reasonable and should be adopted. The Commission will revise Paragraph (C)(3) to indicate that performance data during major events may be excluded, instead of shall be excluded.

- (29) Paragraph (D). OCC proposes that the Commission adopt a new paragraph for the purpose of requiring electric utilities to conduct annual customer satisfaction surveys to measure customer perceptions about the services provided by the electric utility. OCC then recommends that the survey methodology and questions be developed in conjunction with Commission Staff and OCC. This proposal is opposed by FirstEnergy, Duke, DP&L, and Ohio Power (FirstEnergy Reply at 14; Duke Reply at 3; DP&L Reply at 5; Ohio Power Reply at 9.)

The Commission finds that OCC's proposal should be denied. The Commission notes that Staff already works with the electric utilities to conduct appropriate surveys with customers. Furthermore, the Commission notes that requiring additional surveys in the rules could be unnecessarily financially burdensome on the electric utilities.

- (30) Paragraphs (B) and (C). OCC proposes definitions for momentary average interruption frequency index (MAIFI) and the system average interruption duration index (SAIDI), as well as associated revisions. FirstEnergy, Duke, DP&L, and Ohio Power each oppose OCC's proposal on the grounds that the technology for monitoring these indices has not been fully developed, requiring MAIFI is not yet ripe for consideration, and it would be financially burdensome to monitor the indices (FirstEnergy Reply at 16; Duke Reply at 4; DP&L Reply at 6; Ohio Power Reply at 9-10.)

The Commission finds that OCC's proposal should be denied at this time. The Commission agrees with FirstEnergy that the technologic capability is not yet fully developed to the point that MAIFI can be reliably measured. Further, the Commission does not believe that a SAIDI measurement is necessary, as it is a product of SAIFI and CAIDI measurements, both of which are already required.

- (31) Paragraph (D). OCC proposes that the electric utilities file an action plan with the annual report, as well as quarterly status reports on each action included in the action plan (OCC Comments at 16.) FirstEnergy opposes OCC's proposal as an unnecessary additional administrative burden (FirstEnergy Reply at 17.) DP&L also opposes OCC's proposal (DP&L Reply at 6-7.)

The Commission finds that OCC's proposal should be denied. The Commission agrees with FirstEnergy that the proposed additional action plan filings would be an unnecessary administrative burden on the electric utilities.

Ohio Adm.Code 4901:1-10-11 - Distribution circuit performance

- (32) Paragraph (C). OCC proposes that this paragraph be revised to indicate that the report on the electric utility's worst-performing circuits should also be provided to OCC (OCC Comments at 17.) FirstEnergy, Duke, and DP&L oppose OCC's proposal (FirstEnergy Reply at 18; Duke Reply at 5; DP&L Reply at 8.)

The Commission finds that OCC's proposal should be denied. The Commission does not believe that the rules should require electric utilities to provide their reports to both the Commission and OCC.

- (33) Paragraph (D). OHA recommends a new subsection that would address the worst performing critical human service facility circuits (OHA Comments at 4-5.) Ohio Power, FirstEnergy, and DP&L oppose OHA's recommendation on the grounds that it would be redundant with Ohio Adm.Code 4901:1-10-08 (Ohio Power Reply at 10; FirstEnergy Reply at 19; DP&L Reply at 7.)

The Commission agrees with Ohio Power, FirstEnergy, and DP&L that OHA's recommendation for Ohio Adm.Code 4901:1-10-11(D) would be redundant with Ohio Adm.Code 4901:1-10-08. Accordingly, OHA's recommendation should be denied.

- (34) Paragraph (F). Staff's proposal for Ohio Adm.Code 4901:1-10-11(F) would require the electric utilities to take sufficient remedial action to ensure that no circuit is listed on three consecutive reports. DP&L, Ohio Power, and FirstEnergy propose that rather than remove each listed circuit from the list within two years, as the existing rule states, the rule should require the electric utility to make sure that no circuit is listed on three consecutive reports due to the same preventable outage causes (DP&L Comments at 2; Ohio Power Comments at 7; FirstEnergy Reply at 19.) However, OCC proposes that the electric utilities should take corrective action to make sure that no circuit is listed on two consecutive reports, and if a circuit is listed on two consecutive reports then it should create a rebuttable presumption of a violation of the rule (OCC Comments at 18.) FirstEnergy, DP&L, Duke, and Ohio Power each oppose OCC's proposal (FirstEnergy Reply at 19; DP&L Reply at 8; Duke Reply at 4; Ohio Power Reply at 10.)

The Commission finds that the proposals by DP&L, Ohio Power, FirstEnergy, and OCC should each be denied, and Staff's original proposal should be adopted. The Commission believes that Staff's proposal, which is for the electric utilities to make sure that no circuit is listed on three consecutive reports, grants the electric utilities an appropriate and reasonable amount of time to identify and repair poorly performing circuits. The electric utilities propose a more lenient standard, while OCC proposes a stricter standard. The Commission believes that Staff's proposal strikes the appropriate balance between maintaining working circuits and giving the electric utilities sufficient time to identify and repair the listed circuits.

Ohio Adm.Code 4901:1-10-12 - Provision of customer rights and obligations

- (35) General. Multiple stakeholders recommend changes to the provisions of customer rights and obligations in Ohio Adm.Code 4901:1-10-12. OCC proposes that the Commission adopt a compensation mechanism for customers who experience multiple outages (OCC Comments at 21.) This proposal is opposed by FirstEnergy, Duke, Ohio Power, and DP&L as being unduly burdensome (FirstEnergy Reply at 20; Duke Reply at 5; Ohio Power Reply at 12; DP&L Reply at 8-9.) OCC also proposes that an annual bill insert on customer rights and obligations should be provided (OCC Reply at 10.) This proposal is also opposed by FirstEnergy, Duke, DP&L, and Ohio Power (FirstEnergy Reply at 20; Duke Reply at 5; DP&L Reply at 9; Ohio Power Reply at 10.) FirstEnergy proposes that customer right and obligations should be provided on a website that customers should be referred to (FirstEnergy Reply at 20.) OCC opposes FirstEnergy's proposal on the grounds that it would be insufficient to communicate to customers (OCC Reply at 10.)

The Commission finds that the stakeholder proposals should each be denied. The Commission believes that OCC's proposal to financially compensate customers who experience multiple outages is unduly burdensome, both financially and administratively. Furthermore, the Commission believes that FirstEnergy's proposal to refer customers to a website with the customer rights and obligations will be inadequate at reaching enough customers and weakens the existing rule, which requires the electric utilities to provide full disclosure of the rights and obligations to customers. As for OCC's proposal to inform customers via bill insert, the Commission notes that sending additional bill inserts would cost substantial additional time, money, and effort. Accordingly, the Commission finds that Staff's proposal should be adopted and the stakeholder proposals should be denied.

- (36) Paragraph (B). OCC proposes language that the electric utilities be responsible for a breach, invasion of privacy, or unlawful public disclosure of customer energy usage data (OCC Comments at 19.) FirstEnergy and DP&L oppose OCC's proposal (FirstEnergy Comments at 21; DP&L Reply at 9.)

The Commission finds that OCC's proposal should be denied. Furthermore, the Commission finds that Staff's proposal for Ohio Adm.Code 4901:1-10-12(B)(7) should be removed altogether as it is redundant and unnecessary. Similarly, the Commission finds that the definition for third-party developer should be removed from Ohio Adm.Code 4901:1-10-01 as it is no longer used in Ohio Adm.Code 4901:1-10-12(B)(7).

- (37) Paragraph (D). Ohio Power proposes that Ohio Adm.Code 4901:1-10-12(D)(1) be revised to include the option for a customer to request a copy of the electric utility's rates and tariffs (Ohio Power Comments at 9.) FirstEnergy agrees with the proposal, except for as it relates to tariffs (FirstEnergy Reply at 21.)

Regarding Paragraph (D)(2), OCC proposes that language should be added to require the electric utilities to inform customers about alternative rates and/or energy efficiency programs and how to obtain details about those programs (OCC Comments at 21.) FirstEnergy and Duke oppose OCC's proposal on the grounds that it is unnecessary and unduly burdensome (FirstEnergy Reply at 21; Duke Reply at 6.)

The Commission finds that the additional option for customers to request a copy of the electric utility's rates and tariffs is reasonable. The Commission finds that Ohio Power's proposal should be adopted. Additionally, the Commission finds that OCC's proposal should be denied. The Commission does not believe that the rules should place a burden on the utilities to inform customers of alternative rates or energy efficiency programs. Requirements to inform customers of alternative rates and energy efficiency programs are better addressed in Commission cases for the electric utilities' alternative rate and energy efficiency programs.

- (38) Paragraph (F). Multiple stakeholders propose changes to Ohio Adm.Code 4901:1-10-12(F)(3). DP&L recommends that verbal consent by telephone be included in the appropriate methods for authorizing the release of customer energy usage data if the call is recorded (DP&L Comments at 3.) FirstEnergy agrees with DP&L's recommendations, whereas OCC believes the proposal needs to be more fully developed (FirstEnergy Reply at 22; OCC Reply at 10-11.) OCC proposes that electric utilities should be required to perform privacy impact assessments and inform customers about

all potential privacy risks prior to customers being asked to provide written consent for disclosing customer energy usage data (OCC Comments at 21.) IGS, Ohio Power, and Direct Energy oppose OCC's proposal (IGS Reply at 2-3; Ohio Power Reply at 11; Direct Energy Reply at 3.)

Furthermore, FirstEnergy, OPower, and FES all request clarification on the meaning of the operative functions involved in supplying retail electric service, which is the exception to the requirement to obtain customer authorization for the release of customer energy usage data (FirstEnergy Comments at 8-9; OPower Comments at 3-4; FES Comments at 2.) Ohio Power and DP&L request that the rules permit sharing of customer energy usage data with entities contracted by the electric utilities, without customer authorization, for the purpose of implementing energy management and similar programs (Ohio Power Comments at 9, 12-13; DP&L Reply at 10-11.)

OMA proposes that Ohio Adm.Code 4901:1-10-12(F)(4) and (5) be revised to indicate that customers who are not engaged in time differentiated pricing have the right to request up to thirty-six months of their usage history, payment history, and detailed consumption data, if available (OMA Comments at 3.) FirstEnergy opposes OMA's proposal (FirstEnergy Reply at 23.) DP&L also opposes OMA's proposal and states that it does not have the capabilities to comply with OMA's proposal (DP&L Reply at 9.)

The Commission finds that the proposal for release of customer energy usage data by verbal communication should be denied. The Commission believes that the authorization for release of customer energy usage data should be done in written form or by email. Furthermore, the Commission finds that OCC's proposal for the electric utility to conduct privacy impact assessments should be denied. The Commission believes that, at this time, the benefits of conducting privacy impact assessments have not been clearly identified, and it has not been demonstrated that the benefits overcome the costs of conducting such assessments. However, the Commission adopts additional language to Ohio Adm.Code 4901:1-10-12(F)(3) for the purpose of clarifying the specific information contained in the written release consent form for customer energy usage data. In regards to the comments of stakeholders regarding sharing of customer energy usage data with contracting entities, the

Commission is revising Staff's proposed language in Ohio Adm.Code 4901:1-10-12(F)(3)(d) and 4901:1-10-24(E)(3)(d) for clarification. Additionally, the Commission finds that OMA's proposal should be denied, as the Commission believes that allowing customers to request 24 months of history is sufficient.

- (39) Paragraph (L). DP&L and FirstEnergy propose that customers should have the right to obtain the approximate generation resource mix (DP&L Comments at 3; FirstEnergy Reply at 23-24.)

The Commission finds that the proposal by DP&L and FirstEnergy should be adopted, and Ohio Adm.Code 4901:1-10-12(L) should be revised to indicate that the EDUs should include a notification that customers are provided the generation resource mix via a link on the EDU's website, and may be provided a hardcopy of the data by request and at no cost to the customer. Furthermore, the Commission has revised Ohio Adm.Code 4901:1-10-31(D) for the purpose of implementing its decision and maintaining consistency with Ohio Adm.Code 4901:1-10-12(L).

Ohio Adm.Code 4901:1-10-14 - Establishment of credit for applicants and customers

- (40) Paragraph (C)(1). OCC proposes that Ohio Adm.Code 4901:1-10-14(C)(1)(a) be revised to indicate that the company may request an applicant's social security number in order to obtain credit information and to establish identity provided that the electric utility informs the customer that the customer is not required to provide the social security number to obtain service (OCC Comments at 24.) FirstEnergy contends that OCC's proposal is unnecessary (FirstEnergy Reply at 24-25.)

Regarding Paragraph (C)(1)(b), Staff's proposal indicates that verification of creditworthiness for customers refusing to provide their social security number includes consideration of the applicant's employer and length of service. DP&L opposes Staff's proposal to use an applicant's employer information, length of service, reference letters, or substantive credit cards as a means of establishing creditworthiness (DP&L Comments at 3.) Duke opposes Staff's proposal on the grounds of it being unduly burdensome and proposes that "shall" should be changed to "may" (Duke Comments at 4-5.) Ohio Power recommends the deletion of Staff's proposed recommendation as redundant.

Initially, the Commission finds that OCC's proposal for Paragraph (C)(1)(a) should be adopted. The Commission believes that this will add clarification to customers who intend to demonstrate creditworthiness without providing their social security number or tax identification number.

Additionally, the Commission finds Staff's proposal for Paragraph (C)(1)(b) should be adopted. However, the Commission believes that the rule should be revised such that it does not state the means for establishing creditworthiness. Paragraph (C)(1) already indicates the means for verification of creditworthiness for residential applicants, and the Commission believes that this list of verification methods is sufficient without being further addressed in Paragraph (C)(1)(b). Accordingly, the stakeholder proposals for Ohio Adm.Code 4901:1-10-14(C)(1)(b) should be denied and the rule revised. Furthermore, the Commission agrees with Ohio Power's recommendation and has removed the redundant language from Paragraph (C)(1)(b).

- (41) Paragraph (C)(2). Staff's proposal for Paragraph (C)(2) would revise the rule to indicate that an applicant would be deemed creditworthy if the applicant had a prior account with an electric utility for the same class of service within two years before the date of application, with certain exceptions. The existing rule deems creditworthiness where the applicant has a prior account with that electric utility, whereas Staff's proposal would indicate that it could be deemed where the applicant has a prior account with any electric utility. FirstEnergy and Duke oppose Staff's proposal (FirstEnergy Comments at 9; Duke Comments at 5.)

DP&L proposes that Paragraph (C)(2)(c) be revised to indicate that the burden should be placed on the customer to verify that they had an open, non-delinquent account with an electric utility (DP&L Comments at 4.) Duke supports DP&L's proposal (Duke Comments at 4.)

The Commission finds that Staff's proposal should be adopted, as the Commission believes that a customer should be permitted to demonstrate creditworthiness based on payment history with a similar utility.

Additionally, the Commission finds that DP&L's proposal, which is supported by Duke, should be denied. The Commission notes that Ohio Adm.Code 4901:1-10-14(C)(2)(c) indicates an exception to the rule of applicants being deemed creditworthy if the applicant was disconnected by a company for fraudulent practice, tampering, or unauthorized reconnection. The Commission believes that the existing rule sufficiently addresses the exception, and that the burden should not be shifted to the customer to demonstrate that they were not disconnected for fraudulent practice, tampering, or unauthorized reconnection. The burden appropriately rests with the electric utility to conduct its due diligence on the creditworthiness of the customer by determining if the customer was disconnected for fraudulent practice, tampering, or unauthorized reconnection.

- (42) Paragraph (C)(3). DP&L proposes that this paragraph be revised to exclude customers on the PIPP or Graduate PIPP programs, or have PIPP arrears from qualifying as guarantors (DP&L Comments at 4.) FirstEnergy and Duke support DP&L's proposal (FirstEnergy Reply at 26; Duke Reply at 7.) DP&L further proposes that if a guarantor earns poor credit, the company should be permitted to cancel the guarantor relationship and bill a deposit (DP&L Comments at 4.)

The Commission finds that DP&L's proposals should be denied. Initially, the Commission notes that DP&L's first proposal should be denied as the rules already contemplate that customers on PIPP or Graduate PIPP, or who have PIPP arrears, should not qualify as guarantors. The rule indicates that the applicant must furnish a reasonably safe guarantor, and customers on PIPP, Graduate PIPP, or with PIPP arrears, cannot be reasonably safe guarantors. Additionally, DP&L's second proposal should be denied because the utilities have no claim upon the guarantor until such time as the customer of record has defaulted.

- (43) Paragraph (E). DP&L proposes that Ohio Adm.Code 4901:1-10-14(E)(1), as well as Ohio Adm.Code 4901:1-10-14(G)(2), be revised to indicate that the deposit amount should be raised to 200 percent (DP&L Comments at 4.) Duke supports DP&L's proposal (Duke Reply at 7-8.) OCC opposes DP&L's proposal, and contends that R.C. 4933.17(B) indicates that deposits should not exceed 130 percent (OCC Reply at 14.)

The Commission finds that DP&L's proposal should be denied. The Commission agrees with OCC that R.C. 4933.17(B) indicates that deposits should not exceed 130 percent.

- (44) Paragraph (G). Ohio Power proposes that Staff's proposal for Ohio Adm.Code 4901:1-10-14(G)(1) be revised to indicate that the electric utility may require the deposit, on an existing account, to reestablish creditworthiness (Ohio Power Comments at 10.)

Regarding Paragraph (G)(2), Ohio Power and FirstEnergy make similar proposals that would indicate that the electric utility may consider the totality of the circumstances when determining whether to require a customer to make a deposit (Ohio Power Comments at 11; FirstEnergy Comments at 5.) Duke opposes Ohio Power's proposal for the utilities to consider the totality of the circumstances and requests clarification on the provision (Duke Comments at 5; Duke Reply at 8.)

The Commission finds that Ohio Power's proposal to require a deposit on an existing account should be adopted. The Commission believes that this will benefit both customers and the electric utility in demonstrating creditworthiness. The Commission also adopts additional revisions to the rule for clarification. Furthermore, the Commission believes that Ohio Power and FirstEnergy's proposals for Paragraph (G)(2) should be adopted, in part, and denied, in part. The Commission believes that the rule should indicate that after considering the totality of the customer's circumstances, a utility company may require a deposit if the customer has not made full payment or payment arrangements for any given bill containing a previous balance for regulated service provided by that utility company.

- (45) Paragraph (I). DP&L proposes that the interest paid by the electric utility on deposits should be adjusted annually to reflect changes in economic conditions (DP&L Comments at 5.)

The Commission finds that DP&L's proposal should be denied. The Commission notes that R.C. 4933.17(B) directs that the interest cannot be less than three percent annually and the Commission finds that the three percent interest rate is reasonable.

- (46) Paragraph (M). Staff's proposal includes provisions for a written guarantor agreement. DP&L and FirstEnergy oppose Staff's proposal (DP&L Comments at 5; FirstEnergy Reply at 27.)

The Commission finds that Staff's proposal should be adopted, with modification. The Commission believes that uniform guarantor agreements across the state of Ohio will decrease confusion amongst customers and companies regarding the terms of the agreements. Additionally, a common form guarantor agreement will decrease the administrative burden on the electric utilities.

Ohio Adm.Code 4901:1-10-17 - Payment schedule and disconnection procedures for nonpayment by nonresidential customers

- (47) Paragraph (B). Staff's proposal would permit the electric utility to disconnect service, after at least five days notice, during normal business hours. FirstEnergy proposes that the five business day notice requirement be removed (FirstEnergy Comments at 10.) DP&L recommends that the utility be permitted to set a time for scheduling same day reconnection (DP&L Comments at 6.)

The Commission finds that the proposals for Ohio Adm.Code 4901:1-10-17(B) should be denied and Staff's initial proposal should be adopted. The Commission believes that five days notice is reasonable for disconnection, and that it should be done during normal business hours.

- (48) Paragraph (C). FirstEnergy proposes a clarification to require that a notice of pending disconnection should indicate that it is for non-payment of tariffed service (FirstEnergy Comments at 10.)

The Commission finds that FirstEnergy's proposal is reasonable and should be adopted, as it more clearly indicates the intent of the rule.

Ohio Adm.Code 4901:1-10-18 - Reconnection of nonresidential service

- (49) Paragraph (A). FirstEnergy proposes that Ohio Adm.Code 4901:1-10-18(A)(1)(a) be revised to indicate that reconnection will take place once the full amount in arrears is paid, including any amounts for which service was not disconnected, but is now past due at the time of reconnection, or the amount in default on an agreed upon deferred payment plan (FirstEnergy Comments at 11.) DP&L and Duke agree with FirstEnergy's proposal (DP&L Reply at 10; Duke Reply at 8.)

The Commission notes that the intent of the existing rule is for the electric utility to recover amounts that are past due and have been properly noticed. FirstEnergy's proposal would create the potential for an electric utility to maintain disconnection of a customer for failing to pay amounts for which the customer has not been provided notice of being in arrears. Accordingly, the Commission finds that FirstEnergy's proposal should be denied.

Ohio Adm.Code 4901:1-10-19 - Delinquent residential bills

- (50) Paragraph (A). Direct Energy proposes that this paragraph be revised to indicate that no electric utility may disconnect service to a residential customer when the customer fails to pay any charge for non-tariffed service, including CRES services, unless the CRES provider participates in an electric utility's purchase of receivables (POR) program or the customer is billed under a supplier consolidated billing arrangement between the CRES provider and the electric utility (Direct Energy Comments at 3.)

The Commission finds that Direct Energy's proposal should be denied. The Commission believes that the current priority payment rules in Ohio Adm.Code 4901:1-10-33 adequately address the issue of disconnection for partial or nonpayment.

- (51) Paragraph (E). FES proposes that Ohio Adm.Code 4901:1-10-19(E)(2) be revised to indicate that a customer's failure to pay CRES charges may result in cancellation of the customer's CRES contract by the CRES provider, which would return the customer to the electric utility's standard service offer (FES Comments at 3.) Ohio Power opposes FES's proposal. Ohio Power notes that FES's proposal would only allow the CRES provider to drop a customer

for non-payment. However, Ohio Power notes that CRES providers get paid first so the rule change would permit the CRES provider to maintain the customer and continually get paid while the utility does not. Ohio Power further notes that the rule only applies to customers who fail to pay and Ohio Power believes that it should be able to manage its own business by dropping customers for non-payment. (Ohio Power Reply at 13.)

The Commission finds that FES's proposal should be adopted. The Commission believes that failure to pay CRES charges may result in cancellation of the customer's CRES contract by the CRES provider and adopting FES's proposal will provide clarity to customers on this.

Ohio Adm.Code 4901:1-10-20 - Fraudulent act, tampering, and theft of service

- (52) Paragraph (B). DP&L proposes that electric utilities should be permitted to deliver reconnection notices to customers by telephone (DP&L Comments at 6.) FirstEnergy supports DP&L's proposal (FirstEnergy Reply at 28.)

The Commission finds that DP&L's proposal should be adopted. The Commission believes that if the electric utility's decision is to reconnect the customer; the electric utility may notify or contact the customer by telephone to arrange for reconnection. If the electric utility's decision is not a reconnect, then the customer shall be provided written notice.

Ohio Adm.Code 4901:1-10-22 - Electric utility customer billing and payments.

- (53) General. Duke proposes that Ohio Adm.Code 4901:1-10-22 be revised to indicate that beginning and ending meter reads are not required for customers with advanced meters (Duke Comments at 6.) OCC opposes Duke's proposal, as OCC believes that beginning and ending meter reads should be listed on customer bills (OCC Reply at 14.)

The Commission finds that Duke's proposal should be denied. The Commission believes that a beginning and ending meter read should remain on customer bills to verify the usage billed.

- (54) Paragraph (B). DP&L proposes that Ohio Adm.Code 4901:1-10-22(B)(8) be revised so that, in the case of real-time pricing data, the consumption for each respective pricing period should be available to customers via the web or on the bill (DP&L Comments at 7.) FirstEnergy opposes DP&L's proposal, as FirstEnergy provides the consumption for each respective pricing period to customers via the web.

Regarding Paragraph (B)(23), OCC proposes revisions to indicate that the total annual costs for electricity should be listed on customer bills, along with total consumption and the customer's consumption information (OCC Comments at 25.) FirstEnergy opposes OCC's proposal as unnecessary, and contends that there would be no additional benefit to customers to see this on their bills (FirstEnergy Reply at 28-29.) Duke opposes OCC's proposal because it believes that the costs to implement the provisions outweigh any benefit (Duke Reply at 9.)

Regarding Paragraph (B)(25), OCC recommends that it be revised to indicate that any phase-in recovery charges and other cost recovery riders be listed separately from base rates (OCC Comments at 26.) FirstEnergy and DP&L oppose OCC's recommendation on the grounds that it is unnecessary and unduly financially burdensome (FirstEnergy Reply at 29; DP&L Reply at 10.)

OMA proposes a Paragraph (B)(27), which would be a new rule that would indicate that the marginal cost of consumption should be measured in units of \$/kWh, demand in units of \$/kW, and power factor in units of \$/kilovolt-Amps reactive (kVAr). OMA then proposes that energy cost savings factors should be included on customer bills indicating the dollar savings for each unit of electrical consumption, demand, or power factor that is saved. (OMA Comments at 3-4). FirstEnergy and Ohio Power oppose OMA's proposal, as they find it confusing and potentially unduly burdensome (FirstEnergy Reply at 30; Ohio Power Reply at 5.)

The Commission finds that the consumption for each pricing period should be included on the customer's bill. The Commission notes that the consumption for each pricing period may be included on the electric utility's website, but it must be included on the customer's bill as well. Accordingly, the Commission adopts a

change indicating that consumption for each pricing period must be included on the customer's bill. Additionally, the Commission finds that OCC's proposal for Paragraph (B)(23) should be denied, as the Commission believes that the costs of implementing OCC's proposal outweigh the benefits. Next, the Commission finds that Staff's proposal for Ohio Adm.Code 4901:1-10-22(B)(25) as well as OCC's recommendation, should be denied. The Commission has indicated its preference for a unified bill format, and believes that Staff's proposal and OCC's recommendation would be a move away from a unified bill format. Finally, the Commission finds that OMA's proposal should be denied. The Commission believes that OMA's proposal would be confusing to customers and would create an unnecessary administrative burden.

- (55) Paragraph (D). OCC proposes that this Paragraph include an option for customers to adjust the due date on their bill by up to 14 days without resulting in late payment fees, deposits, or other penalties (OCC Comments at 28.) FirstEnergy, Duke, and Ohio Power all oppose OCC's proposal (FirstEnergy Reply at 30-31; Duke Reply at 9; Ohio Power Reply at 12.)

The Commission believes that requiring the electric utilities to change their billing systems to comply with OCC's proposal could be unduly costly and administratively burdensome. Accordingly, OCC's proposal should be denied.

- (56) Paragraph (I). DP&L proposes that this Paragraph be revised to include provisions for the transfer of like accounts. The Commission notes that transfer of like accounts is already discussed in Ohio Adm.Code 4901:1-18 and, therefore, DP&L's proposal should be denied. Additionally, the Commission believes that Paragraph (I) should be adopted.

Ohio Adm.Code 4901:1-10-23 - Billing adjustments

- (57) Paragraph (A). Ohio Power proposes that the electric utilities be permitted to bill an undercharge for 60 months, instead of 36 months (Ohio Power Comments at 12.) FirstEnergy and DP&L propose that the electric utilities should be permitted to bill an undercharge for 72 months (FirstEnergy Comments at 12; DP&L Reply at 10.)

The Commission finds that the proposals by Ohio Power, FirstEnergy, and DP&L should each be denied. The Commission believes that 36 months is sufficient time for the electric utility to identify an undercharge and provide accurate billing.

Ohio Adm.Code 4901:1-10-24 - Customer safeguards and information

- (58) Paragraph (E). Staff's initial proposal for Ohio Adm.Code 4901:1-10-24(E)(3) provided the requirements for proper disclosure of customer energy usage data. OCC proposes that the rule be revised to require electric utilities to conduct privacy impact assessments (OCC Comments at 29.) OCC's proposal is opposed by IGS, Duke, and DP&L (IGS Reply at 2; Duke Reply at 3; DP&L Reply at 10-11.) Alternatively, FirstEnergy recommends that the rule be revised to permit companies to disclose the data pursuant to a court order or subpoena (FirstEnergy Comments at 13.)

Regarding Paragraph (E)(3), Ohio Power proposes that it be revised to recognize contractors and vendors who manage various programs for the electric utility and have a contract with the utility to maintain customer data privacy (Ohio Power Comments at 13.) FirstEnergy supports Ohio Power's proposal (FirstEnergy Reply at 23.)

Regarding Paragraph (E)(4), OCC proposes that it be revised to indicate that the electric utility should specify to customers the potential risks that are associated with disclosing the customer's data (OCC Comments at 30.)

The Commission believes that, at this time, the benefits of conducting privacy impact assessments have not been clearly identified, and have not been demonstrated to overcome the costs of conducting such assessments. However, the Commission is adopting additional language to Ohio Adm.Code 4901:1-10-24(E)(3) and 4901:1-10-23(E)(4) for the purpose of clarifying the process for disclosing customer energy usage data and the customer authorization for release forms. Additionally, the Commission notes that the rule already provides for companies to be permitted to disclose pursuant to a court order, therefore, FirstEnergy's proposal should be denied.

Furthermore, the Commission finds that Ohio Power's proposal should be adopted, in part, and denied, in part. The Commission finds that the existing language in Ohio Adm.Code 4901:1-10-12(F)(3)(d) and 4901:1-10-24(E)(3)(d) should be removed, as it is confusing and redundant. Additionally, the Commission notes that contractors working on behalf of the electric utilities are subject to the same requirements as the electric utilities, so listing these types of contractual relationships as an exception is unnecessary.

Finally, the Commission finds that OCC's proposal should be denied. The Commission does not believe that it is the utilities' responsibility to inform customers of the risks of choosing to share their information.

- (59) Paragraph (F). Duke Energy Retail proposes that Ohio Adm.Code 4901:1-10-24(F)(2) be revised to indicate that the methodology for creating load profiles should be uniform and consistent, and that three years of historical data should be used, which would yield a more realistic result (Duke Energy Retail Comments at 6.)

Regarding Paragraph (F)(4), FES proposes that the Paragraph be revised to indicate that requesting to be excluded from customer lists could exclude customers from receiving savings offers from CRES providers (FES Comments at 4.) OCC and Ohio Power oppose FES's proposal (OCC Reply at 15; Ohio Power Reply at 13-14.)

The Commission finds that Duke's proposal for Paragraph (F)(2) should be adopted, and that three years of historical data should be used, which will yield a more realistic result. Accordingly, the Commission has revised the rule to require that load pattern information be based upon three or more years of historical consumption data.

The Commission next finds that FES's proposal for Paragraph (F)(4) should be denied. While FES's proposal seems to discourage customers from requesting that they be excluded from customer eligibility lists, the Commission believes that it is the customers' responsibility to understand the effects of requesting to be excluded from the lists.

- (60) Paragraph (G). DP&L proposes that the lists of CRES providers provided to customers be disclosed on the electric utility's websites and provided upon request to customers (DP&L Comments at 8.) OCC supports DP&L's proposal and believes that the existing rule should continue to require that the CRES provider lists be provided to customers quarterly (OCC Reply at 15.)

The Commission finds that DP&L's proposal should be adopted. The Commission believes that disclosing CRES providers on the electric utility's website will benefit customers, but notes that the lists must be displayed and provided in a nondiscriminatory manner. The electric utility's list of CRES providers seeking residential customers in its service territory should not indicate favoritism or support for any particular CRES provider.

Ohio Adm.Code 4901:1-10-27 - Inspection, maintenance, repair, and replacement of transmission and distribution facilities (circuits and equipment)

- (61) Paragraph (E). Staff's proposal for Ohio Adm.Code 4901:1-10-27(E)(4) would revise the rule so that the electric utilities and transmission owners must maintain records of all deficiencies of its transmission and distribution facilities inspection, maintenance, repair, and replacement programs. The existing rule only requires the electric utilities and transmission owners to maintain records of deficiencies that are likely to cause an outage. DP&L, FirstEnergy, and Ohio Power each oppose Staff's proposal (DP&L Comments at 8; FirstEnergy Reply at 32; Ohio Power Comments at 13.)

DP&L proposes that Ohio Adm.Code 4901:1-10-27(E)(1)(g) be revised to move to monthly substation inspections with no inspection interval exceeding 60 calendar days between inspections (DP&L Comments at 8.)

The Commission believes that Staff's proposal should be adopted because all deficiencies should be reported, regardless of the electric utility or transmission owner's independent determination that the deficiency may or may not be likely to cause an outage. Additionally, the Commission finds that DP&L's proposal for Paragraph (E)(1)(g) should be denied. The Commission believes that 40 days is the reasonable and proper timeframe for these substation inspections.

Ohio Adm.Code 4901:1-10-28 - Net Metering

- (62) Paragraph (A). Staff's proposal for Ohio Adm.Code 4901:1-10-28(A)(1) includes a definition for customer-generator. OCC contends that the rule should be revised to clarify that a customer may host third-party owned generation equipment on its premises and be considered a customer-generator (OCC Comments at 32.) Similarly, IREC requests clarification that a third-party owned generator may engage in net metering where the customer-generator hosts the system on the premises and has a contractual agreement with the owner for the generation of electricity (IREC Comments at 4.)

Regarding Paragraph (A)(4), Staff's proposal provides a definition for the term microturbine. Staff's proposal is for a microturbine to be defined as a combustion turbine used by a customer-generator on the customer-generator's premises. Ohio Power agrees with Staff's proposal to adopt a definition for microturbine (Ohio Power Comments at 23.) FirstEnergy proposes that the definition be narrowed and that it be revised to include a size limit, which FirstEnergy asserts is consistent with the General Assembly's intent in R.C. 4928.01(31)(b), and that the size limit should be set at 500 kW (FirstEnergy Comments at 17.) DP&L questions the need for a definition of microturbine, but proposes that if a definition is adopted it should limit the output of the turbine to 500 kW (DP&L Comments at 14.) IREC proposes that the definition of microturbine be limited to turbines that use renewable fuels, and then argues on reply that if a limit is established it should be 500 kW (IREC Comments at 14; IREC Reply at 10.) IGS, Hull and Associates, and AEE-Ohio propose that the definition include reciprocating engine technology (IGS Comments at 2-5; Hull and Associates Comments at 2-5; AEE-Ohio Comments at 7-8.) GEM argues that Staff's proposal properly excludes a limit on the size of the microturbines, and proposes that the definition recognize that multiple microturbines may be installed on the premises (GEM Comments at 2.)

The Commission finds that the proposals by OCC and IREC to clarify the definition of customer-generator should be adopted. The Commission has revised the definition of customer-generator to indicate that a customer that hosts or leases third-party owned

generation equipment on its premises is considered a customer-generator. The Commission notes that it believes customers should be permitted to host or lease net metering systems despite not having ownership of the equipment. The Commission notes that it makes no findings on the enforceability or reliability of purchase power agreements or contracts between a customer-generator and owners of generation equipment. The Commission only notes that such contractual agreements are permissible.

Additionally, the Commission finds that Staff's initial proposal for Paragraph (A)(4), and the proposals made by stakeholders, should all be denied. The Commission does not believe that it would be beneficial to include a definition for microturbine in the rules at this time. Additionally, the Commission notes that there already exists an implied limitation on the size and number of microturbines that may be installed, which is the size or number necessary for the customer-generator to intend primarily to offset part or all of its requirements for electricity.

The Commission believes that the changes it is adopting in Ohio Adm.Code Chapter 4901:1-10-28 will advance the policy of encouraging the development of distributed and small generation facilities set forth in R.C. 4928.02(C). The Commission is committed to advancing the state policies set forth in R.C. 4928.02, and by streamlining and clarifying the provisions for net metering, the Commission believes that it has managed to encourage the development of distributed and small generation facilities while at the same time assuring residential and business consumers access to adequate, safe and reliable utility services at fair prices.

- (63) Paragraph (B)(3). Staff's proposal for Ohio Adm.Code 4901:1-10-28(B)(3)(b) requires the electric utility to disclose to customer-generators, upon request, all net metering tariff information and rules and conditions regarding excess generation. MetroCD, Solarvision, and Duke Energy Retail each comment that the rules, conditions, and procedures used for excess generation should be uniform across the state (MetroCD Comments at 4; Solarvision Comments at 2; Duke Energy Retail Comments at 3.)

The Commission find that the rules should be revised to indicate that a net metering application packet should be created that provides complete information regarding the terms and conditions

of net metering service, facility qualification, and utility charges, along with the possible consequences of excess generation if a customer-generator does not intend primarily to offset part or all of its requirements for electricity. This information should also be made available on the electric utility's website. Additionally, if a customer-generator is found to be an excess generator, the electric utility should notify the customer-generator and work with the customer-generator to appropriately identify a way for the customer-generator to intend primarily to offset part or all of its requirements for electricity; such as increased electricity usage, decreased generation output, or transferring to a small power production tariff for qualifying facilities.

- (64) Paragraph (B)(5). Staff's proposal for this Paragraph requires a net metering system to be located on a customer-generator's premises, and defines a customer-generator's premises as areas owned, operated, leased, or otherwise controlled by the customer-generator, including contiguous lots. FirstEnergy proposes that an addition be made to the rule indicating that non-contiguous lots are not eligible for inclusion under the definition of premises. FirstEnergy requests this change because allowing non-contiguous lots to be included would allow customers to avoid paying distribution charges, leaving the company with stranded costs (FirstEnergy Comments at 18.) However, Solarvision requests that the scope of the premises be expanded to include adjacent lots, not just contiguous lots (Solarvision Comments at 3.) IREC and OCC agree with Solarvision that the scope of premises should be expanded to include adjacent lots (IREC Reply at 9; OCC Comments at 36.) FirstEnergy's proposal is the adverse of this; that the rules should be revised to indicate that non-contiguous areas are not eligible for inclusion of a customer-generator's premises (FirstEnergy Reply at 33-34.)

DP&L argues that Staff's proposal is unclear because it does not reference a metering point. DP&L recommends that the customer-generator's premises should be the area or lot on which the meter is located, and which the customer-generator owns (DP&L Comments at 17.)

The Commission finds that Staff's initial proposal should be adopted, with modification for clarity. The Commission believes that a customer-generator's premises should include contiguous

lots, but not adjacent lots or areas. Additionally, the Commission believes that the rule is clear in recognizing that contiguous lots are considered the customer-generator's premises, whereas adjacent lots or areas are not. Furthermore, the Commission does not believe that it is necessary for the rules to identify a meter point. If an EDU encounters an issue with customer-generators whose meters are not on their premises, then the EDU should work with those customers on a case by case basis.

- (65) Paragraph (B)(6). Staff's proposal for Ohio Adm.Code 4901:1-10-28(B)(6) creates a rebuttable presumption that a customer-generator who generates less than 120 percent of its requirements for electricity is primarily intending to offset part or all of its requirements for electricity. OCC proposes that the 120 percent threshold should be used only at the time of filing a net metering application, and that existing net metering customers should be grandfathered in and not subject to the rule (OCC Comments at 34.) Ohio Power contends that the threshold of 120 percent is excessive, and proposes that it be lowered to 110 percent for residential and 105 percent for non-residential customers (Ohio Power Comments at 15.) FirstEnergy concurs with Ohio Power and notes that excess generation should only occur incidentally for electricity, not routinely by express intent to procure investment payback (FirstEnergy Reply at 34-35.) Similarly, DP&L proposes that the threshold be lowered to 110 percent for all customer-generators (DP&L Comments at 12.) FirstEnergy then comments that no threshold is necessary, as it works with customers on a case-by-case basis (FirstEnergy Comment at 19-20.)

OMA opposes Ohio Power's suggested thresholds for defining an excess generator because it is common for facilities to have the potential for energy consumption reduction of 10 to 30 percent, and energy consumption can vary significantly from year to year (OMA Reply at 1-2.)

Solar Advocates note that the threshold for excess generation could be avoided altogether by adopting a crediting system whereby kWh credits roll over indefinitely rather than being monetized at the end of a billing period (Solar Advocates Reply at 3.) Solar Advocates believe the 120 percent threshold is reasonable, but note that rolling over excess generation month to month would eliminate the incentive to size a system beyond the customer's

needs (Solar Advocates Reply at 4.) IREC and OCC support Solar Advocates' position, and OCC argues that it would not violate *FirstEnergy Corp. v. PUCO*, 95 Ohio St.3d 401, 2002-Ohio-2430 (OCC Reply at 18.) IREC argues that the sole affirmative declaration of law from *FirstEnergy Corp.* is that customer-generators may not avoid nonbypassable rate charges. IREC asserts that crediting excess kWh against volumetric, bypassable rate components would not violate *FirstEnergy Corp.* (IREC Comments at 8.)

Finally, Duke seeks clarification as to whether customers who generate 120 percent or more of their requirements for electricity are ineligible for net metering (Duke Comments at 9.)

The Commission finds that Staff's proposed 120 percent threshold should be adopted, and the proposals by stakeholders should be denied. The Commission believes that Staff's proposed rebuttable presumption at 120 percent of the customer-generator's requirements for electricity is reasonable. The Commission agrees with Staff that a customer-generator could generate in excess of the customer-generator's requirements, while only intending to offset all of its requirements for electricity, as required by R.C. 4928.01(31) and consistent with the Supreme Court's holding in *FirstEnergy Corp. v. PUCO*, 95 Ohio St.3d 401, 2002-Ohio-2430. The Commission adopts this rebuttable presumption provision at 120 percent of a customer-generator's requirements for electricity because a customer-generator could implement energy efficiency measures to decrease its consumption, without intending to generate more than its requirements. Additionally, many customer-generators use renewable sources, which can provide unpredictable annual generation. A customer-generator may intend to procure investment payback, but its primary intent must be to offset its requirements for electricity. Furthermore, the Commission notes that numerous stakeholders, including Ohio Power and DP&L, proposed different thresholds, but ones that were still above 100 percent of a customer-generator's requirements for electricity. The Commission believes that these stakeholders have appropriately recognized that a customer-generator may generate in excess of its requirements for electricity, while actually intending only to offset its requirements for electricity.

The Commission's intent in adopting the rebuttable presumption at 120 percent is to protect customer-generators who incidentally

generate more than their requirements for electricity. The Commission intends for customer-generators to be able to size their net metering systems at 100 percent of their requirements for electricity and still be able to engage in energy efficiency measures.

- (66) Paragraph (B)(7). Staff's proposal for Ohio Adm.Code 4901:1-10-28(B)(7) determines that a customer-generator's requirements for electricity is the average amount of electricity consumed annually by the customer-generator over the previous three years. Staff's proposal then indicates that if the data for the previous three years is not available, such as in instances of new construction or vacant properties, the electric utility should use whatever consumption data is available to it to create an estimate, and then provide the estimation to the customer-generator. OMA opposes Staff's proposal to use the three year baseline for determining the customer-generator's average annual electricity consumption, as it may not reflect rising consumption by Ohio manufacturers. OMA instead proposes that the electric utility use the peak 12-month consumption period from the previous five years for manufacturing facilities (OMA Comments at 1.) Ohio Power opposes OMA's proposal because Ohio Power contends that it may lead to manufacturing customers being deemed excess generators (Ohio Power Reply at 4.) FirstEnergy also opposes OMA's proposal but notes that it believes the customer-generator should be permitted to provide an alternative means of demonstrating its requirements for electricity (FirstEnergy Reply at 36.) IREC and OCC contend that a policy of indefinite rollover of kWh net metering credits would make the three-year baseline unnecessary (OCC Reply at 18; IREC Comments at 6.)

DP&L contends that a customer-generator's requirements for electricity should include both energy and demand, and both should be used when determining the customer-generator's requirements for electricity, as well as for sizing the net metering system (DP&L Comments at 18.) IREC opposes DP&L's contention and notes that while a customer-generator may size a system to match onsite load, the same is not true for demand. IREC contends that basing eligibility on annual load and demand injects substantially more complexity into the determination than is necessary (IREC Reply at 7.)

The Commission finds that Staff's proposal that a customer-generator's requirements for electricity should be the average amount of electricity consumed annually by the customer-generator over the previous three years should be adopted. OMA's proposal to use the peak 12-month consumption period from the previous five years should be denied. While the Commission understands that manufacturing facilities may desire to expand their net metering systems, especially when consumption is increasing, OMA's proposal may lead to manufacturing facilities being deemed excess generators and could result in manufacturing facilities needing to downsize their net metering systems when consumption is decreasing. Furthermore, the Commission disagrees with DP&L that a customer-generator's requirements for electricity should include both energy and demand factors, and that both should be used when sizing the customer-generator's net metering system. The Commission finds that DP&L's proposal to use a demand factor should be denied, both for sizing the net metering system and for calculating the customer-generator's requirements for electricity. The Commission believes that this will bring clarity to the net metering requirements in DP&L's service territory, as well as provide consistency for net metering across the state of Ohio.

Despite denying the overall proposals made by stakeholders, the Commission adopts changes for clarity to Paragraph (B)(7). The Commission's revisions will remove the annual reporting period of June 1 to May 31 for determining the average annual baseline over the previous three years. Furthermore, the Commission agrees with FirstEnergy that flexibility will be beneficial in determining the consumption baseline; therefore, the Commission is revising the rule to recognize that the electric utility shall use any available consumption data and any appropriate data or measures submitted by the customer-generator when determining the customer-generator's consumption baseline for sizing a net metering facility.

- (67) Paragraph (B)(8). Staff's proposal for Ohio Adm.Code 4901:1-10-28(B)(8)(b) provides that if a customer's existing meter needs to be reprogrammed or set up for the customer to accommodate net metering, then the electric utility should not charge the customer for the reprogramming or setup of the existing meter. Ohio Power and DP&L each oppose this provision (Ohio Power Comments at 15-16; DP&L Comments at 19.) Ohio Power and DP&L contend

that the electric utility should not be required to absorb the costs to accommodate participation in net metering (Ohio Power Comments at 16.) IGS comments that permitting the electric utility to charge customers reprogramming fees would make it less economical to develop distributed generation and combined heat and power systems (IGS Reply at 5.) Duke notes that most residential meters are already capable of being utilized for net metering (Duke Reply at 11.)

The Commission finds that the proposals by Ohio Power and DP&L should be adopted, and that the electric utilities should not be required to absorb the cost of reprogramming or setting up a meter for net-metering. While the Commission recognizes that most meters are capable of net metering, Staff's proposed rule should be revised to indicate that any costs to set up the meter to accommodate net metering shall be at the customer's expense. However, the electric utility shall provide the customer a detailed cost estimate for the reprogramming or setup of the existing meter if it is necessary for net metering.

- (68) Paragraph (B)(9). Staff's proposal for Ohio Adm.Code 4901:1-10-28(B)(9)(c) would provide a monetary credit for excess generation on the next month's bill. If the credit is not used in the following month, it would continue to accumulate for 12 months. Any net excess generation existing after 12 months would be refunded to the customer-generator, calculated at the rate the customer-generator pays for generation, regardless of whether the customer-generator purchases generation from an EDU or CRES provider. Direct Energy asserts that there are numerous problems with crediting the customer-generator at the rate the customer-generator pays for generation. Direct Energy contends that adopting this provision would be equivalent to the Commission exceeding its authority and regulating competitive supplier rates (Direct Energy Comments at 5.) Direct Energy then proposes that if the Commission does adopt such a provision, that it be limited to residential customers alone, since commercial and industrial customers are better prepared to negotiate their own contract terms (Direct Energy at 6.) Furthermore, Direct Energy argues that there are numerous additional costs to servicing a net metering customer that would not be recovered if the customer-generator is refunded at the rate the customer-generator pays for generation.

DP&L proposes that Staff's proposal regarding excess generation is adequate and easy to interpret, but recommends that the term monetary be added to identify that the credit is a monetary credit (DP&L Comments at 20.) Additionally, DP&L proposes that customer-generator's should be charged for using the distribution system on excess generation that is added to the line. DP&L proposes that customer-generators be billed on the monthly excess generation at the EDU's base distribution rate, or the Commission permit the EDU to establish a non-bypassable distribution rider that recovers lost distribution charges from excess generation (DP&L Comments at 21.) Finally, DP&L proposes that if a customer-generator is shopping for generation, the electric utility should not issue a refund based upon generation, because DP&L argues that if a customer is not paying the electric utility for generation, it should not get paid by the electric utility for generation. DP&L avers that paying the credits on excess generation for shopping customer-generators should be the responsibility of the customer-generator's CRES provider (DP&L Comments at 20.)

FirstEnergy proposes that the rate of the refund should be calculated at the SSO rate (FirstEnergy Comments at 20-21.) FirstEnergy asserts that it may be difficult for EDU's to verify the CRES providers generation rate, and there may be opportunities for customer-generators to manipulate the intent of the rules.

Duke proposes that customer-generators should self-identify if they are entitled to a refund for excess generation (Duke Comments at 8.) Additionally, Duke notes that its current customer billing system is managed by hand and any rule change directed at billing scenarios should be drafted to consider such practices (Duke Comments at 7-8.)

IREC, OMA, and Solar Advocates propose that the Commission adopt a monthly kWh credit that rolls over monthly. IREC, OMA, and Solar Advocates contend that this would be simpler to apply than Staff's proposal (IREC Reply at 9; OMA Reply at 3; Solar Advocates Reply at 4.) Additionally, OCC and Solar Advocates contend that customers should be refunded what they pay for generation, including all energy, capacity, and ancillary service charges, whether those charges are determined through an SSO or

a CRES provider's rate (OCC Comments at 19; Solar Advocates Comments at 6.)

Initially, the Commission notes that net metering is a noncompetitive retail electric service of the distribution utilities and R.C. 4928.67(A)(1) directs that it is the responsibility of the electric utilities to provide the contracts or tariffs for net metering. The Commission believes that this contract or tariff shall be provided to customer-generators regardless of whether they are shopping for competitive retail electric generation service. Accordingly, the Commission believes that the EDU's should be responsible for crediting customer-generators for generation, and for issuing the refund for net excess generation. The Commission believes that the EDU's should provide this refund regardless of whether the customer-generator is shopping, yet the rate of the refund should be the utility's standard service offer rate for generation. The Commission believes that this will provide greater efficiency and accuracy in calculating the refund to be paid by the electric utilities, as indicated by FirstEnergy. Additionally, the Commission adopts DP&L's proposal to add language indicating that the credit for excess generation is a monetary credit.

- (69) Paragraph (B)(14). Staff's proposal for Ohio Adm.Code 4901:1-10-28(B)(14)(a)-(i) is that the electric utilities should submit a net metering report to the Commission each year with the total number of net metering systems, the rated generation capacity of the net metering systems, the estimated total kWh supplied to customer-generators, the total number of excess-generators, the total dollar amount in refunds issued for excess generation, and any other data requested by the Commission. OCC proposes that this net metering report be provided as part of the electric utility's annual long term forecast report (OCC Comments at 38.) FirstEnergy opposes Staff's proposal and notes that some of the information Staff proposes for the electric utilities report is already provided pursuant to Ohio Adm.Code 4901:1-25-02. Additionally, FirstEnergy contends that determining the total number of customer-generators that qualify as excess generators would be a lengthy and dynamic process (FirstEnergy Comments at 21.)

The Commission finds that Staff's proposal for Ohio Adm.Code 4901:1-10-28(B)(14)(a)-(i) should be adopted, with revisions for clarification. The Commission adds that the information contained

in Ohio Adm.Code 4901:1-10-28(B)(14) should be reported consistent with Ohio Adm.Code Chapter 4901:1-25.

Additionally, the Commission notes that the requirement for the electric utilities to report the total number of excess generators is those customers that began the reporting period as net metering customers and were subsequently removed from the net metering tariff for excess generation.

- (70) Paragraph (C). DP&L argues for Ohio Adm.Code 4901:1-10-28(C)(4) and 4901:1-10-28(C)(6) that hospital customer-generated electricity should not be based on market value at the time it is generated, as the electric utilities do not measure what a metering system generates, only what flows through the meter (DP&L Comments at 22.) Duke proposes that for hospital generators, one meter or register should be capable of measuring the electricity generated by the hospital at the output of the generator at the time that it is generated (Duke Comments at 22.) Additionally, Duke proposes that the Commission revise the rules to indicate that the net metering customer is responsible for paying for additional infrastructure or equipment that may be necessary to handle a hospital net metering system (Duke Comments at 10.)

The Commission finds that additional language should be adopted for Ohio Adm.Code 4901:1-10-28(C)(4) and 4901:1-10-28(C)(6) to clarify that the contract or tariff for a hospital customer-generator should be based upon the market value of the customer-generated electricity at the time that it is generated. Furthermore, one meter or register should be capable of measuring the electricity generated by the hospital at the output of the generator, net of the hospital's load behind the meter. However, the Commission believes that the hospital generator should be credited for electricity generated by the hospital and delivered to the utility grid, but not for the total energy generated, which would include the energy consumed by the hospital. Therefore, energy generated by the hospital under net metering and delivered to the grid should be measured by a separate meter or meter register to allow for the proper crediting of the energy delivered by the hospital at the market rate. In regards to Duke's concern that net metering facilities may require significant distribution upgrades, the Commission believes that this issue is adequately addressed in the Commission's rules for interconnection.

- (71) General. Direct Energy proposes that Ohio Adm.Code 4901:1-10-28 include a defined set of operating rules to automate net metering transactions between EDUs and CRES providers, and that the Commission adopt rules for the Ohio electronic data interface (EDI) working group (OEWG) to implement ongoing rule updates. Additionally, Direct Energy proposes that the rules should require that EDU billing systems be capable of communicating hourly load and generation information to the customer and CRES providers within 48 hours of that particular hour's usage, or transmit the hourly usage data with the summary load and generation data at the end of a customer's billing cycle so that CRES providers may offer innovative net metering products to customers. (Direct Energy Comments at 4.)

Duke Energy Retail asserts that net metering should be handled consistently throughout the state of Ohio, and that the EDUs should be required to identify net metering customers to CRES providers and provide monthly distributed and generated usage data (Duke Energy Retail Comments at 7.) Ohio Power disagrees with Duke Energy Retail that the monthly data profile should include generation data, as Ohio Power avers that the rules only require net usage and many meters used for net metering show only net usage (Ohio Power Reply at 15.)

The Commission believes that consistent application of net metering in Ohio will support the policies set forth in R.C. 4928.02. However, the Commission does not believe that the rules are the appropriate place to determine EDI standards and practices. The Commission has opened numerous proceedings to engage both CRES providers and EDUs for the purpose of developing the retail electric market in Ohio. The Commission believes that net metering is fundamental to the development of Ohio's retail electric service market, yet the Commission is not adopting EDI standards and practices because it does not believe it is the right place for it. The Commission encourages the EDUs and CRES providers in the state of Ohio to participate in the OEWG to provide consistent application of net metering standards across the state of Ohio.

- (72) General. In its November 7, 2013, entry requesting comments, the Commission requested specific comments on the issue of aggregate and virtual net metering. Specifically, the Commission sought

comments on whether virtual net metering and aggregate net metering could be implemented in Ohio without violating R.C. 4928.01 or R.C. 4928.67, and whether virtual net metering or aggregate net metering would promote the policies of the state of Ohio.

Ohio Power, FirstEnergy, and DP&L oppose implementing provisions for aggregate and virtual net metering. These stakeholders assert legal, economic, and administrative barriers to implementation of aggregate and virtual net metering.

OMA, OCC, MetroCD, Solarvision, Solar Advocates, AEE-Ohio, and IREC each support aggregate and virtual net metering, and assert that aggregate and virtual net metering are consistent with Ohio law and would advance the policies of the state of Ohio. These stakeholders believe that allowing aggregate and virtual net metering would expand the existing market and further development of Ohio's retail electric market. IREC recommends that its model rules for aggregate and virtual net metering be used as a template for aggregate and virtual net metering rules in the state of Ohio.

The Commission does not believe that rules providing for virtual and aggregate net metering should be adopted at this time. The Commission appreciates the comments provided by stakeholders, and will use those comments when considering rule revisions in the future. Furthermore, the Commission believes that further collaboration between EDUs and CRES providers is necessary for appropriate implementation of virtual and aggregate net metering. It is for this reason that the Commission will be opening a new docket for the purpose of continuing to consider and evaluate virtual and aggregate net metering. This docket will be used as an opportunity for the Commission to continue to grow in its understanding of the issues regarding virtual and aggregate net metering, and how they comport with the laws and policies of the state of Ohio.

Ohio Adm.Code 4901:1-10-29 - Coordination with CRES Providers and POR

- (73) General. Direct Energy, IGS, and RESA propose that the Commission adopt a POR program (Direct Energy Comments at 7; IGS Comments at 2; RESA Comments at 6-9). Direct Energy and

RESA aver that a POR program would achieve the state policy of R.C. 4928.02(B). RESA contends that a POR program would eliminate customer confusion regarding how much the customer owes and to whom. Furthermore, RESA argues that the greatest benefit of a POR program would be an increase in the offers and products to choose from (RESA Comments at 8.)

FirstEnergy, Ohio Power, and DP&L oppose the proposal to establish a POR program (FirstEnergy Reply at 41-45; Ohio Power Reply at 5-6; DP&L Reply at 11-12.) FirstEnergy cites multiple Commission decisions where the Commission has denied the adoption of a POR program. FirstEnergy argues that shopping levels are increasing without a POR program and that it has not been demonstrated that POR programs would benefit the development of the competitive retail electric markets in Ohio. Furthermore, FirstEnergy asserts that the partial payment priority system in Ohio is an adequate alternative to adopting a POR program (FirstEnergy Reply at 41-45.) Ohio Power asserts that implementing a POR program would be a lengthy and difficult process (Ohio Power Reply at 5.) DP&L avers that the adoption of a POR program should be done through a separate proceeding (DP&L Reply at 11-12.)

The Commission finds that the proposal of Direct Energy, IGS, and RESA to adopt a POR program for the state of Ohio should be denied at this time. The Commission believes that further evaluation of the benefits of a POR program is necessary. Additionally, the Commission finds that the existing partial payment priority provisions adequately support the development of the competitive retail electric markets in Ohio. Finally, the Commission notes that it is still continuing its investigation into POR and partial payment priority in Case No. 12-3151-EL-COI. The Commission recognizes that substantially more stakeholder input has been provided in Case No. 12-3151-EL-COI than in this case docket, and further stakeholder input will be provided subsequent to Staff's report. Accordingly, the Commission does not believe that a POR program should be adopted at this time, in this case docket.

- (74) Paragraph (E). Duke Energy Retail proposes that pre-enrollment lists should be updated on a monthly basis and should contain data pertaining to net metering, peak load contribution, and network

service peak load (Duke Energy Retail Comments at 8.) FirstEnergy opposes Duke Energy Retail's proposal (FirstEnergy Reply at 45-46.) Similar to Duke Energy Retail's proposal, FES proposes that the rule should identify the data that should be included on the eligible customer list (FES Comments at 6.)

IGS proposes that the minimum requirements for the eligible customer lists provided by the EDU's should include customer account numbers (IGS Comments at 3.) However, this proposal is opposed by Duke Energy Retail and OCC (Duke Energy Retail Reply at 5; OCC Reply at 22.) OCC requests that all information regarding PIPP customers be excluded from the eligible customer lists (OCC Reply at 23.)

The Commission finds that the eligible customer list should include a net metering indicator and a PIPP Plus indicator, but the proposals for additional data should be denied. The Commission believes that the addition of customer account numbers could present an opportunity for tampering or fraudulent enrollment of customers. Therefore, the Commission believes that control over customers' account numbers should remain with the customers.

- (75) Paragraph (F). Duke Energy Retail proposes that a provision should be adopted permitting CRES providers to contact EDU's on behalf of customers with regards to rescission and that this should be permitted up to four days prior to enrollment (Duke Energy Retail Comments at 8.) FirstEnergy opposes Duke Energy Retail's proposal (FirstEnergy Reply at 46.)

DP&L proposes a no switch rule whereby residential customers can request that the EDU put a block on their account that would prohibit the account from being switched to a CRES provider (DP&L Comments at 29.) FirstEnergy and FES oppose DP&L's proposal, arguing that it would eliminate customers' right to choose (FirstEnergy Reply at 45; FES Reply at 2.)

The Commission finds that the proposals for Ohio Adm.Code 4901:1-10-29(F) should be denied. The Commission notes that cancellation and rescission are separate issues, and that while CRES providers may contact the EDU, rescission is a process with specific procedures that must be followed. Additionally, the Commission denies DP&L's request to adopt a rule eliminating customers' right

to shop. The Commission sees no benefit to the development of Ohio's competitive retail electric market by adopting a rule that would prevent customers from shopping.

- (76) Paragraph (G). FES proposes that Ohio Adm.Code 4901:1-10-29(G)(2) be revised to indicate that consolidated billing shall include budget billing of utility and CRES charges as a customer-elected option. FES asserts that this will make budget billing a mandatory offering, which many customers use to better manage their electricity expenses. (FES Comments at 6.) FirstEnergy and Ohio Power oppose FES's proposal (FirstEnergy Reply at 47; Ohio Power Reply at 14.) However, FirstEnergy requests that if the Commission adopts a budget billing provision, it should provide the EDUs with sufficient time to implement such changes, along with cost recovery of any costs of implementing such changes (FirstEnergy Reply at 47.)

The Commission finds that FES's proposal for Ohio Adm.Code 4901:1-10-29(G)(2) should be adopted. The Commission believes that budget billing is a beneficial program for many customers and should be a required offering. Additionally, the Commission finds that the EDUs may take a reasonable amount of time to implement these provisions, but not longer than six months from the issuance of this Order. Additionally, the EDUs may apply for cost recovery for implementation of budget billing for consolidated billing customers in their next electric distribution rate case.

- (77) Paragraph (H). FES proposes that Ohio Adm.Code 4901:1-10-29(H)(3) be revised to indicate that there will be no minimum stay period for customers returning to the standard offer (FES Comments at 8.)

The Commission finds that FES's proposal should be denied. The Commission notes that there is currently no minimum stay. While the Commission agrees with FES's premise that there should be no minimum stay provision, the Commission does not believe that it is necessary to adopt a rule indicating that there will be no minimum stay period.

Ohio Adm.Code 4901:1-10-32 - Cooperation with certified governmental aggregators

- (78) Paragraph (A). DP&L proposes that each electric utility provide on customer lists all customers known to be residing within the aggregator's boundaries (DP&L Comments at 9-10.) Duke Energy Retail requests that customer lists be governed by more stringent standards than a best efforts basis (Duke Energy Retail Comments at 9.)

The Commission finds that DP&L's proposal should be denied. The Commission believes that DP&L's proposal is unnecessary. Additionally, the Commission notes that it believes the best efforts basis contemplated in the existing rule is the appropriate standard. Accordingly, Duke Energy Retail's proposal should also be denied.

Ohio Adm.Code 4901:1-10-33 - Consolidated billing requirements

- (79) Paragraph (C). Ohio Power, OCC, and DP&L propose that Ohio Adm.Code 4901:1-10-33(C)(17) and 4901:1-10-33(D)(4) be revised to eliminate the reference to shopping incentives, shopping credits, and transition charges (Ohio Power Comments at 20; OCC Comments at 39; DP&L Comments at 10.) No stakeholders filed comments opposed to this proposal.

The Commission agrees with the proposal made by Ohio Power, OCC, and DP&L. Accordingly, the reference to shopping incentives, shopping credits, and transition charges should be removed from Ohio Adm.Code 4901:1-10-33(C)(17) and 4901:1-10-33(D)(4).

- (80) Paragraph (I). FES proposes that Ohio Adm.Code 4901:1-10-33(I) be deleted in its entirety. FirstEnergy, Duke, and Ohio Power oppose FES's proposal (FirstEnergy Reply at 48; Duke Reply at 12; Ohio Power Reply at 13-14.)

The Commission finds that FES's proposal should be denied and that Ohio Adm.Code 4901:1-10-33(I) should remain in the existing rules.

- (81) Paragraph (K). RESA proposes an additional paragraph to require an electric utility to provide an electronic data interchange (EDI)

response to CRES providers within one business day of the receipt of any payment from a CRES customer account with consolidated billing (RESA Comments at 13.) FirstEnergy and Duke oppose RESA's proposal, as they believe the rule-making proceeding is an improper forum for considering EDI changes (FirstEnergy Reply at 48; Duke Reply at 13.)

The Commission finds that RESA's proposal should be denied. While the Commission believes that consistent EDI standards are needed in the state of Ohio, the Commission does not believe that the appropriate way to achieve this is by adopting narrowly defined EDI standards in the rules.

Ohio Adm.Code 4901:1-10-34 - PURPA

- (82) Paragraph (A). Staff's proposal for Ohio Adm.Code 4901:1-10-34 includes a definition of day-ahead energy market that would be the day-ahead hourly forward market in which participants offer to sell and bid to buy energy. FirstEnergy proposes that the definition be revised to mean an independently administered, auction-based day-ahead and real time forward wholesale market for the sale of electric energy. FirstEnergy asserts that FERC provisions permit qualifying facility rates to be established through competitive market conditions when the qualifying facilities have non-discriminatory access to day-ahead energy markets that are independently administered and auction-based. (FirstEnergy at 24.)

DP&L opposes FirstEnergy's proposal as wrong, unnecessary, and ambiguous. DP&L notes that PJM occasionally imposes price mitigation on generation units, which would not be an auction-based price (DP&L Comments at 20.)

The Commission finds that FirstEnergy's proposal should be denied and Staff's proposed definition should be adopted. The Commission notes that references to independently administered and auction-based markets in FERC Order No. 688 does not define what constitutes market based qualifying facility rates, but rather describe market conditions that must exist for utilities to seek relief from PURPA's mandatory purchase obligation from qualifying facilities larger than 20 MW (See FERC Order No. 688 at 7.)

- (83) Paragraph (C). FirstEnergy and DP&L propose revisions describing how qualifying facilities less than or equal to 20 MW in capacity shall be compensated for their electrical output. FirstEnergy and DP&L propose language to clarify any ambiguity about whether a qualifying facility is to provide 100 percent of its gross output or 100 percent of its net output after meeting any onsite, behind-the-meter load (FirstEnergy Comments at 25; DP&L Comments at 21.)

The Commission finds that the proposals by FirstEnergy and DP&L should be adopted, in part, and denied, in part. However, the Commission also is removing language that would set market prices as maximum price caps.

- (84) Paragraph (I). Staff's proposal would establish the right for qualifying facilities to negotiate power purchase contracts individually with the EDU. OCC proposes clarifying language that directs what terms may be provided in the contract (OCC Comments at 40.) DP&L opposes OCC's proposal on the grounds that specifying the terms and conditions required to be in the contract may exclude other terms and conditions, which could lead to future contractual disputes (DP&L Comments at 21.)

The Commission finds that OCC's proposal should be adopted, in part. The Commission finds that it would be beneficial to indicate the types of terms that may be provided in the power purchase contracts.

- (85) Paragraph (K). Staff's proposal would allow qualifying facilities to select an avoided cost payment based on either the day-ahead energy market, as cleared at the applicable locational marginal price at a liquid trading hub, or the monthly simple swap price.

AEE-Ohio proposes that an additional option should be added that would set the avoided cost rate based on the long-term ownership, operating, and fixed-price fuel costs for a new 500 megawatt, natural gas fired combined cycle gas turbine. AEE-Ohio asserts that adopting a fixed rate based on the operational costs of a combined cycle gas turbine would provide the revenue certainty necessary to facilitate the development of qualifying facilities (AEE-Ohio Comments at 14.) This proposal is opposed by FirstEnergy and DP&L. FirstEnergy and DP&L assert that the avoided cost of

purchasing electricity in Ohio is based on market conditions that are not necessarily correlated to the costs of electricity from any particular type of generation facility, and that natural gas prices can be volatile (FirstEnergy Reply at 50; DP&L Reply at 20.)

IREC proposes a multi-tiered avoided cost framework that would base payments on specific generation types (IREC Comments at 16.) IREC's proposal is opposed by DP&L, which argues that IREC's proposal is discriminatory and inconsistent with the concept of avoided cost (DP&L Reply at 22-23.)

The Commission finds that the rules should not require that qualifying facility payment structures be based upon generation system technologies or Commission estimates of long-term wholesale market conditions. The purpose of the rule is to align qualifying facility payments with the avoided cost of otherwise purchasing power on the wholesale market. The Commission agrees with DP&L that the qualifying facility payments should be based on the locational marginal price at the regional transmission organizations pricing node closest to the injection point of the qualifying facility, or at an appropriate liquid trading hub, to the extent that one exists. To simplify the rule, the Commission believes that the proposal to base qualifying facility payments on the monthly simple-swap price should be denied. Additionally, the Commission believes that qualifying facilities smaller than 20 MW would be unable to participate in the long-term power procurement auctions. However, the practice of procuring energy through power purchase auctions should not nullify an EDU's obligation to purchase energy from the qualifying facilities. The Commission acknowledges that the proposed payment structure does not include a capacity rate component, but believes that the appropriate means of setting capacity prices in the existing market is the reliability pricing model (RPM) administered by PJM, or any competitive capacity auction administered by an alternative regional transmission organization. The Commission notes that smaller qualifying facilities can participate in the RPM as capacity resources; therefore, the Commission does not believe a capacity rate component should be adopted.

- (86) Paragraph (L). Staff's proposal is to require the EDU's to file bi-annual qualifying facility reports with the Commission. Staff's proposal also includes seven items to be included in the reports.

OCC asserts that this report should be filed annually with the EDU's long-term forecast report (OCC Comments at 41.) DP&L agrees with OCC's proposal and requests clarification on how the EDUs should measure incremental reductions in purchases of electricity during the calendar year (DP&L Comments at 24.)

The Commission finds that the filing of the report detailed in Staff's proposal should be consistent with the market monitoring rules detailed in Ohio Adm.Code 4901:1-25-02. The proposals to file the reports with the long-term forecast report is denied.

- (87) General. AEE-Ohio proposes that an additional rule be added to ensure that qualifying facilities retain all of the renewable energy credits (RECs) that they generate. AEE-Ohio contends that permitting the qualifying facilities to retain RECs would provide an additional revenue stream for these projects, which would promote the development of more distributed generation resources. (AEE-Ohio Comments at 14.)

FirstEnergy agrees with AEE-Ohio that in the future it may be appropriate for new qualifying facilities to own the RECs associated with generation from their facilities. However, FirstEnergy argues that, where power purchase agreements have already been established prior to the advent of renewable portfolio standards, a presumption of REC ownership on the part of the qualifying facility would be inappropriate (FirstEnergy Comments at 49.)

The Commission finds that AEE-Ohio's proposal should be denied. The Commission has already addressed this issue in *In re Rules for Alternative and Renewable Energy Emission Control and Amendments*, Case No. 08-888-EL-ORD (08-888), Opinion and Order (April 15, 2009) at 28. In that case, the Commission determined that RECs should belong to the owner of the equipment that produces the electricity underlying the RECs, unless there is contractual language that dictates otherwise. The Commission believes that this finding is sufficient to demonstrate that renewable qualifying facilities retain REC ownership as separate products, unless negotiated contracts transfer REC ownership to the EDU.

Conclusion

- (88) In making its review, an agency is required to consider the continued need for the rules, the nature of any complaints or comments received concerning the rules, and any factors that have changed in the subject matter area affected by the rules. The Commission has evaluated the rules in Ohio Adm.Code Chapter 4901:1-10 and recommends amendments to several rules as shown in the attachment to this entry.
- (89) An agency must also demonstrate that it has included stakeholders in the development of the rule, that it has evaluated the impact of the rule on businesses, and that the purpose of the rule is important enough to justify the impact. The agency must seek to eliminate excessive or duplicative rules that stand in the way of job creation. The Commission has included stakeholders in the development of these rules and has sought to eliminate excessive or duplicative rules that stand in the way of job creation.
- (90) In order to avoid needless production of paper copies, the Commission will serve a paper copy of this entry only and will make the rules, as well as the business impact analysis, available online at www.puco.ohio.gov/puco/rules. All interested persons may download the rules and the business impact analysis from the above website, or contact the Commission's Docketing Division to be sent a paper copy.

It is, therefore,

ORDERED, That attached amended Ohio Adm.Code 4901:1-10-01, 4901:1-10-04 through 4901:1-10-07, 4901:1-10-09 through 4901:1-10-12, 4901:1-10-14, 4901:1-10-17, 4901:1-10-19, 4901:1-10-20, 4901:1-10-22 through 4901:1-10-29, 4901:1-10-31, 4901:1-10-33, and 4901:1-10-34 be adopted. It is, further,

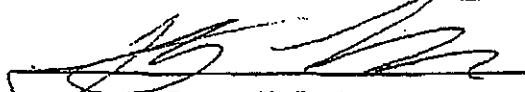
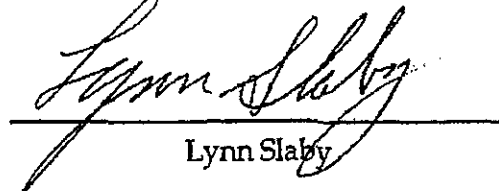
ORDERED, That existing Ohio Adm.Code 4901:1-10-02, 4901:1-10-03, 4901:1-10-08, 4901:1-10-13, 4901:1-10-15, 4901:1-10-16, 4901:1-10-18, 4901:1-10-21, 4901:1-10-30, and 4901:1-10-32 be adopted with no changes. It is, further,

ORDERED, That the adopted rules 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 R.C. 111.15. 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 Chapter 4901:1-10 shall be in compliance with R.C. 119.032. It is, further,

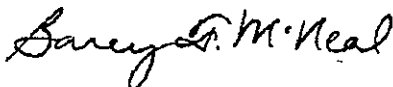
ORDERED, That a copy of this Finding and Order be served upon all electric utilities in the state of Ohio, all certified competitive retail electric service providers in the state of Ohio, the Electric-Energy industry list-serve, and all other interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO


Todd A. Snitchler, Chairman
Steven D. Lesser
Lynn Slaby
M. Beth Trombold
Asim Z. Haque

BAM/dah

Entered in the Journal

JAN 15 2014

Barcy F. McNeal
Secretary

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4901:1-10-01 Definitions.

As used in this chapter:

- (A) "Advanced meter" means any electric meter that meets the pertinent engineering standards using digital technology and is capable of providing two-way communications with the electric utility to provide usage and/or other technical data.
- (B) "Advanced meter opt-out service" means a service provided by an electric utility under the terms and conditions of a commission-approved tariff, which allows a customer to take electric distribution service using a traditional meter.
- (AC) "Applicant" means a person who requests or makes application for service.
- (BD) "Commission" means the public utilities commission of Ohio.
- (CE) "Competitive retail electric service provider" or "CRES" means a provider of competitive retail electric service, subject to certification under section 4928.08 of the Revised Code.
- (DF) "Consolidated billing" means that a customer receives a single bill for electric services provided during a billing period for services from both an electric utility and a competitive retail electric service provider.
- (EG) "Consumer" means any person who receives service from an electric utility or a competitive retail electric service provider.
- (FH) "Critical customer" means any customer or consumer on a medical or life-support system who has provided appropriate documentation to the electric utility that an interruption of service would be immediately life-threatening.
- (GI) "Customer" means any person who has an agreement, by contract and/or tariff with an electric utility or by contract with a competitive retail electric service provider, to receive service.
- (I) "Customer energy usage data" means data collected from a customer's meter, which is identifiable to a retail customer.
- (HK) "Customer premises" means the residence(s), building(s), or office(s) of a customer.
- (IL) "Director of the service monitoring and enforcement department" means the director of the service monitoring and enforcement department of the commission or the director's designee.

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

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

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

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

(~~NO~~) "Electric utility call center" means an office or department or any third party contractor of an electric utility designated to receive customer calls.

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

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

(~~QT~~) "Major event" encompasses any calendar day when an electric utility's system average interruption duration index (SAIDI) exceeds the major event day threshold using the methodology outlined in section 4.53.5 of standard 1366-2003-1366-2012 adopted by the institute of ~~electric~~-electrical and electronics engineers (IEEE) in "IEEE Guide for Electric Power Distribution Reliability Indices." The threshold will be calculated by determining the SAIDI associated with adding 2.5 standard deviations to the average of the natural logarithms of the electric utility's daily SAIDI performance during the most recent five-year period. The computation for a major event requires the exclusion of transmission outages. For purposes of this definition, the SAIDI shall be determined in accordance with paragraph (C)(3)(e)(iii) of rule 4901:1-10-11 of the Administrative Code.

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

(V) "Momentary interruption" means an interruption of electric service with a duration of five minutes or less.

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

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

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

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

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

(XBB) "Staff" means the commission staff or its authorized representative.

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

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

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

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

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

(BBHH) "Universal service fund" means a fund established pursuant to section 4928.51 of the Revised Code, for the purpose of providing funding for low-income customer assistance programs, including the percentage of income

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payment plan program, customer education, and associated administrative costs.

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

"No Change"

4901:1-10-02 Purpose and scope.

- (A) The rules in this chapter:
- (1) Apply to investor-owned electric utilities, as defined in this chapter, and transmission owners.
 - (2) Are intended to promote safe and reliable service to consumers and the public, and to provide minimum standards for uniform and reasonable practices.
- (B) The commission may, in addition to the rules in this chapter, require electric utilities and/or transmission owners to furnish other or additional service, equipment, and facilities upon:
- (1) The commission's own motion.
 - (2) Formal or informal commission resolution of a complaint.
 - (3) The application of any electric utility.
- (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.
- (D) The rules in this chapter shall not relieve the electric utilities and/or transmission owners from:
- (1) Providing adequate service and facilities as prescribed by the commission.
 - (2) Complying with the laws of this state.
- (E) Except as set forth below, the rules of this chapter supersede any inconsistent provisions, terms, and conditions of the electric utility's tariffs. An electric utility

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may adopt or maintain tariffs providing superior standards of service, reliability or safety, or greater protection for customers or consumers. Further, an electric utility may adopt or maintain tariffs which are not inconsistent with the rules of this chapter.

- (F) When an electric utility and/or transmission owner in a complaint proceeding under section 4905.26 of the Revised Code demonstrates compliance with the relevant service or performance standard of this chapter, excluding rule 4901:1-10-27 of the Administrative Code, a rebuttable presumption is created that the electric utility is providing adequate service regarding that standard. Such presumption applies solely to the specific standard addressed by the commission for the time period at issue in the complaint proceeding. No such presumption is created merely by compliance with any reporting requirement of this chapter. In addition, to the extent the service and performance standards in this chapter are based on system-wide data, no such rebuttable presumption is applicable to complaints regarding the adequacy of service provided either to individual customers or consumers or to any segment of the system of an electric utility and/or transmission owner.
- (G) No tariff of an electric utility shall incorporate exculpatory clauses that purport to limit or eliminate liability on the part of the electric utility to its customers or others as a result of its own negligence when providing a regulated service. No electric utility tariff shall incorporate provisions which purport to establish liability on the part of the electric utility's customers for acts or failures to act involving an electric utility's facilities, which are beyond the control of the customer. Any contrary provisions in an electric utility's tariff now on file with the commission shall be eliminated.

"No Change"

4901:1-10-03 Records.

(A) Retention of records

- (1) Unless otherwise specified in this chapter or in paragraph (A)(2) of this rule, the regulations governing the retention and preservation of electric utility records are set forth in the appendix to rule 4901:1-9-06 of the Administrative Code.
- (2) Unless otherwise specified in this chapter, each electric utility shall maintain, for three years, records that are sufficient to demonstrate compliance with

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the rules of this chapter. Failure to retain records, as required by this rule, sufficient to demonstrate compliance with the rules of this chapter shall give rise to a rebuttable presumption to the contrary.

- (3) If compliance with any rule in this chapter is determined on the basis of activities (such as inspection, testing, or maintenance) occurring over a period of two years or more, then the three-year record retention requirement shall be increased by the total number of years over which such activities are required to occur and shall apply to the compilation of records comprised of the activities required during the stated period.

(B) Access to records

- (1) Each electric utility shall provide access to its records maintained in accordance with paragraph (A) of this rule to the staff upon request of the staff.
- (2) Access to records and business activities includes such records and activities as would allow the staff to adequately monitor Ohio-specific customer calls made to the electric utility call center or a third party vendor hired by the electric utility.
- (3) Access includes the ability of staff to adequately monitor the electric utility call center interactions with Ohio customers either at a location in Ohio or in a manner agreed to by the staff. Electric utilities shall provide access to monitor customer calls without the customer service representative's knowledge of the monitoring.

4901:1-10-04 Equipment for voltage measurements and system voltage and frequency requirements.

- (A) Portable indicating instruments (e.g., electro-mechanical indicating, electronic indicating, and electronic indicating and recording) used to test or record service voltage at the customer's premises in response to a customer inquiry or complaint shall be checked for accuracy against a recognized standard. For transmission facilities within the commission's jurisdiction, the voltage measuring equipment accuracy and testing requirements shall comply with the requirements of the transmission system operator. Accuracy checks shall be conducted as recommended by the manufacturer or once per calendar year if no period is specified. The most recent accuracy test record shall be kept with each

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such instrument, or at a central location for the electric utility and/or transmission owner.

- (B) Electric utilities and transmission owners shall comply with the following requirements regarding standard voltage:
- (1) Each electric utility and transmission owner supplying electrical energy for general use shall adopt nominal service voltages to be supplied to its customers and shall make every reasonable effort, by the use of proper equipment and operation, to maintain the service voltages to its customers within the limits as defined within this rule.
 - (2) Each electric utility shall file with the commission, as part of its tariffs, the *nominal service voltage available to customers, including the number of phases and service configurations and the voltage variations for each available service configuration*. The nominal service voltage shall be based on the ~~2001 version~~ 2011 edition of the "American National Standards Institute" standard C84.1, electric power systems and equipment voltage ratings, or as subsequently amended.
 - (3) The limits specified within this rule do not apply to voltage excursions.
 - (4) Each electric utility and transmission owner shall develop procedures to reasonably ensure that the delivered service voltages are within the ranges as specified in paragraph (B)(2) of this rule.

The procedures shall include a description of the electric utility's and transmission owner's practices to assure that service voltages are within acceptable limits and may include the inspections of substation voltage regulation equipment, line voltage regulation equipment (i.e., voltage regulators and capacitors), available substation voltage monitoring equipment and other field investigations and system voltage studies.

- (C) Whenever an electric utility and/or transmission owner knows that voltage levels exist outside of the voltage ranges as specified in paragraph (B)(2) of this rule, the electric utility shall, in a nondiscriminatory manner, promptly take steps to investigate and initiate corrective action, if it is within the electric utility's and/or transmission owner's control to restore the voltage levels to within acceptable limits. The electric utility and/or transmission owner shall document the specifics of the investigation, its findings, and any corrective action that was necessary.

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- (D) The voltage requirements outlined in this rule may be amended or modified by contractual agreement between the electric utility and/or transmission owner and its customer(s), provided the service rendered does not impact other customers on the system.
- (E) The electric utility is not responsible for installing regulating apparatus for special equipment requiring voltage regulation other than those prescribed by these rules or as defined in the electric utility's tariffs.

Each electric utility supplying alternating current shall adopt a standard frequency of sixty hertz, which standard frequency shall be stated in the electric utility's tariff.

4901:1-10-06 "National Electrical Safety Code".

Each electric utility and transmission owner shall comply with the ~~2007~~ 2012 edition of the "American National Standard Institute's," "National Electrical Safety Code" approved by the "American National Standards Institute" and adopted by the "Institute of Electric and Electronics Engineers."

4901:1-10-07 Outage reports.

- (A) As used in this rule, "outage" means an interruption of service to:
 - (1) Two thousand five hundred or more customers in an area for a projected or actual period of four hours or more.
 - (2) One hundred or more customers in an area for a projected or actual period of twenty-four hours or more.
 - (3) A facility of any telephone company, electric light company, natural gas company, water-works company, or a sewage disposal system company, as defined in section 4905.03 of the Revised Code and including a company that is operated not-for-profit, or owned or operated by a municipal corporation, when an interruption to that facility for a projected period of four hours or more, affects or will affect public safety.

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- (4) Any police department, fire department, hospital, or countywide 9-1-1 system, for a projected period of four hours or more.

As used in this paragraph, "area" means the electric utility's certified territory within a county or all adjoining municipalities and townships in an electric utility's certified territory.

- (B) Each electric utility shall immediately report each outage to the commission's outage coordinator in a format prescribed by the outage coordinator. ~~Each electric utility shall report to the commission's outage coordinator by voice mail message or e-mail or, during normal business hours, by faxing the outage report on a model form approved by the commission's outage coordinator.~~

"No Change"

4901:1-10-08 Emergency plan; annual emergency contact report and annual review of emergency plan; critical customers; emergency exercise; and coordination.

- (A) Each electric utility shall maintain an emergency plan(s) in accordance with this rule. Each emergency plan shall include at least the following elements, or if these elements are contained in another document, each electric utility shall reference such document in the plan:
- (1) A table of contents, mission statement, and major objectives for the plan.
 - (2) A description of procedures the electric utility uses to move from its normal operations to each stage or level of outage response and restoration of services.
 - (3) A description of the electric utility's requirements for restoring service.
 - (4) Identification and annual updates of all of the electric utility's critical facilities, as defined by the electric utility, and reasonable measures to protect its personnel and facilities.
 - (5) Contingency identification, i.e., a plan for training alternative or backup employees, identifying backup power supplies, and identifying alternative means of communicating with the office and field employees.

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- (6) A list of twenty-four hour phone numbers of fire and police departments and county/regional emergency management directors in its service area.
- (7) Procedures for requesting aid, utilizing crews from other electric transmission owners and/or distribution utilities, and utilizing other restoration assistance.
- (8) Procedures for prompt identification of outage areas; timely assessment of damage; and, as accurately as conditions allow, provision of an informed estimate of materials, equipment, personnel, and hours required to restore service.
- (9) Performance objectives for telephone response time to customer outage calls and procedures to accomplish those objectives.
- (10) The policy and procedures for outage response and restoration of service by priority and a list of such priorities, including the following:
 - (a) "Live wire down" situations.
 - (b) Restoring service to the facilities designated in paragraph (A)(3) of rule 4901:1-10-07 of the Administrative Code, and the entities specified in paragraph (A)(4) of rule 4901:1-10-07 of the Administrative Code.
 - (c) Providing information to critical customers who are without service.
- (11) The policy and procedures for providing outage response and restoration of service updates to the county/regional emergency management directors, mayors, and other elected officials; the commission's outage coordinator; the commission's media office; the media; and the electric utility's customers.
- (12) The policy and procedures to verify that service has been restored in each outage area.
- (13) The policy and procedures for providing maximum outage response, seeking outside assistance, and restoring service in a worst case outage scenario, i.e., "a major event."
- (14) The policy and procedures to provide supervisors who are responsible for emergency response a copy of the latest edition of the emergency plan.
- (15) The policy and procedures to:

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- (a) Establish and maintain a liaison with appropriate fire and police departments within the electric utility's service territory.
 - (b) Identify major interruptions of service during which the electric utility will notify appropriate fire departments, police departments, and public officials regarding such interruptions.
 - (c) Determine appropriate mutual assistance and communication methodologies that will be used during major restoration efforts.
- (16) In addition to any North American electric reliability corporation guidelines or standards, a continuity of operations plan to ensure continuance of minimum essential functions during events that cause staffing to be reduced. The continuity of operations plan shall, at a minimum, include:
- (a) Plan activation triggers such as the world health organization's pandemic phase alert levels, widespread transmission within the United States, or a case at one or more locations within the state of Ohio.
 - (b) Identification of a pandemic coordinator and team with defined roles and responsibilities for preparedness and response planning.
 - (c) Identification of *minimal essential functions*, *minimal staffing* required to maintain such essential functions, and personnel resource pools required to ensure continuance of those functions in progressive stages associated with a declining workforce.
 - (d) Identification of essential employees and critical inputs (e.g., raw materials, equipment, suppliers, subcontractor services/products, and logistics) required to maintain business operations by location and function.
 - (e) Policies and procedures to address personal protection initiatives.
 - (f) Policies and procedures to maintain lines of communication with the commission during a declared emergency.
- (17) Policies and procedures for conducting an after-action assessment following activation of the emergency plan. An after-action assessment shall be prepared and shall include lessons learned, deficiencies in the response to the emergency, deficiencies in the emergency plan, and actions to be taken to correct said deficiencies.

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- (B) Each electric utility shall make its emergency plan and amendments available for review by the commission's outage coordinator. In the emergency plan made available to the commission's outage coordinator, the electric utility may redact the following confidential information:
- (1) The electric utility's internal phone numbers.
 - (2) The list of specific critical facilities.
 - (3) Names, home addresses, and home phone numbers of electric utility employees, other than employee information required for the annual emergency contact report pursuant to paragraph (G)(1)(a) of this rule.
 - (4) Security and personal information and numbers (e.g., lock combination, computer access codes, cipher locks, and security codes).
 - (5) Identification of the electric utility's radio and dispatch channels.
 - (6) Identification of the radio and dispatch channels and telephone numbers of the following:
 - (a) Fire department.
 - (b) Police department.
 - (c) Other emergency/safety organizations.
 - (d) Government and public officials.
 - (7) Similar information approved by the commission's outage coordinator.
- (C) Each electric utility shall follow and implement the procedures in its emergency plan.
- (D) Each electric utility shall review employee activities to determine whether its procedures in the emergency plan, as set forth in paragraph (B) of this rule, were effectively followed.
- (E) Each electric utility shall establish and maintain policy and procedures to train its operating and emergency response personnel to assure they know and can implement emergency procedures, as set forth in paragraph (B) of this rule.
- (F) Each electric utility shall establish procedures for analyzing failures of equipment and facilities which result in a major interruption of service, for the

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purpose of determining the causes of the failure and minimizing the possibility of a recurrence.

- (G) At the direction of the commission's outage coordinator, each electric utility shall submit:
- (1) An emergency contact report which shall contain all of the following information:
 - (a) The names, position titles, areas of functional responsibility, business addresses, e-mail addresses, business telephone numbers, cellular telephone numbers, and home telephone numbers of at least three individuals who will serve as emergency contacts.
 - (b) Any available emergency hotline number.
 - (c) The fax number(s) of its emergency contacts.
 - (2) A report confirming that the electric utility has reviewed its emergency plan and, if applicable, has revised and/or updated the plan, or has established a new plan. Each electric utility shall also submit all revisions and updates to its plan or the new plan.
 - (3) Either of the following:
 - (a) If the electric utility has not implemented its emergency plan within the past year, a written statement attesting to that fact.
 - (b) If the electric utility has implemented part or all of its emergency plan within the past year, a written summary of both of the following:
 - (i) Any failures of equipment or facilities that were not the result of a major event and that resulted in a major interruption of service and the electric utility implementing its emergency plan.
 - (ii) The electric utility's efforts to minimize the possibility of a recurrence of such failures.
- (H) Each electric utility shall promptly notify the commission's outage coordinator of any change in its emergency contacts.
- (I) Each electric utility shall:

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- (1) Maintain and annually verify and update its list of critical customers.
 - (2) Provide critical customers, within ten business days after acceptance of their application, with a written statement of their options and responsibilities during outages, i.e., the need for backup generators, an alternative power source, or evacuation to another location.
 - (3) Annually notify customers of its critical customer program by bill insert or other notice.
- (J) Every three years, each electric utility shall conduct a comprehensive emergency exercise to test and evaluate major components of its emergency plan and shall invite a cross-section of the following, or their representatives, to the exercise:
- (1) Mayors and other elected officials.
 - (2) County/regional emergency management directors.
 - (3) Fire and police departments.
 - (4) Community organizations such as the American red cross.
 - (5) The commission's outage coordinator.
- (K) When an electric utility has implemented its emergency plan as set forth in paragraph (A) of this rule in response to a major event, natural disaster, or outage, that electric utility may request that the commission waive the testing and evaluation of the emergency plan for the three-year period during which such implementation occurred. To request a waiver, the electric utility must submit a report to the commission's outage coordinator detailing:
- (1) Its actions in implementing its emergency plan.
 - (2) What part of the emergency exercise the implemented plan replaces.
 - (3) Why the implementation is an appropriate replacement for an emergency exercise of all or a portion of the plan.
 - (4) The electric utility's interactions with the persons listed in paragraph (J) of this rule.
 - (5) Whether the implemented plan indicates that the electric utility's response to the emergency was sufficient. If the commission fails to act upon an electric

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utility's waiver request within sixty calendar days after such request is submitted to the outage coordinator, the waiver request shall be deemed to have been granted.

- (L) Each electric utility shall coordinate the implementation of its emergency plan, to the extent that such electric utility would rely on or require information or assistance during an emergency, with the following:
 - (1) Any regional or state entities with authority, ownership, or control over electric transmission lines.
 - (2) Any generation provider connected to the electric utility's system.
 - (3) Any other electric utility or transmission owner with facilities connected to the electric utility.
- (M) Each electric utility shall coordinate the implementation of its emergency plan with local, state, and regional emergency management organizations.

4901:1-10-09 Minimum customer service levels.

- (A) On a calendar monthly basis, each electric utility shall complete the installation of new service or upgrade of service as follows:
 - (1) Ninety-nine per cent of new service installations requiring no construction of electric facilities shall:
 - (a) Be completed within three business days, except for meters that are capable of starting and stopping service remotely, after the electric utility has been notified that the service location is ready for service and all necessary tariff and regulatory requirements have been met.
 - (b) Be completed by the requested installation date, when an applicant requests an installation date more than three business days after the service location is ready for service and all necessary tariff requirements have been met.
 - (c) Be completed within one business day after the electric utility has been notified that the service location is ready for service and all necessary tariff and regulatory requirements have been met for meters that are capable of starting and stopping service remotely.

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- (2) Ninety per cent of service upgrades and new service installations that require construction of electric facilities (including the setting of the meter) and that are not primary line extensions shall:
 - (a) Be completed within ten business days after the electric utility has been notified that the service location is ready for service and all necessary tariff and regulatory requirements have been met.
 - (b) Be completed by the requested installation date, when an applicant or customer requests an installation date more than ten business days after the service location is ready for service and all necessary tariff requirements have been met.
 - (3) If an applicant or customer, complies with all pertinent tariff requirements and the electric utility cannot complete the requested service installation or service upgrade as set forth in paragraph (A)(1)(a), (A)(1)(b), (A)(2)(a), or (A)(2)(b) of this rule, then the electric utility shall promptly notify the applicant or customer of the delay, the reasons for the delay, the steps being taken to complete the work, and the probable completion date. The electric utility shall make a reasonable attempt to provide such notification at least one business day prior to the end of the prescribed time interval. If a rescheduled completion date cannot be met, the applicant or customer shall be promptly notified. If the rescheduled completion date is delayed more than two business days, written notification, including email, shall be given, stating the reason(s) for the delay, the steps being taken to complete the work and the new rescheduled completion date. This notification process shall be repeated as necessary. Each subsequent missed completion date shall count as a missed service installation or upgrade pursuant to paragraph (A)(1) or (A)(2) of this rule.
 - (4) If the electric utility fails to complete the requested service installation or upgrade as set forth in paragraph (A)(1) or (A)(2) of this rule, as a result of a military action, war, insurrection, riot or strike, or as a result of a lack of access to the premises when necessary, then such failure shall not be included in the monthly percentage calculations for this rule. Each electric utility must justify and document in its records each instance where it relies on any of the exceptions listed in this paragraph.
- (B) On a calendar monthly basis, each electric utility's average (arithmetic mean) answer time for telephonic customer service calls shall not exceed ninety

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seconds. An electric utility shall set its queue to minimize the number of disconnected calls and busy signals.

- (1) As used in this paragraph, "answer" means the service representative or automated system is ready to render assistance and/or to accept the information necessary to process the call.
 - (2) Answer time shall be measured from the first ring at the electric utility or at the point the caller begins to wait in queue, whichever comes first.
 - (3) When an electric utility utilizes a menu-driven, automated, interactive answering system (referred to as the system), the initial recorded message presented by the system to the caller shall only identify the company and the general options available to the caller, including the option of being transferred to a live attendant. At any time during the call, the caller shall be transferred to a live attendant if the caller fails to interact with the system for a period of ten seconds following any prompt.
 - (4) Callers shall not be delayed from reaching the queue by any promotional or merchandising material not selected by the customer.
- (C) Electric utilities shall comply with the following reporting requirements:
- (1) When an electric utility fails to meet any minimum service level, as set forth in paragraph (A) or (B) of this rule, for any two months within any twelve-month period, the electric utility shall notify the director of the service monitoring and enforcement department in writing within thirty calendar days after such failure. The notification shall identify any factors that contributed to such failure, as well as any remedial action taken or planned to be taken or rationale for not taking any remedial action. Any failure to report the lack of compliance with the minimum service levels set forth in paragraphs (A) and (B) of this rule constitutes a violation of this rule.
 - (2) By March thirty-first of each year, each electric utility shall submit an annual report to the director of the service monitoring and enforcement department, setting forth its actual monthly customer service performance data during the previous calendar year as compared with each of the minimum monthly customer service performance levels set forth in paragraphs (A) and (B) of this rule.

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- (3) Performance data during major events, consistent with that reported in accordance with paragraph (C)(2) of rule 4901:1-10-10 of the Administrative Code, ~~shall~~ may be excluded from the calculations of actual monthly customer service performance pursuant to paragraphs (A) and (B) of this rule.

4901:1-10-10 Distribution system reliability.

- (A) General. This rule prescribes the measurement of each electric utility's service reliability, the development of minimum performance standards for such reliability, and the reporting of performance against the established standards.
- (B) Service reliability indices and minimum performance standards.

- (1) The service reliability indices are as follows:

"CAIDI," or the customer average interruption duration index, represents the average interruption duration or average time to restore service per interrupted customer. CAIDI is expressed by the following formula:

CAIDI equals sum of customer interruption durations divided by total number of customer interruptions

"SAIFI," or the system average interruption frequency index, represents the average number of interruptions per customer. SAIFI is expressed by the following formula:

SAIFI equals total number of customer interruptions divided by total number of customers served

- (2) Each electric utility in this state shall file with the commission an application to establish company-specific minimum reliability performance standards.
- (3) Applications for approval of a reliability performance standard shall include:
- (a) A proposed methodology for establishing reliability standards.
 - (b) A proposed company-specific reliability performance standard for each service reliability index based on the proposed methodology.
 - (c) Supporting justification for the proposed methodology and each resulting performance standard.

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- (4) Supporting justification for the proposed methodology and each resulting performance standard.
 - (a) Performance standards should reflect historical system performance, system design, technological advancements, service area geography, customer perception survey results as defined in paragraph (B)(4)(b) of this rule, and other relevant factors.
 - (b) Each electric utility shall periodically (no less than every three years) conduct a customer perception survey. The survey results shall also be used as an input to the methodology for calculating new performance standards. The survey shall be paid for by the electric utility and shall be conducted under staff oversight. The objective of the survey is to measure customer perceptions, including, but not limited to, ~~economic impacts of disruptions in electric service, and~~ expectations of electric service reliability in terms of the service reliability indices defined in paragraph (B)(1) of this rule.
 - (c) Performance data during major events and transmission outages shall be excluded from the calculation of the indices, proposed standards, and any revised performance standards, as set forth in paragraph (B) of this rule.
- (5) A complete set of work papers must be filed with the application. Work papers must include, but are not limited to, any and all documents prepared by the electric utility for the application, a list of assumptions used in establishing its proposed methodology, and a narrative or other justification for its proposed methodology and each resulting performance standard.
- (6) Unless otherwise ordered by the commission, legal director, deputy legal director, or attorney examiner, the following procedural schedule shall apply:
 - (a) Upon the filing of an application, the commission, legal director, deputy legal director, or an attorney examiner will schedule a technical conference. The purpose of the technical conference is to allow interested persons an opportunity to better understand the electric utility's application. The electric utility will have the necessary personnel in attendance at this conference so as to explain, among other things, the filing, the work papers and the manner in which methodologies and

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resulting performance standards were devised. The conference will be held at the commission offices.

- (b) Within twenty calendar days after the technical conference, any person may file comments.
 - (c) Within thirty calendar days after the technical conference, the commission's staff may file comments.
 - (d) Within fifty calendar days after the technical conference, any person may file a response to the comments.
 - (e) If it appears to the commission that the proposals in the application may be unjust or unreasonable, the commission shall set the matter for hearing and shall publish notice of the hearing in accordance with section 4909.10 of the Revised Code. At such hearing, the burden of proof to show that the proposals in the application are just and reasonable shall be upon the electric utility.
 - (f) Interested persons wishing to participate in the hearing shall file a motion to intervene no later than thirty calendar days after the issuance of the entry scheduling the hearing, unless ordered otherwise by the commission, legal director, deputy legal director, or attorney examiner. This rule does not prohibit the filing of a motion to intervene and conducting discovery prior to the issuance of an entry scheduling a hearing.
- (7) An electric utility may request to revise its authorized performance standards (starting with the next succeeding calendar year) by filing its revisions and supporting justification for such revisions with the commission for approval pursuant to paragraph (B)(6) of this rule, unless otherwise ordered by the commission, legal director, deputy legal director, or attorney examiner.
- (C) Annual report. Each electric utility shall file with the commission an annual report by March thirty-first of each year. That annual report shall include the following information regarding the previous calendar year:
- (1) Annual performance and supporting data for each service reliability index set forth in paragraph (B) of this rule both with and without exclusions for major events and transmission outages. Supporting data includes, for

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example, the number of customers served, the number of customer interruptions, the number of customer minutes interrupted, SAIFI data for a major event, CAIDI data for a major event, information concerning a transmission interruption, and a listing of distribution circuits interrupted during a transmission interruption.

- (2) Performance on the same indices during major events and transmission outages, reported in separate categories with their respective supporting data.
- (3) Data for the total number of sustained outages, customers interrupted, and customer minutes interrupted for each outage cause code, all of which shall be reported in the following versions:
 - (a) Data excluding major events and transmission outages.
 - (b) Data for major events only.
 - (c) Data for transmission outages only.
- (4) Data for the total number of momentary interruptions on the electric utility's system where practicable.
- (5) Each electric utility shall file the annual report required by paragraph (C) of this rule in an electronic form prescribed by the commission or its staff.
- (D) ~~Except as otherwise provided in paragraph (E) of this rule, if~~ the annual performance of an electric utility does not meet the electric utility's performance standard for any index, the electric utility shall submit an action plan to the director of the service monitoring and enforcement department, by March thirty-first of the same-year following the year when the standard was missed.
 - (1) The action plan shall include the following:
 - (a) Factors which contributed to the actual performance level for that index.
 - (b) A proposal for improving performance to a level that meets or exceeds the performance standards authorized for each missed reliability index, including each action taken or planned to be taken, and the anticipated completion date.
 - (2) The action plan shall be submitted in an electronic form prescribed by the

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commission or its staff.

- (3) A status report on each action included in the action plan shall be submitted to the director of the service monitoring and enforcement department upon request of the staff.
- (E) Failure to meet a the same performance standard for two consecutive years shall constitute a violation of this rule.

4901:1-10-11 Distribution circuit performance.

- (A) General. This rule sets forth a method for determining the performance of each electric utility's distribution circuits.
- (B) Circuit performance methodology. The following provisions apply to the determination of the appropriate method for calculating circuit performance.
 - (1) Circuit performance data during major events and transmission outages shall be excluded from the calculation of circuit performance.
 - (2) Each electric utility shall submit, for review and acceptance by the director of the service monitoring and enforcement department, a method to calculate circuit performance, based on the service reliability indices defined in paragraph (B)(1) of rule 4901:1-10-10 of the Administrative Code and other factors proposed by the electric utility, and supporting justification for that method. An electric utility may revise the method it uses for calculating circuit performance (starting with the next succeeding calendar year reporting period) by submitting such revisions and supporting justification for such revisions to the director of the service monitoring and enforcement department for review and acceptance.
 - (3) If the electric utility and the director of the service monitoring and enforcement department cannot agree on the method to calculate circuit performance, then the director of the service monitoring and enforcement department shall issue a letter rejecting the proposal within forty-five calendar days of its submittal. The electric utility or the director may request a hearing to establish the appropriate calculation methodology. At such hearing, the burden of proof to show that the calculation methodology is just and reasonable shall be upon the electric utility.

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- (4) No proposal shall be effective until it is either accepted by the director or, in the event of a hearing, approved by the commission.
- (C) Worst performing circuits. The following provisions apply to the reporting of each electric utility's eight per cent worst performing circuits:
 - (1) Each electric utility shall submit, no later than ninety calendar days after the end of its reporting period, a report to the director of the service monitoring and enforcement department that identifies the worst performing eight per cent of the electric utility's distribution circuits during the previous twelve-month reporting period.
 - (2) Unless otherwise approved by the commission, each electric utility's reporting period for purposes of paragraph (C) of this rule shall begin on September first of each year and shall end on August thirty-first of the subsequent year.
 - (3) The report prescribed by paragraph (C) of this rule shall provide the following information for each reported distribution circuit:
 - (a) The circuit identification number.
 - (b) The location of the primary area served by the circuit.
 - (c) The approximate number of customers on the circuit by customer class.
 - (d) The circuit ranking value.
 - (e) The values and supporting data for each circuit's service reliability indices for the reporting period:
 - (i) System average interruption frequency index (SAIFI) determined according to paragraph (B)(1) of rule 4901:1-10-10 of the Administrative Code.
 - (ii) Customer average interruption duration index (CAIDI) determined according to paragraph (B)(1) of rule 4901:1-10-10 of the Administrative Code.
 - (iii) System average interruption duration index calculated by multiplying the SAIFI times the CAIDI.

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- (f) The number of safety and reliability complaints, based on the definition of complaint pursuant to paragraph (A) of rule 4901:1-10-21 of the Administrative Code.
 - (g) The number of critical customers on the circuit.
 - (h) An identification of each circuit lockout that occurred during the reporting period, together with an explanation of the cause and duration of each such circuit lockout.
 - (i) The total number of outages experienced during the reporting period for each such outage.
 - (j) The total number of out-of-service minutes experienced during the reporting period for each such outage.
 - (k) An identification of any major factors or events that specifically caused the circuit to be reported among the worst performing circuits and, if applicable, the analysis performed to determine those major factors.
 - (l) An action plan, including the start and completion dates of all remedial action taken or planned, to improve circuit performance to a level that removes the circuit from the report submitted pursuant to paragraph (C) of this rule within the next two reporting periods. If the electric utility does not believe remedial action is necessary, then the electric utility must state the rationale for not taking any remedial action.
- (D) If the director of the service monitoring and enforcement department believes that an action plan submitted pursuant to paragraph (C)(3)(l) of this rule is insufficient or unreasonable, the director shall provide written notice to the electric utility within forty-five calendar days of the submittal, otherwise the report is deemed approved. Should no agreement be reached between the electric utility and the director of the service monitoring and enforcement department on a modified action plan, within thirty calendar days following the rejection of the action plan, the electric utility shall apply to the commission for a hearing. At such hearing, the burden of proof to show that the modified action plan is just and reasonable shall be upon the electric utility.
- (E) Each electric utility shall submit the reports required by this rule, on electronic media, in a format prescribed by the commission or its staff.

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- (F) Electric utilities shall take sufficient remedial action to ~~cause each listed circuit to be removed from the list within two years~~ make sure that no circuit is listed on three consecutive reports. The inclusion of a given circuit in the report under paragraph (C) of this rule for three consecutive reporting periods shall create a rebuttable presumption of a violation of this rule.

4901:1-10-12 Provision of customer rights and obligations.

Each electric utility shall provide to new customers, upon application for service, and existing customers upon request, a written summary of their rights and obligations under this chapter. This written summary shall also be prominently posted on the electric utility's website. The summary shall be in clear and understandable language. Each electric utility shall submit the summary or amendments thereto to the chief of the reliability and service analysis division for review at least sixty calendar days prior to mailing the summary to its customers. For purposes of this rule "new customer" means a customer who opens a new account and has not received ~~such a~~ the latest version of the customer rights summary ~~within the preceding year~~. The summary shall include, but not be limited to, the following:

- (A) The electric utility and commission procedures for complaints, which shall include:

- (1) How complaints are made to the electric utility, including a local or toll free number, an address and a website, if applicable.
- (2) A statement that:

"If your complaint is not resolved after you have called (your electric utility), 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 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>."

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- (B) Customer rights and responsibilities, which shall include:
- (1) A list of customer rights and obligations relating to installation of service, payment of bills, disconnection and reconnection of service, and meter testing.
 - (2) Information detailing the customer's responsibility to notify the electric utility of material changes in the customer's equipment or usage within the time reasonably necessary to permit the electric utility to provide necessary facilities and acquire additional power supply, if needed. The summary shall provide examples of such changes in customer equipment and usage.
 - (3) A description of the following customer rights:
 - (a) The circumstances under which the electric utility may demand and/or hold security deposits.
 - (b) The circumstances under which customers may obtain deferred payment plans and low-income assistance plans, and information concerning those plans.
 - (4) The toll-free telephone number(s) for the "one-call" or "call-before-you-dig" protection service(s) to locate underground utility facilities.
 - (5) An explanation of what each applicant must do to receive service from that electric utility.
 - (6) Information explaining when a customer will be charged for the cost of modifying service, installing a meter, and/or providing facilities necessary to serve that customer.
- (C) A statement notifying customers that, when electric utility employee(s) or agent(s) seek access to the customer's and/or landlord's premises, the customer or landlord may request the employee/agent to show photo identification and to state the reason for the visit.
- (D) A statement concerning the availability of rate information, which shall include:
- (1) A statement that the electric utility's rates and tariffs are available for review at the electric utility's office, on the electric utility's website, and on the commission's website, or the customer can request a copy be sent to them.

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- (2) A statement that, upon inquiry by a customer regarding rates or energy efficiency, the electric utility will disclose to the customer the existence and availability of the electric utility's alternative rates or any energy efficiency programs.
- (E) A statement that customers may review a copy of the electric service and safety standards on the commission's website or obtain a copy from the commission upon request.
- (F) Information on privacy rights, which shall include:
 - (1) A statement that the electric utility is prohibited from disclosing a customer's account number without the customer's written consent or electronic authorization or without a court or commission order, except for the following purposes:
 - (a) The electric utility's collections and/or credit reporting.
 - (b) Participation in the home energy assistance program, the emergency home energy assistance program, and programs funded by the universal service fund, such as the percentage of income payment plan programs.
 - (c) Governmental aggregation.
 - (2) A statement that the electric utility is prohibited from disclosing a customer's social security number without the customer's written consent or without a court order, except for the following purposes:
 - (a) The electric utility's consumer credit evaluation.
 - (b) The electric utility's or competitive retail electric service (CRES) provider's collections and/or credit reporting.
 - (c) Participation in the home energy assistance program, the emergency home energy assistance program, and programs funded by the universal service fund, such as the percentage of income payment plan programs.
 - (3) A statement that the electric utility shall not disclose customer energy usage data that is more granular than the monthly historical consumption data, provided on the customer pre-enrollment list pursuant to Rule 4901:1-10-29(E) of the Administrative Code, without the customer's written consent or without a court or commission order.

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- (34) A statement that customers have the right to request up to twenty-four months of their usage history, payment history, and detailed consumption data, if available, and time differentiated price data, if applicable, from the electric utility without charge.
- (45) A statement that customers have the right to prohibit the electric utility from including their names on mass customer lists made available to CRES providers.
- (56) A statement that staff is not prohibited from accessing records or business activities that would allow it to effectively monitor customer calls to the electric utility's call center.
- (G) A statement that customers have the right to obtain, from their electric utility, a list of available CRES providers, that are actively seeking residential customers in its service territory and their phone numbers.
- (H) A statement that customers returning to the electric utility's standard offer service due to default, abandonment, slamming, or certification rescission of a CRES provider will not be liable for any costs associated with the switch.
- (I) Information concerning notice of a change in the customer's supplier of electric service.
 - (1) A statement that, if a change in a residential or small commercial customer's electric services company is initiated, the electric utility is required to send the customer a notice confirming the change.
 - (2) A statement that the customer has a right to cancel any change in its supplier of electric service within seven calendar days after the notice has been sent by calling the electric utility at the telephone number on the notice.
- (J) Information explaining the procedures customers must follow if they believe their generation and/or transmission service has been switched without their consent. This explanation shall include, at a minimum, the following information:
 - (1) If a customer participates in the percentage of income payment plan or in a governmental aggregation, the customer's supplier of generation and/or transmission services appearing on the customer's bill may be a company other than the electric utility.

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- (2) If the customer's electric bill reflects a supplier of electric service not chosen by the customer, the customer should call the commission to initiate a slamming investigation.
- (3) If the staff determines that the customer's service was changed without proper authorization:
 - (a) The customer will be switched back to the customer's previous supplier of electric service without charge to the customer.
 - (b) The customer's account will be credited for any switching fees resulting from the customer being switched without proper authorization.
 - (c) The customer will be credited or reimbursed for any charges in excess of what the customer would have paid absent the unauthorized change in electric service provider.
- (K) Information concerning actual meter readings.
 - (1) A statement that the electric utility is required to obtain an actual meter reading when the customer initiates or terminates electric service with the electric utility, if the meter has not been read within the preceding sixty days.
 - (2) A statement that, if the meter has not been read within the preceding thirty-three to fifty-nine days, the electric utility is required to inform the customer, when the customer contacts the electric utility to initiate or terminate service, of the option to have an actual meter read, at no charge.
 - (3) A statement that the customer may request two actual meter reads per calendar year, at no charge, if the customer's usage has been estimated for more than two of the consecutively preceding billing cycles or if the customer has reasonable grounds to believe that the meter is malfunctioning.
- (L) A statement that customers have the right to obtain the approximate generation resource mix and environmental characteristics in accordance with Rule 4901:1-10-31. The statement shall include a notification that customers shall be provided a link to the EDU's website or the commission's environmental disclosure information for consumers' website containing the information, or at the request of the customer, a hardcopy of the data at no cost to the customer.

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4901:1-10-13 Employee identification.

Any electric utility employee or agent seeking access to the customer's or landlord's premises shall identify himself/herself by displaying company photo identification and, upon request, state the reason for the visit.

4901:1-10-14 Establishment of credit for applicants and customers.

- (A) Each electric utility shall establish written procedures to determine creditworthiness of applicants and customers for service based solely on the customer's or applicant's creditworthiness. These procedures shall be submitted in current form to the staff upon request.
- (B) Upon request, each electric utility shall provide applicants/customers with the following information:
 - (1) Their credit history with that company.
 - (2) A copy of this rule, the commission's website and the toll-free and TTY numbers of the commission's call center.
- (C) An applicant shall be deemed creditworthy if one of the following criteria is satisfied:
 - (1) The electric utility verifies that the applicant is a creditworthy property owner or verifies the applicant's creditworthiness in accordance with legally accepted practices to verify credit. Verification methods for residential applicants shall include, but not be limited to, consideration of the applicant's employer and length of service, reference letters, and substantive credit cards;
 - (a) The company may request the applicant's social security or tax identification number in order to obtain credit information and to establish identity, however if the applicant elects not to provide his/her social security number or tax identification number, the utility company may not refuse to provide service.

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- (b) If the applicant declines the utility company's request for a social security or tax identification number, the utility company shall inform the applicant of other options for establishing creditworthiness.
- (2) The applicant had a prior account with ~~the~~ an electric utility for the same class of service within two years before the date of application, unless during the final year of prior service one of the following occurred:
- (a) The company disconnected applicant for nonpayment.
 - (b) The applicant failed to pay its bill by the due date at least two times.
 - (c) The company disconnected the applicant for a fraudulent practice, tampering, or unauthorized reconnection.
- (3) The applicant furnishes a reasonably safe guarantor, who is a customer of that electric utility, to secure payment of bills in an amount sufficient for a sixty-day supply for the service requested.
- (4) The applicant makes a cash deposit as set forth in this rule.
- (D) Unless otherwise provided in paragraph (H) of this rule, when an electric utility fails to demand security within thirty calendar days after initiation of service, it may not require security for that service.
- (E) Deposit to establish tariffed service; review of deposit upon customer request.
- (1) An electric utility may require an applicant who fails to establish creditworthiness to make a deposit. The amount of the deposit shall not exceed one hundred thirty per cent of the estimated annual average monthly bill for the customer's tariffed service for the ensuing twelve months.
 - (2) Upon the customer's request, the amount of the deposit paid is subject to adjustment, when the deposit paid differs by twenty per cent or more from the deposit which would have been required, based upon actual usage for three consecutive billing periods while taking into account seasonal variations in usage.

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(F) Each electric utility which requires a cash deposit shall communicate to the applicant/customer:

- (1) The reason(s) for its decision.
- (2) Options available to establish credit (including a guarantor to secure payment).
- (3) The applicant/customer's right to contest the electric utility's decision and to demonstrate creditworthiness.
- (4) The applicant/customer may appeal the electric utility's decision to the staff.
- (5) The commission's website and the toll-free and TTY telephone numbers of the commission's call center.

Upon request of the applicant/customer, the information in ~~paragraph (G)~~ of this rule shall be provided in writing.

(G) Deposit to reestablish creditworthiness for tariffed service.

- (1) An electric utility may require a customer to make ~~an initial or additional a deposit, not to exceed one hundred thirty percent of the estimated annual average monthly bill for the customer's tariffed service for the ensuing twelve months, on an existing account, as set forth in this rule, to reestablish creditworthiness for tariffed service based on the customer's credit history on that account with that electric utility.~~
- (2) A deposit may be required if the customer meets one of the following criteria:
 - (a) ~~The customer has not made full payment or payment arrangements by the due date for two consecutive bills during the preceding twelve months.~~ After considering the totality of the customer's circumstances, a utility company may require a deposit if the customer has not made full payment or payment arrangements for any given bill containing a previous balance for regulated service provided by that utility company.
 - (b) ~~The customer has been issued a disconnection notice for nonpayment on two or more occasions during the preceding twelve months.~~

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- (eb) The customer has had service disconnected for nonpayment, a fraudulent practice, tampering, or unauthorized reconnection during the preceding twelve months.
- (H) Upon acceptance of a deposit, each electric utility shall furnish a receipt to the applicant or customer which shows:
 - (1) The name of the applicant.
 - (2) The address of the premises currently served or to be served.
 - (3) The billing address for service.
 - (4) The amount of the deposit.
 - (5) A statement as to the interest rate to be paid and the length of time the deposit must be held to qualify for interest.
 - (6) The conditions for refunding the deposit.
- (I) Each electric utility shall:
 - (1) Review each nonresidential account after the first two years of service for which a deposit is being held, and shall promptly refund the deposit or credit the nonresidential customer's account, plus interest accrued, if during the preceding twenty-four months, both of the following are true:
 - (a) The customer's service was not disconnected for nonpayment, a fraudulent practice, tampering, or unauthorized reconnection.
 - (b) The customer had not more than three past due bills.
 - (2) Upon customer request, but not more than annually, review each nonresidential account after the first two years of service for which a deposit is being held, and shall promptly refund the deposit or credit the customer's account, plus interest accrued, if, with regard to the preceding twelve months, both of the following are true:
 - (a) The customer's service was not disconnected for nonpayment, a fraudulent practice, tampering, or unauthorized reconnection.
 - (b) The customer had not more than two past due bills.

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- (3) Annually review each residential account, for which a deposit is being held, and shall promptly refund the deposit or credit the customer's account, plus interest accrued, if during the preceding twelve months:
 - (a) The customer's service was not disconnected for nonpayment, a fraudulent practice, tampering, or unauthorized reconnection; and
 - (b) The customer had not more than two past due bills.
- (J) Each electric utility shall pay interest on a deposit of not less than three per cent per annum, provided the company has held the deposit for at least six consecutive months.
- (K) When service is terminated or disconnected, each electric utility shall promptly:
 - (1) Apply the deposit and interest accrued to the final bill for service.
 - (2) Refund any amount in excess of the final bill to the customer, unless the amount of the refund is less than one dollar.

A transfer of service from one premise to another premise within the electric utility's certified territory or service area shall not be deemed a disconnection under this paragraph.

- (L) Deposits for customers leaving bundled or standard offer services.

When a customer who has previously paid a deposit to the electric utility switches to a competitive retail electric service provider and is no longer served under an electric utility's bundled service or standard offer service, the electric utility shall apply the electric utility's generation service portion of the deposit and the accrued interest to the amounts due and payable on the next bill and refund any amount remaining to the customer, unless the amount of the refund is less than one dollar.

- (M) Residential service guarantors.

- (1) Each electric utility shall annually review an account where the residential customer provided a guarantor. When a residential customer satisfies the requirements for a deposit refund under paragraph (I) of this rule, each company shall notify the guarantor in writing within thirty days that he/she is no longer obligated for that account.

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- (2) The guarantor shall sign a written guarantor agreement provided by the commission and posted on the commission website. The electric utility shall provide the guarantor with a copy of the signed agreement and shall keep the original on file during the term of the guaranty.
- (23) Each electric utility shall provide to the guarantor of a residential account all notices of disconnection of service which are provided to the customer.
- (34) Upon the residential customer's default, an electric utility may:
- (a) Transfer the balance owed by the customer, not to exceed the amount for sixty days service, to his/her guarantor's account; and
 - (b) Disconnect service under the guaranty, if the guarantor fails to pay the customer's balance within thirty days after notice of the customer's default or fails to make other payment arrangements acceptable to the electric utility.
- (5) Under the circumstances where a guarantor's electric utility service is subject to disconnection or has requested release of financial responsibility related to a customer's account, the electric utility shall, within ten calendar days, advise the customer who provided the guarantor that the guarantor's responsibility to the customer's account will end by a specific date (thirty days from the date of the notice to the guaranteed customer). The electric utility shall also advise the customer that, prior to the specific end date stated in the notice he/she must reestablish credit through one of the alternative means set forth in paragraph (C) of this rule, or be subject to disconnection according to the applicable disconnection rules in Chapter 4901:1-18 of the Administrative Code.
- (N) Each electric utility shall retain records of customer deposits for at least one year after the deposit, including interest, is returned and/or applied to the customer's bill.

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4901:1-10-15 Reasons for denial or disconnection of nonresidential service.

Each electric utility may refuse or disconnect service to nonresidential customers for only the following reasons:

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- (A) When the customer violates or fails to comply with an applicable electric utility contract or tariff(s).
- (B) When electric utility service to a customer violates any law of this state or any political subdivision thereof, or any federal law or regulation.
- (C) When a consumer tampers with electric utility property or engages in a fraudulent practice to obtain service, as set forth in rule 4901:1-10-20 of the Administrative Code.
- (D) For using electricity or equipment which adversely affects electric utility service to other customers, e.g., voltage fluctuations, power surges, and interruptions of service.
- (E) When a safety hazard to consumers or their premises, the public, or to the electric utility's personnel or facilities exists.
- (F) When the customer, landlord of the tenant/customer, or tenant leasing the landlord/customer's premises refuses access to electric utility facilities or equipment on the customer's property or property leased by the customer.
- (G) For nonpayment of electric utility bills and any tariffed charges, including security deposits and amounts not in bona fide dispute. Where 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 fide dispute, the electric utility shall not disconnect service if the customer pays either the undisputed portion of the bill or the amount paid for the same billing period in the previous year.
- (H) When the customer has moved from the service location and the property owner is otherwise subject to disconnect.
- (I) For repairs, provided that the electric utility has notified customers prior to scheduled maintenance interruptions in excess of six hours.
- (J) Upon the customer's request.
- (K) When a former customer, whose account with that electric utility is in arrears for service furnished at the premises, consumes service at, or has requested service for, such premises.

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- (L) When an emergency may threaten the health or safety of a person, a surrounding area, or the operation of the electric utility's electrical system.
- (M) For other good cause shown.

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4901:1-10-16 Notice of disconnection of nonresidential service.

- (A) Except as otherwise provided by contract approved by the commission pursuant to section 4905.31 of the Revised Code, each electric utility shall provide the nonresidential customer with written notice of pending disconnection, when either of the following conditions exists:
 - (1) Violation of or noncompliance with the contract or electric utility's tariff(s) which applies to customer service, other than nonpayment of bills (which is addressed in rule 4901:1-10-17 of the Administrative Code).
 - (2) The customer refuses access to electric utility facilities or equipment on the customer's property or property leased by the customer.

The notice shall set forth the earliest date on which service may be disconnected, which date shall not be less than five calendar days after the postmark date on the notice.

- (B) Prior notice from the electric utility is not required when any one or more of the following conditions exists:
 - (1) When an emergency may threaten the health or safety of a person, a surrounding area, or the operation of the electric utility's electrical system.
 - (2) When a safety hazard to consumers or their premises, the public, or the electric utility's personnel or facilities exists.
 - (3) When a consumer tampers with the electric utility's property.

4901:1-10-17 Payment schedule and disconnection procedures for nonpayment by nonresidential customers.

- (A) A nonresidential customer's bill for tariffed services shall not be due earlier than twenty-one calendar days from the date of the postmark on the bill. If the bill is not paid by the due date, it then becomes past due.

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(B) The utility may disconnect service, after at least five days notice, during normal business hours. However, no disconnection for nonpayment shall be made after twelve-thirty p.m. on the day preceding a day on which all services necessary for the customer to arrange and the utility company to perform reconnection are not regularly performed.

(BC) Except as otherwise provided by contract approved by the commission pursuant to section 4905.31 of the Revised Code, each electric utility shall provide the nonresidential customer with a written notice of pending disconnection for non-payment of tariffed service, which notice shall be postmarked not less than five calendar days before service is disconnected ~~for nonpayment of tariffed service~~.

(CD) The disconnection notice shall clearly display each of the following items:

- (1) The delinquent billing account number, total amount past due, reconnection charge, and any security deposit owed.
- (2) The earliest date when disconnection may occur.
- (3) The address and phone number of the electric utility's office for customers to contact about their accounts.
- (4) A statement that the staff is available to render assistance with unresolved complaints, and the commission's current address, toll-free and TTY numbers of the commission's call center, and the commission's website.
- (5) A statement that the customer's failure to pay the amount required at the electric utility's office or to one of its authorized agents by the date specified in the notice may result in a security deposit and in a charge for reconnection, together with the amount of the reconnection charge.
- (6) If any ~~non-tariffed~~ non-tariffed charges appear on the bill, a statement that the nonpayment of ~~non-tariffed~~ non-tariffed charge(s) shall not result in the disconnection of distribution service;
- (7) If any charges for competitive retail electric services appear on the bill, a statement that the failure to pay charges for competitive retail electric services may result in loss of those products and services.
- (8) If any charges for competitive retail electric services appear on the bill a statement that the failure to pay charges for competitive retail electric service may result in cancellation of the customer's contract with the

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competitive retail electric service provider, and returning of the customer to the electric utility's standard offer for generation services.

The information required by this paragraph may be included in documents accompanying the disconnection notice.

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4901:1-10-18 Reconnection of nonresidential service.

- (A) Unless a nonresidential customer requests otherwise, an electric utility shall reconnect service by the close of the following regular business day after either of the following:
- (1) The electric utility receives both of the following:
 - (a) The full amount in arrears, for which service was disconnected, or the amount in default on an agreed-upon deferred payment plan.
 - (b) Any security deposit authorized under this chapter and any tariffed reconnection charges.
 - (2) The customer establishes that the conditions which warranted disconnection of service have been eliminated.
- (B) Before service is reconnected under this rule, no electric utility may request or require a nonresidential customer to pay any of the following to have service reconnected:
- (1) Any amount owed but not yet past due.
 - (2) When the customer has multiple accounts in the same customer class, any amount owed on those other billing accounts.

4901:1-10-19 Delinquent residential bills.

In addition to the requirements of Chapter 4901:1-18 of the Administrative Code, no electric utility may disconnect service to a residential customer when:

- (A) That customer fails to pay any charge for a ~~non-tariffed~~ non-tariffed service, including competitive retail electric service (CRES).

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- (B) Any authorized agent or CRES provider providing billing and collection services for the electric utility fails to submit payment for the customer's tariffed distribution and/or transmission service(s) rendered by that electric utility.
- (C) The customer fails to pay any amount in bona fide dispute. Where 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 fide dispute, the electric utility can not disconnect service when the customer pays either the undisputed portion of the bill or the amount paid for the same billing period in the previous year.
- (D) The electric utility issues a disconnection notice which fails to separate regulated from ~~non-tariffed~~ non-tariffed charges, including CRES charges.
- (E) The electric utility fails to include on the disconnection notice a statement that:
 - (1) Failure to pay charges for ~~non-tariffed~~ non-tariffed products or services may result in loss of those products or services.
 - (2) Failure to pay charges for CRES may result in cancellation of the customer's CRES contract ~~withby~~ the CRES provider, and return to the electric utility's standard-offer generation service. This provision is applicable only on accounts issued a consolidated bill for electric services.

4901:1-10-20 Fraudulent act, tampering, and theft of service.

- (A) Each electric utility shall establish and maintain an anti-theft and anti-tampering plan and shall submit its plan and subsequent amendments to the director of the service monitoring and enforcement department.
- (B) Disconnection of service for tampering or unauthorized reconnection.
 - (1) An electric utility may disconnect service for safety reasons without prior notice to a customer in either of the following circumstances:
 - (a) The electric service meter, metering equipment, or associated property was damaged, interfered or tampered with, displaced, or bypassed.
 - (b) A person not authorized by the electric utility has reconnected service.

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- (2) Each electric utility that has disconnected service under this paragraph shall tag or seal the customer's meter and hand deliver a written notice to the customer or consumer at the service location. If no adult customer or consumer is present, each electric utility shall attach written notice to a conspicuous place on the premises. When an electric utility reasonably believes that tagging or sealing the meter, hand delivering a notice, or posting a notice may jeopardize employee safety, it shall promptly mail the notice, return receipt requested, to the customer or occupant. The notice shall clearly display each of the following items:
- (a) An explanation that service was disconnected because one of the following circumstances was found:
 - (i) The meter, metering equipment and/or electric utility property was tampered with.
 - (ii) A person not authorized by the electric utility reconnected the customer's service.
 - (b) The electric utility's telephone number of the electric utility's office.
 - (c) A statement that the customer may contest the disconnection by contacting an electric utility representative at the telephone number provided.
 - (d) A statement that, if the customer does not contest the disconnection, the electric utility is not required to restore service until the customer has provided satisfactory assurances that such tampering or unauthorized reconnection has ceased and has paid or made satisfactory arrangements to pay the electric utility an amount that the electric utility calculates for unmetered service, any defaulted amount, any damage to the electric utility's equipment or meter, any security deposit (consistent with rule 4901:1-10-14 of the Administrative Code), and any tariffed reconnection and investigation charges.
 - (e) A statement that the staff is available to render assistance, and the commission's current address, toll-free and TTY numbers of the commission's call center, and the commission's website.
- (3) If the customer meets with the electric utility to contest the disconnection, the electric utility shall timely mail or deliver its decision to the customer. If

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the electric utility's decision is that service can be reconnected, the electric utility may notify the customer by telephone to arrange for reconnection.

(C) Disconnection of service for fraudulent act.

An electric utility may disconnect service, after following the steps set forth in this paragraph, when a customer uses any fraudulent act, as defined by paragraph (9Q) of rule 4901:1-10-01 of the Administrative Code, to obtain or maintain service

- (1) Before it may disconnect service for a fraudulent act, each electric utility shall hand deliver written notice to the customer or consumer at the service location. If no adult customer or consumer is present, the electric utility shall attach written notice to a conspicuous place on the premises. When an electric utility reasonably believes that hand delivering or posting notice may jeopardize employee safety, it shall promptly mail the notice, return receipt requested, to the customer or occupant.
- (2) The notice shall clearly display each of the following items:
 - (a) A description of the alleged fraudulent act.
 - (b) The address and telephone number of the electric utility's office.
 - (c) A statement that the customer may contest the electric utility's findings by requesting a meeting with an electric utility representative.
 - (d) A statement that the electric utility may disconnect service if either of the following occurs:
 - (i) The customer does not contact the electric utility representative to contest the findings of the fraudulent act, within three business days after receiving this notice.
 - (ii) The customer does not provide a satisfactory explanation at that meeting.
 - (e) A statement that, if service is disconnected, the electric utility is not required to reconnect service until the customer pays or makes satisfactory arrangements to pay the electric utility the bill for service that was fraudulently obtained or maintained, any security deposit

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(consistent with rule 4901:1-10-14 of the Administrative Code), and any tariffed reconnection and investigation charges.

- (f) A statement that the staff is available to render assistance, and the commission's current address, toll-free and TTY numbers of the commission's call center, and the commission's website.
- (3) An electric utility may terminate service for a fraudulent act in the following circumstances:
 - (a) No sooner than three business days after delivery of the written notice required by this paragraph, if the customer does not contact the electric utility at the telephone number provided.
 - (b) No sooner than two business days after the customer received the electric utility's written adverse decision subsequent to the discussion between the customer and the electric utility representative, in the event that the customer initiated the discussion.
- (D) Each electric utility shall maintain records that clearly set forth the basis for its decision to terminate service for a fraudulent act, tampering, unauthorized reconnection, or theft of service, and the steps taken under this rule.

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4901:1-10-21 Customer complaints and complaint-handling procedures.

- (A) As used in this rule, customer/consumer complaint means a customer/consumer contact when such contact necessitates follow-up by or with the electric utility to resolve a point of contention.
- (B) Each electric utility shall make good faith efforts to settle unresolved disputes, which efforts may include meeting with the customer/consumer at a reasonable time and place.
- (C) Except as ordered by the commission or directed by the staff in disconnection or emergency cases, each electric utility shall investigate customer/consumer complaints and provide a status report within three business days of the date of receipt of the complaint to:
 - (1) The customer/consumer, when investigating a complaint made directly to the electric utility.

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- (2) The customer/consumer and staff, when investigating a complaint referred to the electric utility by the commission or staff.
- (D) If an investigation is not completed within ten business days, the electric utility shall provide status reports, either orally or in writing, to update the customer/consumer, or to update the customer/consumer and staff, where appropriate, every five business days until the investigation is complete, unless agreed to otherwise.
- (E) The electric utility shall inform the customer/consumer, or the customer/consumer and staff, where appropriate, of the results of the investigation, orally or in writing, no later than five business days after completion of the investigation. The customer/consumer or staff may request the final report to be in writing.
- (F) If the customer/consumer disputes the electric utility's report(s), the electric utility shall inform the customer/consumer that the staff is available to mediate complaints. The company shall provide the customer/consumer with the commission's current address, toll-free and TTY numbers of the commission's call center, and the commission's website.
- (G) If a customer contacts an electric utility concerning competitive retail electric service (CRES) issues, the electric utility shall take the following actions:
 - (1) Review the issue with the customer to determine whether it also involves the electric utility.
 - (2) Coordinate the resolution of any joint issues with the CRES provider.
 - (3) Refer the customer to the appropriate CRES provider only in those instances where the issue lacks any electric utility involvement.
- (H) Slamming complaints.
 - (1) A slamming complaint is a customer's allegation that the customer's supplier of electric service has been switched without the customer's authorization.
 - (2) If a customer contacts an electric utility with a slamming complaint after the end of the seven-day rescission period for the customer's enrollment with the alleged slamming CRES provider, the electric utility shall take the following actions:

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- (a) Provide the customer with the enrollment information contained in its records.
 - (b) Refer the customer to the commission and provide the customer with the commission's current address, toll-free and TTY numbers of the commission's call center, and the commission's website.
 - (c) Cooperate with the staff in any subsequent investigations of the slamming complaint, including assisting the staff in determining the amount of any restitution owed to the customer pursuant to paragraph (C)(5) of rule 4901:21-08 of the Administrative Code if the customer was switched without authorization from the electric utility's standard offer service.
- (3) If a customer initiates a slamming complaint with the 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 electric service provider was authorized.
- (4) If the staff determines that a customer's service was switched without the customer's authorization, the staff shall notify the electric utility of such determination. After such notification, and if the electric utility is not at fault, the electric utility may then seek reimbursement from the CRES provider that improperly initiated the switch for any incremental costs incurred by the electric utility to correct the unauthorized switch including any switching fees. The electric utility shall provide the CRES provider an itemized list of any such incremental costs.
- (5) If correcting an unauthorized switch involves returning the customer to its previous CRES provider, the electric utility shall make the corrective switch at the next regularly scheduled meter reading date following receipt of the enrollment request from the previous CRES provider. Such corrective switch shall be made in accordance with the electric utility's normal practices and procedures for switching customers, except that the electric utility shall not charge, or shall credit to the customer, any switching fees and the electric utility is not required to issue the customer the notice required by paragraph (F)(1) of rule 4901:1-10-29 of the Administrative Code.
- (6) If correcting an unauthorized switch involves returning the customer to the electric utility's standard offer service, the electric utility shall make the

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corrective switch at the next regularly scheduled meter reading date in accordance with the electric utility's normal practices and procedures for switching customers, except that the electric utility shall not charge or shall credit to the customer any switching fees and the electric utility is not required to issue the customer the notice required by paragraph (F)(1) of rule 4901:1-10-29 of the Administrative Code.

- (7) If, as part of correcting an unauthorized switch, a customer who was taking standard offer service from the electric utility at the time of the unauthorized switch is returned to standard offer service, the customer shall not be subject to any minimum stay or other commission-approved alternative for returning customers, unless the customer would have been subject to such a requirement had the unauthorized switch not occurred.
- (8) If the electric utility switches the customer served by a CRES provider to the electric utility's standard offer service without authorization by the customer, without authorization by the appropriate CRES provider or pursuant to a commission order, the electric utility shall take the following actions:
 - (a) Not charge, or shall credit the customer, any switching fees and shall return the customer to the previous CRES provider, making the corrective switch at the next regularly scheduled meter reading date following receipt of the enrollment request from the previous CRES provider.
 - (b) By the next billing cycle, take all three of the following actions:
 - (i) Credit or refund to the customer any fees previously charged for switching the customer to the electric utility.
 - (ii) Either of the two following actions:
 - (a) If reported to staff within thirty calendar days after being issued a bill from the alleged slammer, absolve the customer of any liability for any charges assessed to the customer, excluding the distribution charges and refund to the customer any charges collected from the customer.
 - (b) If reported to the staff more than thirty calendar days after being issued a bill by the alleged slammer, credit the customer any fees

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the electric utility charged in excess of the amount the customer would have paid its previous CRES provider for the same usage.

- (iii) If the customer can not be returned to the original contract terms with its previous CRES provider, the slamming electric utility shall credit or refund to the customer, the value of the customer's contract with the previous CRES provider for the remaining term of the contract immediately prior to the slam.
- (c) Reimburse the CRES provider for any incremental costs incurred by the CRES provider to correct the unauthorized switch within thirty calendar days of receiving an itemized invoice of the incurred incremental costs.

4901:1-10-22 Electric utility customer billing and payments.

- (A) This rule applies to electric utility bills that do not include any competitive retail electric service (CRES) provider charges. Requirements for consolidated billing appear in rule 4901:1-10-33 of the Administrative Code.
- (B) Customer bills issued by or for the electric utility shall be accurate, shall be rendered at monthly intervals, and shall contain clear and understandable form and language. Each bill shall state at least the following information:
 - (1) The customer's name, billing address, service address, and account number.
 - (2) The electric utility's name and its payment address.
 - (3) The electric utility's twenty-four hour local and toll-free telephone numbers for reporting service emergencies.
 - (4) A statement that customers with billing questions or complaints should call or write the electric utility first. The bill shall list the electric utility's local and toll-free telephone numbers and the address where a question or complaint may be sent.
 - (5) The following text:

"If your complaint is not resolved after you have called your electric utility, 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 free) from eight a.m. to five p.m. weekdays, or at <http://www.puco.ohio.gov>. Hearing or speech impaired customers may

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contact the PUCO via 7-1-1 (Ohio relay service)."

The Ohio consumers' counsel (OCC) represents 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>."

- (6) The rate schedule, if applicable.
- (7) Dates of the service period covered by the bill.
- (8) The billing determinants applicable:
 - (a) Beginning meter reading(s)
 - (b) Ending meter reading(s).
 - (c) Demand meter reading(s).
 - (d) Multiplier(s).
 - (e) Consumption(s) for each pricing period.
 - (f) Demand(s).
- (9) An identification of estimated bills.
- (10) The due date for payment. The due date for residential bills shall not be less than fourteen days from the date of postmark. For residential bills being issued from outside the state of Ohio the due date shall not be less than twenty-one days.
- (11) The current billing that reflects the net-metered usage for customer generators, if applicable.
- (12) Any late payment charge or gross and net charges, if applicable.
- (13) Any unpaid amounts due from previous bills, any customer credits, and the total amount due and payable.
- (14) The current balance of the account, if the residential customer is billed according to a budget plan.
- (15) The current gas and electric charges separately, if the customer is billed for gas and electric service on the same bill.

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- (16) If applicable, each charge for ~~non-tariffed, nonregulated non-tariffed, non-regulated~~ service, and the name and toll-free telephone number of each provider of each service.
 - (17) Any nonrecurring charge.
 - (18) Any payment(s) or credit(s) applied to the account during the current billing period.
 - (19) Any applicable percentage of income payment program (PIPP) billing information:
 - (a) Current PIPP payment.
 - (b) PIPP payments defaulted (i.e., past due).
 - (c) Total PIPP amount due.
 - (d) Total account arrearage.
 - (20) An explanation of codes and abbreviations used.
 - (21) At a minimum, definitions for the following terms, or like terms used by the company, if applicable: customer charge, delivery charge, estimated reading, generation charge, kilowatt hour, ~~shopping incentive or shopping credit, and late payment charge, and transition charge.~~
 - (22) If applicable, the name of the CRES provider and a statement that such provider is responsible for billing the supplier charges.
 - (23) A numerical representation of the customer's historical consumption during each of the preceding twelve months, with a total and average consumption for such twelve-month period.
 - (24) The price-to-compare notice on residential customer bills and a notice that such customers can obtain a written explanation of the price-to-compare from their electric utility.
 - (25) Other information required by Ohio law or commission rule or order.
- (C) Any new bill format proposed by an electric utility shall be filed with the commission for approval. If an application for sample bill approval is not acted

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upon within forty-five calendar days, said sample shall be deemed approved on the forty-sixth day after the filing.

- (D) Each electric utility shall, upon request, provide customers with an updated list of the name and street address/location of the nearest payment center and/or local authorized agent, and alternative methods available for payment of customer bills. If an electric utility accepts payments from customers via authorized agents, the electric utility shall provide signage to the authorized agent with its logo, or other appropriate indicators, that affirm the payment location as an authorized agent of the electric utility. Customers shall not be charged more than two dollars for processing their payments by cash, check, or money order at authorized agent locations.
- (E) When a customer pays a bill at the electric utility's business office or to an authorized agent of the company, that payment, including any partial payment, shall be immediately credited to the customer's account where feasible, and in any event be credited to the customer's account as of the date received at the business office or by the agent. No electric utility shall disconnect service to a customer who pays, to the electric utility or an authorized agent of the electric utility, the total amount due on the account (or an amount agreed upon between the electric utility and the customer to prevent disconnection), by the close of business on the disconnection date listed on the disconnection notice. Payment received by an authorized agent of the electric utility shall constitute receipt of payment by the electric utility.
- (F) Each electric utility shall establish a policy for its own personnel and for its authorized agents to handle billing disputes, requests for payment arrangements, and payments to prevent disconnection of service. If such matters cannot be handled by an agent authorized to accept payments, the electric utility shall provide customers with its local and toll-free numbers to use at a nearby telephone.
- (G) Each electric utility shall credit any customer's partial payments in the following order:
 - (1) Past due distribution, standard offer generation, and transmission charges.
 - (2) Current distribution, standard offer generation, and transmission charges.
 - (3) Other past due and current ~~nonregulated~~ non-regulated charges.

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Budget billing payments and payments in full of the undisputed amount related to a bona fide dispute do not constitute partial payments. Payments made on accounts for which there is a bona fide dispute shall be credited to the *undisputed portion of the account*.

- (H) Any electric utility wishing to issue billing statements online shall comply with the following requirements:
- (1) A customer shall not be required to use online billing.
 - (2) No enrollment or usage fees shall be assessed to a customer who chooses to receive bills and/or customer information online.
 - (3) The online billing statement shall include all requirements listed in paragraph (B) of this rule.
 - (4) The electric utility shall maintain a secure and encrypted site that is to be accessed only by the customer of record after completing a secure registration process.
 - (5) Any fees to accept online payments shall be clearly disclosed in payment window(s).
 - (6) Any payment made online shall be treated as a payment made at the electric utility's business office and shall be posted to the account in accordance with paragraph (E) of this rule. The time needed to post the payment to the account shall be clearly stated.
 - (7) If a customer chooses to use online billing, the electric utility shall continue to make all payment methods available to the customer.
- (I) The utility may transfer the unpaid balances of a customer's previously rendered final bills to a subsequent bill for a like service account in the name of that same customer. The transfer of bills is limited to like service, for example, residential to residential, commercial to commercial, gas to gas, and electric to electric. Such transferred final bills, if unpaid will be part of the past due balance of the transferee account and subject to the Company's collection and disconnection procedures which are governed by Chapters 4901:1-10 and 4901:1-18 of the Ohio Administrative Code. Any transfer of accounts shall not affect the residential customer's right to elect and maintain an extended payment plan for service under Rule 4901:1-18-10 of the Ohio Administrative Code.

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4901:1-10-23 Billing adjustments.

- (A) When an electric utility has undercharged any nonresidential customer as the result of a meter or metering inaccuracy, billing problem, or other continuing problem under the electric utility's control, unless the customer and the electric utility agree otherwise, the maximum portion of the undercharge that may be billed to the customer in any billing month, based upon the appropriate rates, shall be determined by dividing the amount of the undercharge by the number of months of undercharged service. The electric utility shall only bill the customer for the amount of the total undercharge amount rendered in the thirty-six month period immediately prior to the date the company remedies the metering inaccuracy. Each electric utility shall state the total amount to be collected in the first bill under this rule. This rule shall not affect the electric utility's recovery of regular monthly charges.
- (B) ~~Billing adjustments for residential customers shall comply with section 4933.28 of the Revised Code.~~ Pursuant to Section 4933.28 of the Revised Code, the company may only bill the residential customer for the amount of the unmetered electricity rendered in the three hundred sixty-five days immediately prior to the date the company remedies the meter inaccuracy.
- (C) This rule shall not apply to tampering with or unauthorized reconnection of the meter, metering equipment, or electric utility's property which causes meter or metering inaccuracies or no measurement of service.

4901:1-10-24 Customer safeguards and information.

- (A) Each electric utility shall notify customers annually, by bill insert or other notice, about its summary of customer rights and responsibilities, as prescribed by rule 4901:1-10-12 of the Administrative Code, and how to request a copy from the electric utility.
- (B) Each electric utility shall maintain a listing in each local telephone service provider's directory operating in the electric utility's certified territory.
- (C) Customer education and marketing practices.

Each electric utility shall provide informational, promotional, and educational materials that are non-customer specific and explain services, rates, and options

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to customers. The staff may review and/or request modification of informational, promotional, and educational materials. Such materials, shall include the following information:

- (1) An explanation of the service, its application, and any material exclusions, reservations, restrictions, limitations, modifications, or conditions.
 - (2) If services are bundled, an identification and explanation of service components and associated prices.
 - (3) An identification and explanation of:
 - (a) Any one-time or nonrecurring charge(s) (e.g., penalties and open-ended clauses).
 - (b) Recurring charge(s) (e.g., usage).
 - (4) An explanation of how the customer can access the approximate generation resource mix and environmental disclosure data, as prescribed in Rule 4901:1-10-31.
- (D) Unfair and deceptive acts or practices. No electric utility shall commit an unfair or deceptive act or practice in connection with the promotion or provision of service, including an omission of material information. An unfair or deceptive act/practice includes, but is not limited to, the following:
- (1) An electric utility states to a customer that distribution service will or may be disconnected unless the customer pays any amount due for a ~~non-tariffed~~ non-tariffed or nonregulated non-regulated service.
 - (2) An electric utility charges a customer for a service for which the customer did not make an initial affirmative order. An affirmative order means that a customer or applicant for service must positively elect to subscribe to a service before it is added to the account. Failure to refuse an offered or proposed service is not an affirmative order for the service.
- (E) Customer specific information.
- (1) An electric utility shall not disclose a customer's account number without the customer's ~~written consent and proof of that consent as delineated in paragraph (E)(4) of this rule, or electronic authorization, or a court or commission directive ordering disclosure,~~ except for the following purposes:

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- (a) An electric utility's collections and/or credit reporting activities.
- (b) Participation in the home energy assistance program, the emergency home energy assistance program, and programs funded by the universal service fund, pursuant to section 4928.52 of the Revised Code, such as the percentage of income payment plan programs.
- (c) Cooperation with governmental aggregation programs, pursuant to section 4928.20 of the Revised Code.

~~The electric utility must use the consent form set forth in paragraph (E)(3) of this rule, unless authorization is obtained electronically.~~

- (2) An electric utility shall not disclose a customer's social security number without the customer's written consent as delineated in paragraph (E)(4) of this rule, or without a court order, except for the following purposes:
 - (a) Completing a customer credit evaluation.
 - (b) An electric utility's or competitive retail electric service (CRES) provider's collections and/or credit reporting activities.
 - (c) Participation in the home energy assistance program, the emergency home energy assistance program, and programs funded by the universal service fund, pursuant to section 4928.52 of the Revised Code, such as the percentage of income payment plan programs.

~~The electric utility must use the consent form set forth in paragraph (E)(3) of this rule.~~

- (3) An electric utility shall not disclose customer energy usage data that is more granular than the monthly historical consumption data, provided on the customer pre-enrollment list pursuant to Rule 4901:1-10-29(E) of the Administrative Code, without the customer's written consent as delineated in paragraph (E)(4)(a) of this rule, or a court or commission directive ordering disclosure.

(4) Customer information release consent form

- (3a) TheWritten consent form shall be on a separate piece of paper and shall be clearly identified on its face as a release of personal information and all text appearing on the consent form shall be in at least sixteen-point type. The

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following statement shall appear prominently on the consent form, just prior to the signature, in type darker and larger 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 electric utility) to release the information set forth above. By my signature, I freely give (name of the electric utility) permission to release the information designated above." The written consent form for the release of customer energy usage data shall specify the identity of any recipients of the data, type and granularity of the data being collected, and uses for which the data is being collected. ~~information that the electric utility 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.

- (b) Electronic consent shall be verifiable and in a substantially similar format to the written consent in section (a) of this rule. The following statement shall appear prominently: "I realize that under the rules and regulations of the public utilities commission of Ohio, I may refuse to allow (name of the electric utility) to release the information set forth above. By providing my electronic signature, I freely give (name of the electric utility) permission to release the information designated above."

- (45) Nothing in this rule prohibits the commission from accessing records or business activities of an electric utility, as provided for in paragraph (B) of rule 4901:1-10-03 of the Administrative Code.

(F) Customer load pattern information. An electric utility shall:

- (1) Upon request, timely provide twenty-four months of a customer's usage history, payment history, detailed consumption data, if available, and time differentiated price data, if applicable, to the customer without charge.
- (2) Provide generic customer load pattern information, in a universal and user-friendly file format, to other electric service providers on a comparable and nondiscriminatory basis. Load pattern information shall be based upon a minimum of three years of historical customer usage data.
- (3) Provide customer-specific information to CRES providers on a comparable and nondiscriminatory basis as prescribed in paragraph (E) of rule 4901:1-10-29 of the Administrative Code, unless the customer objects to the disclosure of such information.

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- (4) 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 competitive retail electric service providers. If you do not wish to be included on this list, please call (electric utility telephone number) or write (electric utility address). If you have previously made a similar election, your name will continue to be excluded from the list without any additional action on your part. If you previously decided not to be included on the list and would like to reverse that decision, please call or write us at the same telephone number and address. An election not to be included on this list will not prevent (electric utility name) from providing your information to governmental aggregators."

In addition, the electric utility may offer its customers the option of contacting the electric utility by electronic means and, if it does so, the electric utility shall add its electronic mail address or web site to the above notice.

- (5) If a customer objects as provided in paragraphs (F)(3) and (F)(4) of this rule, the electric utility shall not release such information unless and until the customer affirmatively indicates that the information may be released.
- (G) Each electric utility shall develop, update, and maintain a list of certified CRES providers that are actively seeking residential customers within the electric utility's service territory. Where CRES providers are actively seeking residential customers, the electric utility shall disclose such lists on the electric utility's website and provide such lists upon request to:
- (1) All of its customers quarterly.
 - (2) All applicants for new service and customers returning to standard offer service.
 - (3) Any customer upon request.

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4901:1-10-26 Annual system improvement plan report.

- (A) Each electric utility and transmission owner shall report annually regarding its compliance with the minimum service quality, safety, and reliability requirements for noncompetitive retail electric services.
- (B) Annual report. On or before March thirty-first of each year, each electric utility and transmission owner shall file with the commission an annual report for the previous calendar year by the utility's chief executive officer or other senior officer responsible for the service quality, safety, and reliability of the electric utility's and transmission owner's transmission and/or distribution service. The annual report shall include:
 - (1) A plan for investment in and improvements to the electric utility's or transmission owner's transmission and distribution facilities/equipment that will ensure high quality, safe, and reliable delivery of energy to customers and will provide the delivery reliability needed for fair and open competition. Each plan shall also contain the estimated cost of implementation and any changes to the plan from the previous annual report. Each plan shall:
 - (a) Cover all of the electric utility's service territory, and shall describe the relevant characteristics of the service territory including the following:
 - (i) The number of miles of overhead distribution lines.
 - (ii) The number of miles of underground distribution lines.
 - (iii) The number of miles of overhead transmission lines.
 - (iv) The number of miles of underground transmission lines.
 - (v) Any other notable characteristics.
 - (b) Cover a period of no less than three years following the year in which the report was filed.
 - (c) Provide a timetable for achievement of the plan's goals.
 - (d) List any quality, safety, and reliability complaints the electric utility or transmission owner received during the reporting period from other electric utilities, rural electric cooperatives, municipal electric utilities,

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and competitive retail electric suppliers, and shall report the specific actions the electric utility took to address these complaints.

- (e) For transmission facilities within the commission's jurisdiction, list any electric reliability ~~organization~~—standards violations, regional transmission operator operating violations, transmission load relief, the top ten congestion facilities by hours of congestion occurring on the electric utility's and/or transmission owner's facilities, and a description of the relationship between the annual system improvement plan and the regional transmission operator's transmission expansion plan.
 - (f) Report all unresolved quality, safety, and reliability complaints and violations as described in paragraphs (B)(1)(d) and (B)(1)(e) of this rule that were carried over from the prior year, along with the reason the complaint or violation was not resolved.
- (2) A report of the electric utility's or transmission owner's implementation of the plan that it filed pursuant to paragraph (B)(1) of this rule for the previous annual reporting period, including an identification of significant deviations from the goals of the previous plan and the reasons for the deviations.
- (3) A report by service territory of the age, current condition, reliability and performance of the electric utility's and/or transmission owner's transmission and distribution facilities in Ohio. (In analyzing and reporting the age of the electric utility's and/or transmission owner's facilities and equipment, the electric utility and/or transmission owner may utilize book depreciation. Statistical estimation and analysis may be used when actual ages and conditions of facilities are not readily available. The use of such techniques shall be disclosed in the report.) The report shall include:
- (a) A qualitative characterization of the condition of the electric utility's and/or transmission owner's system and an explanation of the criteria used in making the qualitative assessment.
 - (b) An overview of the number and substance of customers' safety and reliability complaints for the annual reporting period in each service territory
 - (c) Each electric utility's or transmission owner's transmission capital and maintenance expenditures as follows:

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- (i) Total expenditures for the past year and the ratio of such expenditures to total transmission investment;
- (ii) Reliability-specific budgeted vs. actual expenditures for the past year by budget category and total, and an explanation for any variance exceeding ten percent; and
- (iii) Budgeted reliability-specific expenditures for the current year by budget category and total.
- (d) Each electric utility's distribution capital and maintenance expenditures as follows:
 - (i) Total expenditures for the past year and the ratio of such expenditures to total distribution investment;
 - (ii) Reliability-specific budgeted vs. actual expenditures for the past year by budget category and total, and an explanation for any variance exceeding ten percent; and
 - (iii) Budgeted reliability-specific expenditures for the current year by budget category and total.
- ~~(c) Each electric utility's or transmission owner's budgeted and actual reliability specific capital and maintenance expenditures for the past and current fiscal year, by account and subaccount, reported separately for transmission construction and maintenance, the ratio of those expenditures to the electric utility's or transmission owner's total transmission investment, and an explanation for any variance between budgeted and actual expenditures that exceeds ten per cent.~~
- ~~(d) Each electric utility's budgeted and actual reliability specific capital and maintenance expenditures for the past and current fiscal year, by account and subaccount, reported separately for distribution construction and maintenance, and the ratio of those expenditures to the electric utility's total distribution investment, and an explanation for any variance between budgeted and actual expenditures that exceeds ten per cent.~~
- (e) The average remaining depreciation lives of the electric utility's and/or transmission owner's transmission and distribution facilities, expressed separately by facility type as a percentage of total depreciation lives.

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- (f) For each reporting period, provide a list and purpose of current inspection, maintenance, repair, and replacement programs required by paragraph (E) of rule 4901:1-10-27 of the Administrative Code that the electric utility and/or transmission owner's utilizes for quality, safe, and reliable service from its transmission, substation, and distribution facilities and/or equipment. This report shall include the following:
 - (i) The goals of each program and whether the electric utility's and/or transmission owner's annual goals for each program were achieved. If the goals were achieved, describe how they were achieved and to what extent, including numerical values and percentages in the description. If the goals were not achieved, describe the problems that prevented the achievement and the level of completion of each program, including numerical values and percentages.
 - (ii) A summary of the electric utility's and/or transmission owner's annual findings as a result of performing each program.
 - (iii) A summary of the remedial activity that has been or will be performed as a result of the program findings, and the actual and estimated completion dates for such remedial activity.
 - (iv) The electric utility's and/or transmission owner's plans and programs to prevent overloading or excessive loading of its transmission and distribution facilities and equipment.
 - (v) The electric utility's and/or transmission owner's actions to remedy overloading or excessive loading of its transmission and distribution facilities and equipment.
 - (vi) An identification of the programs that have been added, deleted, and/or modified from the previous reporting period in accordance with the requirements of paragraph (F) of rule 4901:1-10-27 of the Administrative Code.
- (4) An identification of customer service interruptions that were due solely to the actions or in-actions of another electric utility, regional transmission entity, and/or a competitive retail electric supplier for the annual reporting period and the causes of these interruptions.

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4901:1-10-27 Inspection, maintenance, repair, and replacement of transmission and distribution facilities (circuits and equipment).

- (A) This rule applies to the inspection, maintenance, repair, and replacement of utility transmission and distribution system facilities (circuits and equipment). The rebuttable presumption that an electric utility and/or transmission owner is providing adequate service pursuant to paragraph (F) of rule 4901:1-10-02 of the Administrative Code, does not apply to this rule.
- (B) Distribution system performance assessment. For electric distribution circuits, the electric utility shall comply with rule 4901:1-10-11 of the Administrative Code.
- (C) Transmission system performance assessment. ~~Each~~ Every five years each electric utility and transmission owner shall ~~maintain, on file with the staff, commission~~ a report setting forth its methodology used to assess the reliability of its transmission circuits. That methodology shall be subject to review and acceptance by the director of the utilities department.
 - (1) Each electric utility or transmission owner shall submit a method to assess circuit reliability based on the total number of sustained outages per circuit per calendar year and other factors proposed by the electric utility, or required by the electric reliability organization (ERO), the regional reliability organization (RRO), or the regional transmission operator, which affect circuit performance, together with supporting justification for that method.
 - (a) If the electric utility and/or transmission owner and the director of the utilities department can not agree on a method to assess transmission circuit reliability, the electric utility and/or transmission owner shall apply, within ninety calendar days after the submission of its proposal, to the commission for a hearing and shall file a written report along with documentation supporting its methodology.
 - (b) Revisions to a previously accepted methodology for assessing the reliability of its transmission circuits, shall be submitted for review and acceptance along with supporting justification to the director of the utilities department, no later than ninety calendar days prior to the beginning of the next succeeding calendar year.
 - (2) Each electric utility or transmission owner shall submit a report on electronic media in a format prescribed by the commission on or before March thirty-

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first of each year, that identifies the performance of each transmission circuit for the previous calendar year. Each annual report shall, at a minimum, provide the following information for each transmission circuit:

- (a) The circuit identification number.
 - (b) The circuit name (if different from the origin terminus).
 - (c) The circuit origin and terminus.
 - (d) The circuit voltage level (KV).
 - (e) The circuit mileage.
 - (f) The circuit in-service date, where available.
 - (g) The number of unplanned outages (sustained and momentary if available) and their causes by circuit.
 - (h) The substation(s) and/or distribution circuit(s) affected by each of the outages reported for paragraph (C)(2)(g) of this rule, by circuit.
 - (i) A description of and the rationale for any remedial action taken or planned to improve circuit performance or for taking no remedial action.
 - (j) The start and completion dates of any remedial action taken or planned.
 - (k) The applicable ERO standard requirement.
 - (l) The applicable ERO standard violation.
- (3) The annual report shall be submitted in a form prescribed by the commission or its staff.
- (D) Transmission and distribution facilities inspections.

Unless otherwise determined by the commission, each electric utility and transmission owner shall, at a minimum, inspect its electric transmission and distribution facilities (circuits and equipment) to maintain quality, safe, and reliable service on the following scheduled basis:

- (1) Distribution - ~~at least one fifth of all distribution circuits and equipment shall be inspected annually. All~~ all distribution circuits and equipment shall be inspected at least once every five years.

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- (2) Transmission - all transmission circuits and equipment shall be inspected at least once every year.
- (3) Substations - all transmission and distribution substations and equipment shall be inspected twelve times annually, with no inspection interval exceeding forty calendar days between inspections.
- (4) On or before March thirty-first of each year, each electric utility and transmission owner shall submit a report in an electronic medium, in a format prescribed by the commission or its staff, of the electric utility's and/or transmission owner's compliance with the inspection schedule in paragraphs (D)(1) to (D)(3) of this rule for the preceding calendar year. The annual report of inspection compliance shall include:
 - (a) A listing of distribution circuits inspected during the year and, for each listed circuit, the date(s) such inspection was performed.
 - (b) A listing of transmission circuits inspected during the year and, for each listed circuit, the date(s) such inspections were performed.
 - (c) For each substation, the date of each inspection during the year.
 - (d) The date(s) when any circuits or substations were added or retired during the reporting year.
- (E) Transmission and distribution inspection, maintenance, repair, and replacement programs.
 - (1) Each electric utility and transmission owner shall establish, maintain, and comply with written programs, policies, procedures, and schedules for the inspection, maintenance, repair, and replacement of its transmission and distribution circuits and equipment. These programs shall establish preventative requirements for the electric utility to maintain safe and reliable service. Programs shall include, but are not limited to, the following facilities:
 - (a) Poles and towers.
 - (b) Circuit and line inspections.
 - (c) Primary enclosures (e.g., pad-mounted transformers and pad-mounted switch gear) and secondary enclosures (e.g., pedestals and handholes).

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- (d) Line reclosers.
 - (e) Line capacitors.
 - (f) Right-of-way vegetation control.
 - (g) Substations.
- (2) Each electric utility and ~~transmission owner~~ shall file its inspection, maintenance, repair, and replacement programs, instituted pursuant to paragraph (E)(1) of this rule, with the commission, and simultaneously provide a copy of the filing to the director of the service monitoring and enforcement department. The electric utility's and ~~transmission owner's~~ filing shall include supporting justification and rationale based upon generally accepted industry practices and procedures ~~or requirements set by ERO, RRO, or the transmission operator in the case of transmission.~~
- (3) If a filing to establish the electric utility's and ~~transmission owner's~~ inspection, maintenance, repair, and replacement programs is not acted upon by the commission within forty-five calendar days after it is filed, the inspection, maintenance, repair, and replacement programs shall be deemed approved on the forty-sixth day after filing.
- (4) Each electric utility and transmission owner shall maintain records sufficient to demonstrate compliance with its transmission and distribution facilities inspection, maintenance, repair, and replacement programs as required by this rule. Each electric utility and transmission owner shall record all deficiencies revealed by inspections or tests and all actions taken to correct those deficiencies. Lines and equipment with recorded defects that could reasonably be expected to endanger life or property shall be promptly repaired, disconnected, or isolated. All remaining deficiencies ~~likely to cause an outage shall be corrected within one by the end of the year of following~~ the completion of the inspection or testing that originally revealed such deficiencies. The electric utility shall document all deficiencies that are not corrected within the designated time, including the reason for not taking corrective action.
- (F) Inspection, maintenance, repair, and replacement program revisions and amendments.

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- (1) All revisions or amendments (including modification to a current program, addition of a new program, or elimination of an existing program) requested by an electric utility ~~or transmission owner~~ shall be filed with the commission as outlined in paragraph (E)(2) of this rule.
- (2) If a filing to revise or amend the electric utility's and ~~transmission owner's~~ inspection, maintenance, repair, and replacement programs is not acted upon by the commission within forty-five days after it is filed, the inspection, maintenance, repair, and replacement programs shall be deemed approved on the forty-sixth day after filing.

4901:1-10-28 Net metering.

(A) For purposes of this rule, the following definitions shall apply:

- (1) "Customer-generator" shall have the meaning set forth in section 4928.01(A)(29) of the Revised Code. A customer that hosts or leases third-party owned generation equipment on its premises is considered a customer-generator.
- (2) "Electric utility" shall have the meaning set forth in section 4928.01(A)(11) of the Revised Code.
- (3) "Excess-generator" means a customer-generator that generates in excess of the customer-generator's requirements for electricity as specified in (B)(6) of this rule.
- (4) "Net metering" shall have the meaning set forth in section 4928.01(A)(30) of the Revised Code.
- (5) "Net metering system" shall have the meaning set forth in section 4928.01(A)(31) of the Revised Code.
- (6) "Third party" means a person or entity that may be indirectly involved or affected but is not a principal party to an arrangement, contract, or transaction between other parties.

(B) Standard net metering.

- (1) Each electric utility shall develop a tariff for net metering. Such tariff shall be made available to customer-generators upon request in a timely manner and on a nondiscriminatory basis.

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- (2) Net metering arrangements shall be made available regardless of the date the customer-generator's generating facility was installed.
- (3) The electric utility's tariff for net metering shall be identical in rate structure, all retail rate components, and any monthly charges, to the tariff to which the same customer would be assigned if that customer were not a customer-generator. Such terms shall not change simply because a customer becomes a customer-generator. The tariff shall also contain provisions on the procedures the electric utility will follow in working with and handling a customer-generator that becomes an excess-generator. Subsequent to the one-year review, as specified in (B)(10), if the customer-generator thereafter becomes an excess-generator, the electric utility shall contact the customer-generator in order to resolve the change in status.

 - (a) The electric utility shall disclose on the electric utility's website and to customer-generators upon request, the name, address, telephone number, and email address of the electric utility's net metering department or contact person.
 - (b) The electric utility shall provide all necessary information regarding a customer's potential enrollment in net metering on the electric utility's website. The electric utility shall also provide this information to a customer within the net metering application packet. The website and application packet shall describe and/or provide the following information in a straightforward manner: net metering tariff terms and conditions, sample net metering and interconnection agreements, and the terms and conditions regarding excess generation. The terms and conditions regarding excess generation should include, but are not limited to, criteria used in determining whether a customer-generator is considered to be an excess-generator and the procedures an electric utility has in place to address excess-generator situations. The website and application packet shall also provide information on costs that the customer may incur as a result of net metering enrollment, including, but not limited to, any costs associated with the following: application, interconnection, and meter installation.
- (4) No electric utility's tariff for net metering shall require customer-generators to:

 - (a) Comply with any additional safety or performance standards beyond

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those established by rules in Chapter 4901:1-22 of the Administrative Code, and the "National Electrical Code," the "Institute of Electrical and Electronics Engineers," and "Underwriters Laboratories," in effect as set forth in rule 4901:1-22-03 of the Administrative Code.

- (b) Perform or pay for additional tests beyond those required by paragraph (B)(4)(a) of this rule.
- (c) Purchase additional liability insurance beyond that required by paragraph (B)(4)(a) of this rule.
- (5) A customer-generator's premises include areas owned, operated, or leased by the customer-generator. A net metering system must be located on the customer-generator's premises, which may include a contiguous lot that is owned, operated, or leased by the customer-generator. For purposes of this rule, a property is considered a contiguous lot, regardless of easements, public thoroughfares, transportation rights-of-way, or utility rights-of-way contained on such lot.
- (6) A customer-generator must intend primarily to offset part or all of the customer-generator's requirements for electricity. A customer-generator that annually generates less than one hundred and twenty percent of its requirements for electricity is presumed to be primarily intending to offset part or all of its requirements for electricity.
- (7) A customer-generator's requirements for electricity is the average amount of electricity consumed annually by the customer-generator over the previous three years. If the electric utility does not have the data or cannot calculate the average amount of electricity consumed annually over the previous three years, such as in instances of new construction, vacant properties, facility expansion, or other unique circumstances, the electric utility shall use any available consumption data and any appropriate data or measures submitted by the customer-generator to determine the customer-generator's consumption baseline for sizing a facility, and provide the estimation data to the customer-generator.
- (8) Net metering shall be accomplished using a single meter capable of registering the flow of electricity in each direction. A customer's existing single-register meter that is capable of registering the flow of electricity in each direction satisfies this requirement. If the customer's existing electrical meter is not capable of measuring the flow of electricity each direction, the

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electric utility, upon written request from the customer, shall install at the customer's expense a meter that is capable of measuring electricity flow in each direction. The electric utility shall provide a detailed cost estimate to the customer as outlined in (B)(3)(b) of this rule.

- (a) The electric utility, at its own expense and with the written consent of the customer-generator, may install one or more additional meters to monitor the flow of electricity in each direction.
- (b) If a customer's existing meter needs to be reprogrammed or set up for the customer to become a customer-generator or to accommodate net metering, the electric utility shall provide the customer a detailed cost estimate for the reprogramming or setup of the existing meter. The cost of setting up the meter to accommodate net metering shall be at the customer's expense. If a customer-generator has a meter that is capable of measuring the flow of electricity in each direction, is sufficient for net metering, and there are no set up costs, then the customer-generator shall not be charged meter fees.
- (9) The measurement of net electricity supplied or generated shall be calculated in the following manner:

 - (a) The electric utility shall measure the net electricity produced or consumed during the billing period, in accordance with normal metering practices.
 - (b) If the electric utility supplies more electricity than the customer-generator feeds back to the system in a given billing period, the customer generator shall be billed for the net electricity that the electric utility supplied, as measured in accordance with normal metering practices.
 - (c) If the customer-generator accrues excess generation during a monthly billing period, the electric utility shall issue a monetary credit in the amount of the net excess generation onto the customer-generator's next monthly bill. If the full amount of the monetary credit is not used within the next monthly billing period, the remaining monetary credit shall be stored in the customer-generator's account and subsequently credited to the customer-generator in months where the monetary credit from the previous month is insufficient to cover the cost of the customer-generator's requirements for electricity. The electric utility shall issue a

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refund to the customer-generator for the amount of the monetary credit remaining in the account at the end of the May billing cycle, regardless of whether the customer-generator is receiving generation from the electric utility or a competitive retail electric service provider. This refund shall be calculated at the electric utility's standard service offer generation rate. The annual refund shall be issued to customer-generators by July 1.

- (10) If the electric utility cannot determine the generation rate paid by a customer to a competitive retail electric supplier, the utility's SSO rate shall be applied.
- (11) In no event shall the electric utility impose on the customer-generator any charges that relate to the electricity the customer-generator feeds back to the system.
- (12) Customer-generators shall comply with the interconnection standards set forth in Chapter 4901:1-22 of the Administrative Code.
- (13) Renewable energy credits associated with a customer-generator's net metering facility shall be the property of the customer-generator, unless otherwise contracted through a separate transaction, independent of the net metering tariff or the customer-generator's net metering agreement with the electric utility.
- (14) The electric utility shall report net metering data to the commission consistent with Chapter 4901:1-25 of the Administrative Code, which shall include:
- (a) The total number and rated generation capacity of net metering systems in the electric utility's service territory, as well as the number and installed capacity of net metering systems for each technology type and customer class.
 - (b) The number of net metering customers who have exported excess generation to the grid, and the number whose on-site generation does not exceed load during the reporting period.
 - (c) The total number of new eligible net metering customers that began participating in the net metering tariff during the reporting period of June 1 to May 31.
 - (d) The total number of eligible net metering customers that ceased to

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participate in the net metering tariff during the reporting period.

- (e) The estimated total net kilowatt hours supplied to customer-generators by the electric utility, as well as the estimated total kilowatt-hours received from customer-generators by the electric utility.
- (f) The total estimated kilowatt hours of energy produced by the customer-generators, if known.
- (g) The total number of customer-generators deemed by the electric utility to be excess-generators at the end of the reporting period.
- (h) The total dollar amount issued in refunds for net excess generation.
- (i) Any other data the commission deems necessary or appropriate.

(C) Hospital net metering.

- (1) Each electric utility shall develop a separate tariff providing for net metering for hospitals. Such tariff shall be made available to qualifying hospital customers upon request.

- (a) As defined in section 3701.01 of the Revised Code, "hospital" includes public health centers and general, mental, chronic disease, and other types of hospitals, and related facilities, such as laboratories, outpatient departments, nurses' home facilities, extended care facilities, self-care units, and central service facilities operated in connection with hospitals, and also includes education and training facilities for health professions personnel operated as an integral part of a hospital, but does not include any hospital furnishing primarily domiciliary care.

- (b) A qualifying hospital customer generator is one whose generating facilities are:

- (i) Located on a customer-generator's premises.

- (ii) Operated in parallel with the electric utility's transmission and distribution facilities.

- (2) Net metering arrangements shall be made available regardless of the date the hospital's generating facility was installed.

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- (3) The tariff shall be based both upon the rate structure, rate components, and any charges to which the hospital would otherwise be assigned if the hospital were not taking service under this rule and upon the market value of the customer-generated electricity at the time it is generated. For purposes of this rule, market value means the locational marginal price of energy determined by a regional transmission organization's operational market at the time the customer-generated electricity is generated.
- (4) For hospital customer-generators, net metering shall be accomplished using either two meters or a single meter with two registers that are capable of separately measuring the flow of electricity in both directions. One meter or register shall be capable of measuring the electricity generated by the hospital at the output of the generator or net of the hospital's load behind the meter at the time it is generated. If the hospital's existing electrical meter is not capable of separately measuring electricity the hospital generates at the time it is generated, the electric utility, upon written request from the hospital, shall install at the hospital's expense a meter that is capable of such measurement.
- (5) The tariff shall allow the hospital customer-generator to operate its electric generating facilities individually or collectively without any wattage limitation on size. The interconnection review process shall determine any needed distribution equipment upgrades to accommodate the hospital net metering facility, and these additional costs shall be borne by the hospital customer-generators.
- (6) The hospital customer-generator's net metering service shall be calculated as follows:
 - (a) All electricity flowing from the electric utility to the hospital shall be charged as it would have been if the hospital were not taking service under this rule.
 - (b) All electricity generated by the hospital and delivered to the electric utility rather than consumed on-site shall be measured and credited at the market value as of the time the hospital generated the electricity.
 - (c) Each monthly bill shall reflect the net of paragraphs(C)(6)(a) and (C)(6)(b) of this rule. If the resulting bill indicates a net credit dollar amount, the credit shall be netted against the hospital customer-generator's bill until the hospital requests in writing a refund that

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amounts to, but is no greater than, an annual true-up of accumulated credits over a twelve-month period.

(7) No electric utility's tariff for net metering shall require hospital customer-generators to:

(a) Comply with any additional safety or performance standards beyond those established by rules in Chapter 4901:1-22 of the Administrative Code, and the National Electrical Code, the institute of electrical and electronics engineers, and underwriters laboratories, in effect as set forth in rule 4901:1-22-03 of the Administrative Code.

(b) Perform or pay for additional tests beyond those required by paragraph (C)(7)(a) of this rule.

(c) Purchase additional liability insurance beyond that required by paragraph (C)(7)(a) of this rule.

(8) In no event shall the electric utility impose on the hospital customer-generator any charges that relate to the electricity the customer-generator feeds back to the system.

4901:1-10-29 Coordination with competitive retail electric service (CRES) providers.

(A) Each electric utility shall coordinate with CRES providers to promote nondiscriminatory access to electric services, to ensure timely enrollment with CRES providers to maintain a customer's electric service, and to timely and correctly switch the customer's electric service between CRES providers.

(B) Each electric utility shall adopt a supplier tariff containing standardized requirements to the extent such standardization is feasible. At a minimum, such tariff shall include requirements for imbalances, load profiles, scheduling, billing (between the electric utility and CRES provider), customer billing (options, collection, and application of customer payments), metering, retail settlements, scheduling coordinators, losses, customer information (procedures for disclosing load profile, account information, and payment history), dispute resolution processes (between the electric utility and CRES provider), standard operating rules, performance incentives and standards, creditworthiness and default security, supplier agreement, electronic data interchange protocols,

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CRES provider enrollment with the electric utility, service termination and disconnection (of end-user customer), certified CRES provider lists, return to standard offer, customer enrollment and switching, supplier training, and supplier proof of certification.

- (C) An electric utility shall execute with each CRES provider a supplier agreement to operate under the terms of the supplier tariff. At minimum, the supplier agreement shall include representations and warranties, indemnification, limitations on liability, default (breach), remedies, force majeure, form/format of scheduling coordinators, commencement, and term.
- (D) The electric utility and CRES provider shall execute a standardized trading partner agreement, as required by the standard electronic transmission protocols.
- (E) Pre-enrollment. Electric utilities shall make eligible-customer lists available to certified CRES providers in spreadsheet, word processing, or an electronic non-image-based format, with formula intact, compatible with personal computers. Such lists shall be updated quarterly. The eligible customer list shall, at a minimum, contain customer name, service and mailing address, rate schedule (class and sub-class), applicable riders, load profile reference category, meter type, interval meter data indicator, net metering indicator, budget bill indicator, PIPP Plus indicator, meter read date or schedule, and historical consumption monthly customer energy usage data (actual energy usage plus any applicable demand) for each of the most recent twelve months.
- (F) Customer enrollment.
 - (1) Within two business days after confirming the validated electronic data file for a CRES provider's customer enrollment request, the electric utility shall mail or email with an electronic notification of receipt, the customer a competitively neutral confirmation notice stating:
 - (a) That the electric utility has received a request to enroll the customer for competitive electric service with the named CRES provider.
 - (b) The date such service is expected to begin.
 - (c) That residential and small commercial customers have seven days from the postmark date on the notice to contact the electric utility to rescind

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the enrollment request or notify the electric utility that the change of service provider was not requested by the customer.

- (d) The electric utility's toll-free telephone number.
 - (2) Such notice shall not be used as an opportunity for the electric utility to convince customers to remain on or return to the electric utility's standard offer service.
 - (3) Each electric utility shall have a twenty-four hour per day capability for accepting CRES residential and small commercial customer enrollment rescission by telephone.
 - (4) When a residential or small commercial customer calls the electric utility to rescind enrollment with a CRES provider, the electric utility shall provide the customer a unique cancellation number.
 - (5) Within two business days after receiving a customer's request to rescind enrollment with a CRES provider, the electric utility shall initiate such rescission and mail or email with an electronic notification of receipt, the customer confirmation that such action has been taken.
- (G) Customer billing.
- (1) Electric utilities shall make consolidated billing available to CRES providers and shall not take any actions to inhibit or prohibit dual billing by CRES providers.
 - (2) Consolidated billing shall include budget billing of utility and CRES charges as a customer-elected option.
- (H) Customers returning to standard offer.
- (1) Any customer returning to the standard offer due to a CRES provider's default, abandonment, slamming, certification rescission of a CRES provider, or the end of their contract term with a CRES provider, will not be liable for any costs or penalties associated with the customer's return to the standard offer.
 - (2) Within two business days after confirming the validated electronic data file for a CRES provider's customer-drop request, the electric utility shall mail or email with an electronic notification of receipt the customer a notice stating:

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- (a) That the electric utility has received a request to drop the customer from competitive electric service with the named CRES provider.
 - (b) The deadline date for the electric utility to receive a CRES provider's request to enroll the customer.
 - (c) That the electric utility is available to address any questions the customer may have.
 - (d) The electric utility's local and toll-free telephone number.
- (I) Percentage of income payment plan (PIPP) customers will be coordinated exclusively by the Ohio department of development pursuant to section 4928.54 of the Revised Code.
- (1) Electric utilities shall not switch PIPP and ~~arrearage crediting~~ Graduate PIPP program customers to CRES providers.
 - (2) Customers pending enrollment with a CRES provider who subsequently become approved for PIPP or the electric utility's arrearage crediting program shall not be switched to the CRES provider.
 - (3) Electric utility customers who have switched to a CRES provider and subsequently become approved for the electric utility's ~~arrearage crediting~~ Graduate PIPP program shall be transferred to the electric utility's standard offer service at the next regularly scheduled meter read date after the electric utility enrolls the customer in the program.
 - (4) Until the Ohio department of development has in place a mechanism for the administration and operation of the low-income customer assistance programs, customers who have switched to a CRES provider and subsequently become approved for PIPP shall be dropped by the electric utility to standard offer service at the next regularly scheduled meter read date after the electric utility receives notice of the customer's participation in PIPP. The electric utility shall notify the affected CRES provider within ten business days of the customer's transfer to a new electric service provider to participate in PIPP. Any switching fees shall be added to the customer's *arrears, not current charges*.
 - (5) When the host electric utility is not purchasing the receivables of the affected CRES provider, the electric utility shall submit to Ohio department of

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development, on behalf of the affected CRES provider(s), the pre-PIPP arrearages of customers transferred to the PIPP program.

- (6) The host electric utility shall transfer the pre-PIPP arrearages received from the Ohio department of development, on behalf of the affected CRES provider, to the appropriate CRES provider within ten business days after receipt from the Ohio department of development.

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4901:1-10-30 Failures to comply with the rules or commission orders.

- (A) Any electric utility or CRES provider that fails to comply with the rules and standards in this chapter, or with any commission order, direction, or requirement promulgated thereunder, may be subject to any and all remedies available under the law, including but not limited to the following:
 - (1) Forfeiture to the state of not more than ten thousand dollars for each such failure, with each day's continuance of the violation being a separate offense.
 - (2) Corrective action to effectuate compliance.
 - (3) Restitution or damages to the customer/consumer.
- (B) Enforcement of any rule in this chapter or commission order, direction or requirement promulgated thereunder, will be conducted in accordance with Chapter 4901:1-23 of the Administrative Code.

4901:1-10-31 Environmental disclosure.

- (A) This rule establishes a process by which customers are assured of receiving information, in a timely and consistent manner, concerning the approximate retail generation resource mix and environmental characteristics associated with electric power offered in Ohio's competitive marketplace.
- (B) This rule applies to all electric utilities providing a standard offer for retail electric generation service.
- (C) Determination of environmental disclosure data.
 - (1) Contents of environmental disclosure data.

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(a) Approximate generation resource mix.

Each electric utility shall specifically identify each of the following generation sources used in the generation of the power that is made available under its standard offer: biomass power, coal-fired power, hydro power, natural gas-fired power, nuclear power, oil-fired power, other sources, solar power, ~~unknown purchased resources~~, and wind power.

The electric utility shall exercise all reasonable efforts to identify the power source or resource used to generate the power in question. The electric utilities shall maintain documentation sufficient to demonstrate the steps taken to make such identification.

(b) Environmental characteristics.

Electric utilities shall report the environmental characteristics typically associated with the generation resources used to generate the power that is made available under their respective standard offers.

Electric utilities shall also report the air emissions of nitrogen oxides, sulfur dioxide, and carbon dioxide associated with the generation of power being offered under their respective standard offers.

In addition, electric utilities shall report the generation of high- and low-level radioactive waste associated with the power being offered under their standard offers.

(2) Methodology for determining environmental disclosure data.

(a) Any new electric utility shall submit to the staff, at least thirty days prior to commencing operations, its proposed methodology for determining its environmental disclosure data. Such submittal shall detail the proposed methodology for completing the required annual projection, as well as the methodology for determining and compiling the required quarterly actual data.

(b) The actual environmental disclosure data, to be provided quarterly, shall be verifiable. Each electric utility shall maintain documentation sufficient to demonstrate the accuracy of the actual environmental disclosure data.

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- (c) When calculating the generation resource mix, the electric utility shall assume that purchased energy has the same generation resource mix as the regional generation resource mix for the twelve month period of June 1 to May 31, as provided by the electric utility's regional transmission organization or independent system operator.
- (3) Each electric utility shall submit to staff for its review and approval a proposal for incorporating the use of renewable energy credits (RECs) ~~within~~ into its annual and quarterly environmental disclosures. ~~At a minimum, such submittal would be required for the following~~ The electric utility shall provide statements, when applicable:
- (a) ~~An~~ That the electric utility sells ~~sold~~ RECs from one of its electric generating facilities.
- (b) ~~An~~ That the electric utility purchases ~~purchased~~ RECs as a means of complying, in part or whole, with a renewable energy resource benchmark under the state's alternative energy portfolio standard requirements.
- (c) Whether the electric utility complied with the renewable energy resource benchmark under the state's alternative energy portfolio standard requirements.
- (4) Timing for disclosing environmental disclosure data.
- (a) Electric utilities shall annually project their environmental disclosure data for at least the subsequent calendar year.
- (b) Electric utilities shall also complete no less than quarterly comparisons of actual to projected environmental disclosure data.
- (c) Below is the schedule applicable to the environmental disclosure process.
- January - disclosure of projected environmental disclosure data for current calendar year.
- March - disclosure of actual environmental disclosure data for the prior calendar year, compared to the projected environmental disclosure data from prior calendar year.

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June - disclosure of actual environmental disclosure data for January through March of current year, compared to projected data for current calendar year.

September - disclosure of actual environmental disclosure data for January to June of current year, compared to projected data for current calendar year.

December - disclosure of actual environmental disclosure data for January through September of current year, compared to projected data for current calendar year.

(D) Environmental disclosure to the commission.

(1) Content.

Each customer shall receive environmental disclosure data, as detailed in paragraph (C) of this rule.

(2) Format.

The environmental disclosure data shall be provided in a standardized format in order to facilitate comparisons by customers. This data shall be disclosed in not less than a ten-point font. The presentation of this data shall comply with each of the following requirements:

- (a) A pie chart shall be provided which illustrates on a percentage basis the various generation resources, as detailed in paragraph (C)(1)(a) of this rule, used in the generation of power that is made available under the standard offer.

The percentages shall be rounded to the nearest ~~whole number~~ one-half per cent. The pie chart shall not include colors, but shall include the use of shading and labels to more clearly communicate the information.

To the extent the patterns set forth in appendices A and B to this rule cannot be duplicated exactly, electric utilities shall exercise reasonable efforts to simulate the required shading to the extent possible.

- (b) A table shall be provided which illustrates the typical environmental characteristics associated with the generation resource categories detailed in paragraph (C)(1)(a) of this rule.

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The general categories and assumptions to be depicted in the table are as follows:

Biomass power - results in air emissions and solid waste.

Coal-fired power - results in air emissions and solid waste.

Hydro power - results in wildlife impacts.

Natural gas-fired power - results in air emissions and solid waste.

Nuclear power - results in radioactive waste.

Oil-fired power - results in air emissions and solid waste.

Other sources - results in unknown impacts.

Solar power - results in no significant impacts.

~~Unknown purchased resources - results in unknown impacts.~~

Wind power - results in wildlife impacts.

- (c) The product-specific air emissions shall be presented in a bar chart, along with a regional average emission reference. The product-specific emission rates shall appear as a percentage of the average regional emission rate for each of the three types of air emissions. Percentages shall be calculated from comparison of product-specific and average regional emission rates on a basis of pounds emitted per megawatt hour.
- (d) The figures reflecting the generation of radioactive wastes shall be presented in a table. High-level radioactive waste shall be reported in pounds per one thousand kilowatt hours (kWh), while low-level radioactive waste is to be reported in cubic feet per one thousand kWh. Any radioactive waste greater than zero but less than ".0001" shall be depicted as "<0.0001".

For use in the implementation of this rule, the following definitions shall apply:

High-level radioactive waste - means nuclear fuel that has been removed from a nuclear reactor. Low-level radioactive waste - means radioactive waste not classified as high-level radioactive waste, transuranic waste,

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spent nuclear fuel, or by-product material as defined in section 11(E)(2) of the "Atomic Energy Act of 1954," 68 Stat. 921, 42 U.S.C. 2014(e)(2), as amended by the Price-Anderson Amendments Act of 2005, 119 Stat. 779.

- (e) The annual projection of approximate generation resource mix and environmental characteristics shall appear as depicted in appendix A to this rule. The regional average data, if available, will be updated by the commission by December first of each year or as conditions warrant.

The quarterly comparisons of actual environmental disclosure data to projected environmental disclosure data, comprised of data specific to the electric utility's standard offer, shall appear as depicted in appendix B to this rule.

- (f) Each electric utility shall maintain records detailing the magnitude of each environmental characteristic associated with the generation resource3s. Such details shall be provided to customers and staff upon request. Such details may be included on an electric utility's website.
- (g) The electric utility may include other information that it feels is relevant to the required environmental disclosure data, provided this additional information is distinctly separated from the required information. The electric utility shall maintain sufficient documentation to permit verification of the accuracy of any additional information that is disclosed.

(3) Timing.

- (a) Annual projection.

Consistent with the schedule presented in paragraph (C)(4) of this rule and the format depicted by appendix A of this rule, the most recent projection of environmental disclosure data shall be provided to each customer of the standard offer for generation service ~~either via bill insert or separate mailing~~ a link to the EDU's website or the PUCO environmental disclosure information for consumers website or, at the request of the customer, a hardcopy of the data shall be provided at no cost to the customer.

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- (b) Quarterly comparisons of actual to projected environmental disclosure data.

The comparison of actual to projected environmental disclosure data shall be provided to customers on a quarterly basis consistent with both the schedule presented in paragraph (C)(4) of this rule and the format as depicted by appendix B to this rule.

These items will be disclosed to customers via bill inserts or by separate mailing. ~~The quarterly environmental disclosure can be accomplished electronically if a customer agrees to such an approach.~~ a link to the EDU's website or the PUCO environmental disclosure information for consumers website or, at the request of the customer, a hardcopy of the data shall be provided at no cost to the customer.

- (E) Environmental disclosure to the commission.

Each electric utility shall submit its annual projection and quarterly comparisons of environmental disclosure data to the deputy director of the utilities department or their designee consistent with the schedule presented in paragraph (C)(4) of this rule. The information provided to the staff shall be identical in content and format to that provided to customers.

- (F) The generation resource mix disclosed pursuant to this rule should not be used as an indicator of an electric utility's compliance with Section 4928.64 of the Revised Code.

"No Change"

4901:1-10-32 Cooperation with certified governmental aggregators.

- (A) Each electric utility shall cooperate with governmental aggregators to facilitate the proper formation and functioning of governmental aggregations. Upon the request of a certified governmental aggregator or certified electric services company under contract with the governmental aggregator, the electric utility shall provide for all customers residing within the governmental aggregator's boundaries, including those customers who have opted off the pre-enrollment list, the following information:

- (1) An updated list of names, account numbers, service addresses, billing addresses, rate codes, percentage of income payment plan codes, load data,

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and other related customer information, consistent with the information that is provided to other electric services companies, must be available in spreadsheet, word processing, or an electronic non-image-based format, with formulas intact, compatible with personal computers..

- (2) An identification of customers who are currently in contract with an electric services company or in a special agreement with the electric utility.
- (3) On a best efforts basis, an identification of mercantile customers.
- (B) Each electric utility shall provide such customer information list to the governmental aggregator, or the electric services company under contract with the governmental aggregator, at no charge.
- (C) Each electric utility shall publish charges and/or fees for services and information provided to governmental aggregators in an approved tariff filed with the commission.
- (D) Unless a customer notifies the electric utility of the customer's intent not to join a governmental aggregation by responding to the confirmation notice or providing some other notice as provided by the electric utility's tariffs, the electric utility 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. A switching fee shall not be assessed to customer accounts that switch to or from a governmental aggregation.
- (E) Pursuant to division (I) of section 4928.20 of the Revised Code, if the electric utility establishes a surcharge under section 4928.144 of the Revised Code, the electric utility shall charge customers that are part of a governmental aggregation only a portion of such surcharge that is proportionate to the benefits that the electric load centers within the jurisdiction of the governmental aggregation as a group receive as determined by the commission.
- (F) Each electric utility shall cooperate with governmental aggregators to determine the amount of any surcharge that will be assessed to customers that are part of a governmental aggregation pursuant to division (I) of section 4928.20 of the Revised Code.
- (G) If a governmental aggregator notifies the commission of its election to not receive standby service from the electric utility that is operating under an

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approved electric security plan during the governmental aggregation program, the electric utility shall not charge any customer that is part of that governmental aggregation for standby service. However, the electric utility shall charge any customer that returns to the electric utility for retail electric service during the governmental aggregation program the market price of power incurred by the electric utility to serve that customer plus any amount attributable to the electric utility's cost of compliance with the alternative energy resource provisions of section 4928.64 of the Revised Code to serve that customer, unless that customer becomes ineligible pursuant to paragraph (E)(1)(a) or (E)(1)(g) of rule 4901:1-21-17 of the Administrative Code, or that customer moves within the aggregation boundaries where the electric utility considers the customer that is moving to be a new customer, or the commission otherwise terminates the electric utility's electric security plan in effect during the governmental aggregation program.

4901:1-10-33 Consolidated billing requirements.

- (A) This rule applies to an electric utility that issues customers a consolidated electric bill that includes both electric utility and competitive retail electric service (CRES) provider charges for electric services. Nothing in this rule affects the obligations of the electric utility to provide disconnection notices.
- (B) A supplier agreement between an electric utility and a CRES provider must provide that if the electric utility collects customer payments on behalf of the CRES provider, the customer's liability to the CRES provider ceases to the extent of a payment made and applicable to the customer's CRES provider account.
- (C) Consolidated bills shall be accurate, shall be rendered at monthly intervals, and shall contain clear and understandable form and language. All consolidated customer bills issued by or on behalf of an electric utility and a CRES provider must include at least the following information:
 - (1) The customer's name, billing address, and service address.
 - (2) The electric utility's twenty-four hour, local and toll-free telephone numbers for reporting service emergencies.
 - (3) The dates of the service period covered by the bill.

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- (4) Current electric charges, separated from gas charges, if these charges appear on the same bill, but only to the extent that the biller provides both electric and gas services.
- (5) Applicable billing determinants: beginning meter read, ending meter read, demand meter read, multipliers, consumption, and demand.
- (6) Identification of estimated bills.
- (7) Any non-recurring charge(s).
- (8) Net-metered usage for customer generators, if applicable.
- (9) Each charge for non-tariffed and/or non-regulated service or product, if applicable, and the name and toll-free number of each provider of such service(s).
- (10) Amount due for previous billing period.
- (11) Total payments, late payment charges or gross/net charges, and total credits applied during the billing period.
- (12) Total consolidated amount due and payable, or, if applicable, the total consolidated budget bill amount.
- (13) Due date for payment to keep the account current. The due date shall not be less than 14 days from the date of postmark. For residential bills being issued from outside the state of Ohio the due date shall be no less than twenty-one days.
- (14) Name and address of the electric utility to ~~whom~~ which payments should be made.
- (15) The following notice:

"If your complaint is not resolved after you have called your electric supplier and/or your electric utility, 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 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).

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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>."

- (16) An explanation of codes and abbreviations used.
 - (17) At a minimum, definitions for the following terms, or like terms used by the company, if applicable: customer charge, delivery charge, estimated reading, generation charge, kilowatt hour (kWh), ~~shopping incentive or shopping credit, and late payment charge, and transition charge.~~
 - (18) The price-to-compare for residential bills and a notice that such customers can obtain a written explanation of the price-to-compare from their electric utility.
- (D) In addition to the information required pursuant to paragraph (C) of this rule, each consolidated bill issued must include, in that portion of the bill which details the charges from the electric utility, at least the following information:
- (1) Electric utility account number.
 - (2) Applicable rate schedule.
 - (3) Numerical statement of the customer's historical consumption for each of the preceding twelve months, and both the total and average consumption for such twelve-month period.
 - (4) Specific ~~tariffed charges~~ to the extent applicable: customer charge, delivery charge, ~~transition charge, shopping incentive or shopping credit, and other conceptually similar tariffed charges.~~
 - (5) If the customer is on a budget plan with the electric utility only, the monthly budget amount and current balance of electric utility account.
 - (6) Current charges.
 - (7) The electric utility's local and toll-free telephone numbers and address for questions and complaints.
- (E) In addition to the information required pursuant to paragraph (C) of this rule, each consolidated bill issued must include, in that portion of the bill which details the charges from the CRES provider, at least the following information:

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- (1) Customer's CRES account number, if different from the electric utility account number.
 - (2) To the extent applicable, itemization for each charge including, for fixed-price offers, the unit price per kWh for competitive service and, for all other offers for electric generation service, an explanation of how the rate is derived, as well as any other information the customer would need to recalculate the bill for accuracy.
 - (3) If the customer is on a budget plan with the CRES provider only, the monthly budget amount and the current balance of the CRES account.
 - (4) Current charges.
 - (5) A highlighted notice of any change in rates, terms, or conditions appearing on the first two consecutive bills following the occurrence of any such changes and a clear explanation of each change.
- (F) Consolidated bill format. Any new consolidated bill format proposed by an electric utility shall be filed with the commission for approval. If an application for a consolidated bill format is not acted upon by the commission within forty-five calendar days after it is filed, the consolidated bill format shall be deemed approved on the forty-sixth day after filing.
- (G) Transfer of customer billing information.
- (1) The non-billing CRES provider shall furnish the applicable required bill content information to the billing party in a timely manner and in a mutually agreed upon electronic format for inclusion in the consolidated customer bill.
 - (2) The billing electric utility shall include in the consolidated bill all required bill content information furnished by the non-billing CRES provider.
 - (3) An entity ordered by the commission to provide any bill content, message, insert, or notice remains responsible to provide such information to its customers, although the information may be provided through the consolidated bill.
- (H) Partial payment priority.
- (1) A customer's partial payment shall be credited in the following order:

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- (a) Billed and past due CRES provider charges, or, if applicable, CRES provider payment arrangement or past due CRES provider budget billing.
 - (b) Billed and past due electric utility distribution, standard offer generation, and transmission charges or, if applicable, electric utility payment arrangement or past due electric utility budget billing.
 - (c) Billed and due current electric utility distribution and transmission charges or current electric utility budget billing.
 - (d) Billed and due current CRES provider charges or current CRES provider budget billing.
 - (e) Other past due and current non-regulated charges, excluding CRES charges.
- (2) Exceptions to the partial payment priority.
- (a) Payments in full of the undisputed amount related to a bona fide dispute do not constitute partial payments. Payments made on accounts for which there is a bona fide dispute shall be credited to the undisputed portion of the account.
 - (b) If a customer pays an agreed-upon electric utility and/or CRES budget payment amount, then that payment shall be considered payment in full for the current bill.
- (I) Upon the customer's switch from a CRES provider, the billing party shall identify for the customer and state on the bill the date after which the billing party will no longer remit payments to the previous CRES provider and include any outstanding balance due the previous CRES provider.
- (J) Any electric utility wishing to issue consolidated billing statements online shall follow the listed guidelines:
- (1) A customer shall not be required to use online billing.
 - (2) No enrollment or usage fees shall be assessed to a customer who chooses to receive bills and/or customer information online.
 - (3) The online billing statement shall include all requirements listed in paragraphs (C), (D), and (E) of this rule.

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- (4) The electric utility shall maintain a secure and encrypted site that is to be accessed only by the customer of record after completing a secure registration process.
- (5) Any fees to accept online payments shall be clearly disclosed in payment window(s).
- (6) Any payment made online shall be treated as a payment made at the electric utility's business office and shall be posted to the customer's account in accordance with paragraph ~~(F)~~(E) of rule 4901:1-10-22 of the Administrative Code. The time needed to post the payment to the customer's account shall be clearly stated.
- (7) If a customer chooses to use online billing, the customer shall not be restricted to making payments online in the future. All payment methods shall continue to be available to the customer.

4901:1-10-34 Compliance with PURPA.

(A) For purposes of this rule, the following definitions shall apply:

- (1) "Day-ahead energy market" means the day-ahead hourly forward market in which participants offer to sell and bid to buy energy.
- (2) "Locational marginal price" means the hourly integrated market clearing price for energy at the location the energy is delivered or received.
- (3) "PURPA" means the Public Utility Regulatory Policies Act of 1978, as amended by the Energy Policy Act of 2005, at 16 U.S.C.S. Section 824a-3.
- (4) "Qualifying facility" means a small power producer and/or cogenerator that meets the criteria specified by the Federal Energy Regulatory Commission in 18 C.F.R. Sections 292.203(a) and (b).
- (5) "RTO/ISO" means the regional transmission organization or independent system operator.

(B) The purpose of this rule is to implement a standard market-based rate for electricity transactions between EDUs and qualifying facilities as provided by PURPA, specifically for small power production facilities and cogeneration facilities.

(C) Except to the extent consistent with the voluntary negotiated agreement

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pursuant to rule 4901:1-10-34(I) of the Administrative Code, the rates paid by each EDU in Ohio to purchase energy from qualifying facilities that have a net capacity of 20 megawatts or less shall be set in accordance with Section 4901:1-10-34(L) of the Administrative Code.

- (D) An EDU's qualifying facility energy purchase obligation shall not be abrogated by the establishment of a power procurement auction mechanism within the EDU's standard service offer supply framework. The energy provided to the EDU by a qualifying facility supplier shall not be included as part of the product being offered through a competitive auction process.
- (E) All qualifying facilities must operate their interconnected facilities pursuant to the operating requirements of the RTO/ISO and in accordance with the EDU's specifications for interconnection and parallel operation.
- (F) All qualifying facilities interconnecting at the distribution level must comply with the guideless set forth in Section 4901:1-22 of the Administrative Code, as well as the standard interconnection agreement by the EDU.
- (G) All qualifying facilities interconnected at the transmission level must comply with the RTO/ISO's policies and procedures for interconnection, including interconnection procedures for small generators.
- (H) Nothing in this rule shall affect, modify, or amend the terms and conditions of any existing qualifying facility's contract with an EDU.
- (I) A qualifying facility may elect to execute a negotiated contract with the EDU instead of selling the electrical output of the qualifying facility at the standard market-based rate.
- (J) The terms of the contract may take into account, among other factors, a utility's system costs, contract duration, qualifying facility availability during daily or system peaks, whether the utility avoids costs from the daily or system peaks, and costs or savings from line losses. Any such contract shall be subject to approval by the Commission within 120 days of its filing with the Commission.
- (K) The EDU or the qualifying facility may seek alternative dispute resolution of any disputes which may arise out of the EDU tariffs filed under these rules, in accordance with Chapter 4901:1-26 of the Administrative Code.
- (L) Energy payments to qualifying facilities shall be based on the locational marginal price at the RTO/ISO's pricing node that is closest to the qualifying

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facility's points of injection, or at a relevant trading hub or zone.

(M) The EDUs shall file a report in accordance with the market monitoring rules set forth in rule 4901:1-25-02 of the Administrative Code, detailing the qualifying facility activity in the EDU's service territory that includes the following:

- (1) The name and address of each owner of a qualifying facility.
- (2) The address of the location of each qualifying facility.
- (3) A brief description of the type of each qualifying facility.
- (4) The date of installation and the on-line date of each qualifying facility.
- (5) The design capacity of each qualifying facility.
- (6) A discussion identifying any qualifying facility that was denied interconnection by the EDU, including a statement of reasons for such denial.

Attachment B

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

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

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 electric service and safety (ESS) rules contained in Ohio Adm.Code Chapter 4901:1-10, as required by R.C. 119.032.
- (2) On January 15, 2014, the Commission issued its Finding and Order (Order), adopting the rules in Ohio Adm.Code Chapter 4901:1-10. Pursuant to R.C. 4903.10, any party who has entered an appearance in a Commission proceeding may apply for rehearing with respect to any matters determined by the Commission, within 30 days of the entry of the Order upon the Commission's journal.
- (3) On February 14, 2014, Direct Energy Services, LLC (Direct Energy), the Ohio Hospital Association (OHA), The Dayton Power and Light Company (DP&L), Duke Energy Ohio, Inc. (Duke), the Ohio Power Company (Ohio Power), Ohio Edison Company, Toledo Edison Company, and the Cleveland Electric Illuminating Company (collectively, FirstEnergy), and IGS Energy (IGS) filed Applications for Rehearing.
- (4) The Commission believes that sufficient reason has been set forth by Direct Energy, OHA, DP&L, Duke, Ohio Power, FirstEnergy, and IGS to warrant further consideration of the matters specified in the applications for rehearing. Accordingly, the applications for rehearing should be granted for further consideration of the matters specified in the applications for rehearing.

It is, therefore,

ORDERED, That the applications for rehearing filed by Direct Energy, OHA, DP&L, Duke, Ohio Power, FirstEnergy, and IGS be granted for further consideration of the matters specified in the applications for rehearing. It is, further,

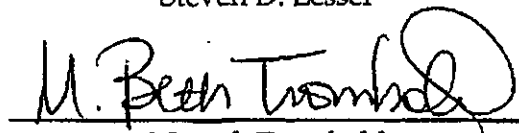
ORDERED, That a copy of this Entry on Rehearing be served upon all electric utilities in the state of Ohio, all certified competitive retail electric service providers in the state of Ohio, the Electric-Energy industry list-serve, and all other interested persons of record.

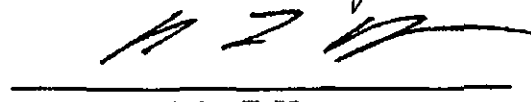
THE PUBLIC UTILITIES COMMISSION OF OHIO


Todd A. Snitchler, Chairman


Steven D. Lesser


Lynn Slaby

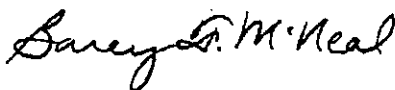

M. Beth Trombold


Asim Z. Haque

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Entered in the Journal

MAR 12 2014



Barcy F. McNeal
Secretary

Attachment C

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

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

SECOND 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 electric service and safety (ESS) rules contained in Ohio Adm.Code Chapter 4901:1-10, as required by R.C. 119.032.
- (2) On January 15, 2014, the Commission issued its Finding and Order (Order), adopting the rules in Ohio Adm.Code Chapter 4901:1-10. Pursuant to R.C. 4903.10, any party who has entered an appearance in a Commission proceeding may apply for rehearing with respect to any matters determined by the Commission, within 30 days of the entry of the Order upon the Commission's journal.
- (3) On February 14, 2014, Direct Energy Services, LLC (Direct Energy), the Ohio Hospital Association (OHA), The Dayton Power and Light Company (DP&L), Duke Energy Ohio, Inc. (Duke), the Ohio Power Company (Ohio Power), Ohio Edison Company, Toledo Edison Company, and the Cleveland Electric Illuminating Company (collectively, FirstEnergy), and IGS Energy (IGS) filed Applications for Rehearing. Memoranda contra the Applications for Rehearing were filed by the Interstate Renewable Energy Council, Inc. (IREC), Direct Energy, IGS, FirstEnergy, and the Ohio Consumers' Counsel (OCC).

Ohio Adm.Code 4901:1-10-07

- (4) General. OHA asserts that Ohio Adm.Code 4901:1-10-07 is unjust and unreasonable. OHA asserts that the amount of time that must elapse before an interruption of service is elevated to the status of an outage should be reduced. According to OHA, the advents of major investments in smart grid technologies makes it feasible to reduce the amount of time that must elapse before an interruption in service is elevated to the status of outage. Further, OHA contends that these technologies now make it capable for information about interruptions to be readily reported to hospitals.

FirstEnergy opposes rehearing on the assignment of error raised by OHA. FirstEnergy asserts that while new technologies may exist that make it capable for information about interruptions to be readily reported to hospitals, those technologies have not been universally deployed. FirstEnergy contends that OHA's proposal to require the utilities to provide more data closer in time to an event is premature. Additionally, FirstEnergy avers that hospitals and other critical facilities are already required to receive outage information as part of the utilities' emergency plans.

- (5) The Commission finds that OHA's assignment of error should be denied. The Commission considered OHA's argument before it adopted the rules but determined that provisions for reporting outages to affected essential facilities already exist. Additionally, the Commission finds again that OHA's proposal to decrease the amount of time that must elapse before an interruption of service is elevated to the status of outage should be denied. While the Commission recognizes that smart grid technologies may provide improved reporting capabilities, smart grid technologies have not been universally implemented in the state of Ohio. After further smart grid deployment, the Commission will reconsider lowering the threshold before an interruption is determined to be an outage.

Ohio Adm.Code 4901:1-10-11

- (6) General. OHA argues that the Commission's Order is unjust and unreasonable because it denied OHA's proposal to address the worst-performing critical human service facility circuits. OHA argues that the Commission unreasonably denied OHA's proposal, which would have helped to identify fragile circuits that may serve hospitals and would have improved the channels of communication during disruptions in electric distribution service. OHA contends that the Commission's reasoning for denying its recommendations was incorrect, as its proposal is for preventative measures, which are not included in Ohio Adm.Code 4901:1-10-08.

FirstEnergy opposes rehearing on the assignment of error raised by OHA. FirstEnergy asserts that the Commission's decision not to address the worst-performing critical human service facility circuits was reasonable. First, FirstEnergy avers that Ohio Adm.Code 4901:1-10-08 requires the electric distribution utilities (EDUs) to have an emergency plan, which prioritizes restoration in the event of an outage to a critical human service facility. FirstEnergy contends that critical human service facilities already receive priority during outages. Further, FirstEnergy argues that OHA's proposal is redundant with the existing rule in Ohio Adm.Code 4901:1-10-11(C), which requires the utilities to report all of the worst performing eight percent of the utilities distribution circuits during the twelve-month reporting period. Therefore, there is no benefit to adopt a new reporting standard specifically for critical human service facility circuits.

FirstEnergy also opposes OHA's proposal to adopt a definition for critical human service facility because OHA's proposed definition is overbroad and vague. FirstEnergy argues that it would be difficult for the utility to determine which facilities qualify as critical human service facilities and to then manage those facilities that meet the definition. FirstEnergy asserts that there could be severe consequences for adding reliability standards to a potentially large number of facilities. FirstEnergy then contends that the purpose of

the critical customer designation is to alert utility dispatchers during an outage of certain customers that may have inadequate back-up life support facilities, but that does not include hospitals and other healthcare facilities because they are already required to have adequate on-site generation.

- (7) The Commission finds that rehearing on the assignment of error raised by OHA should be denied. The Commission again notes that it considered OHA's proposal before it adopted the rules and denied it. The Commission finds that the rules adequately address reliability and provide for appropriate measures during an outage. Additionally, the Commission notes that the purpose of the rules is to maintain the reliability of the entire distribution system, not just those critical facilities that offer human and health services. While the Commission supports those facilities, the definition for critical human service facility proposed by OHA is too vague and overbroad to be adopted.
- (8) Paragraph (F). FirstEnergy asserts that Ohio Adm.Code 4901:1-10-11(F) is unjust and unreasonable because it does not clarify that circuits should not be listed on three consecutive reports due to the same preventable outage cause. FirstEnergy argues that the rule should take into account that circuits may appear on consecutive outage reports due to causes beyond the EDU's control and for different reasons from year to year.

OCC opposes the assignment of error raised by FirstEnergy. OCC asserts that the amended rule meets the Commission's requirement to provide for high quality, safe, and reliable electric service. Additionally, OCC believes that the Commission's adopted amendment to the rule is reasonable, as it permits the utility to demonstrate to the Commission that a poorly performing circuit was listed on three consecutive reports for reasons that could not have been prevented by the utility. OCC avers that three years is sufficient time for the utility to repair the worst performing circuits.

- (9) The Commission finds that rehearing on this assignment of error should be denied. Under FirstEnergy's proposal, a circuit could be listed on two consecutive reports, and then a

third report for a different cause, and the EDU would not be required to take remedial action to ensure the circuit is not listed on subsequent reports. The Commission finds that this would be unacceptable. Further, the Commission notes that in such a situation where a circuit is listed on three consecutive reports, the EDU may demonstrate to the Commission that the outage causes were not preventable. This showing would effectively rebut the presumption that the EDU violated the rule.

Ohio Adm.Code 4901:1-10-14

- (10) Paragraph (C). DP&L and FirstEnergy contend that Ohio Adm.Code 4901:1-10-14(C)(2) is unjust and unreasonable because it places the burden of proof of establishing creditworthiness on the utility. DP&L proposes that the rule be revised to require the applicant to provide proof of a prior account with an electric utility if it declines to provide a social security or tax identification number.
- (11) The Commission finds that rehearing on this assignment of error should be granted. The Commission believes that if a customer chooses not to provide a social security or tax identification number to establish creditworthiness, then it would be unduly burdensome for the electric utility to determine the customer's previous electric utility and then contact that utility to determine the customer's creditworthiness. Accordingly, if the customer does not provide a social security or tax identification number, and the customer wants to use a prior account with a utility as a means of establishing creditworthiness, the customer must provide proof of the prior account. The prior account must be for the same class of service within two years before the date of application and must not, within the final year of service, have been disconnected for nonpayment, been past due twice, or been disconnected for fraudulent practice, tampering, or unauthorized reconnection.
- (12) Paragraph (M). DP&L asserts that Ohio Adm.Code 4901:1-10-14(M)(2) is unjust and unreasonable because implementing a uniform guarantor agreement only complicates a process that has historically performed well. DP&L recognizes that a uniform agreement across the state

is prudent, but argues that the methodology of administering the process will be unduly burdensome to customers and the EDUs. DP&L asserts that its process of granting an applicant service upon verbal acceptance from a guarantor is more efficient than the process adopted in the rules.

- (13) The Commission finds that rehearing on DP&L's assignment of error should be denied. The Commission believes that the benefit of having uniform statewide guarantor agreements, as well as a uniform statewide process for administering guarantor agreements, outweighs any burden on customers or the EDUs. We also believe that a guarantor capable of guarantying the account of another customer is capable of faxing or emailing a copy of the guarantor agreement to the EDU. This is not an undue burden or an unreasonable requirement, even if it does require more effort than verbal acceptance.
- (14) FirstEnergy asserts that Ohio Adm.Code 4901:1-10-14(M)(2) is unjust and unreasonable. FirstEnergy argues that the rule unreasonably requires the EDUs to provide copies of a guarantor agreement to the guarantor and requires the EDUs to maintain the original document on file. FirstEnergy avers that it is administratively less burdensome and is less costly for the EDU to maintain an electronic version of the guarantor agreement.
- (15) The Commission finds that rehearing on FirstEnergy's assignment of error should be granted. We find that the electric utility shall keep a copy of the original file during the term of the guaranty, which may include an electronic copy. Additionally, the electric utility must provide the guarantor an additional copy of the agreement upon request.

Ohio Adm.Code 4901:1-10-22

- (16) General. Duke asserts that Ohio Adm.Code 4901:1-10-22 is unjust and unreasonable because it mandates that an EDU provide beginning and ending meter reads for customers that have advanced meters. Duke asserts that beginning and ending meter reads for advanced meters are irrelevant.

OCC opposes the assignment of error raised by Duke. OCC believes that customers must, to the extent practicable, be provided with the necessary information to be able to recalculate their bill to determine its accuracy. Additionally, OCC notes that removing beginning and ending meter reads from customer bills could lead to proposals to change the bill formatting or other billing system changes. OCC is concerned that these other bill formatting or billing system changes could remove information that is helpful and useful to customers.

- (17) The Commission finds that rehearing on Duke's assignment of error should be denied. We note that while Duke may be correct that beginning and ending meter reads are not necessary for certain advanced meters, this is not necessarily true for all types of advanced meters. Accordingly, we believe that it is appropriate for the rule to require beginning and ending meter reads for all meters, including advanced meters. However, we also note that if an EDU has deployed advanced meters, then the EDU may file an application or a motion to waive this requirement pursuant to Ohio Adm.Code 4901:1-10-02(C). The Commission will then address this issue through the EDU's application or motion for waiver.
- (18) Paragraph (B). FirstEnergy avers as its fourth assignment of error that Ohio Adm.Code 4901:1-10-22(B)(8)(e) is unjust and unreasonable because it requires the EDUs to provide the consumption for each pricing period on the customer's bill. FirstEnergy asserts that this creates unnecessary paperwork, that it adversely impacts EDUs by requiring a specific expenditure to implement, and that it is needlessly burdensome.

FirstEnergy further notes that it has an interruptible service rider that applies to a limited number of customers. FirstEnergy's interruptible service rider applies during emergency interruptions and contains economic buy through opportunities for those customers. Under a buy through period, the customers under the interruptible service rider pay the locational marginal price (LMP) for that hour. FirstEnergy asserts that if Ohio Adm.Code 4901:1-10-22(B)(8) applies to these customers, then rehearing should be

granted on its assignment of error. However, FirstEnergy notes that if these customers are not intended to be included under the rule, then the Commission should provide clarification.

- (19) The Commission finds that rehearing on this assignment of error should be denied. The Commission believes that Ohio Adm.Code 4901:1-10-22(B)(8)(e) should not apply to those customers who pay variable rates during economic buy through opportunities. The intent of the rules was to apply to those customers who are billed monthly under variable or hourly rates. Additionally, the Commission again notes that the EDU may file an application or a motion to waive this requirement of the rules pursuant to Ohio Adm.Code 4901:1-10-02(C) if an EDU believes that this rule should not apply to certain customers or situations.

Ohio Adm.Code 4901:1-10-23

- (20) Paragraph (A). FirstEnergy asserts that Ohio Adm.Code 4901:1-10-23(A) should be revised so that the electric utilities credit nonresidential customers for overcharges for only the 36 month period prior to the date the company remedies the metering inaccuracy. The adopted rule requires that the electric utilities bill nonresidential customers for an undercharge rendered in the prior 36 month period; therefore, FirstEnergy requests that the same 36 month period requirement apply to crediting customers for overcharges. FirstEnergy proposes that the electric utilities should only be required to credit customers for the total amount of the overcharge that was rendered in the prior 36 month period.
- (21) The Commission finds that rehearing on this assignment of error should be denied. As the Commission indicated in the Order, we find that 36 months is sufficient time for the electric utility to identify an undercharge and provide accurate billing. The 36 month limitation on recovering undercharges is appropriate because the burden for accurate billing rests with the electric utility. However, this 36 month period should not apply to crediting customers for overcharges because the electric utility has a continuing responsibility to provide accurate billing. FirstEnergy's

proposal would effectively create a mechanism similar to a statute of limitations, which would provide that if an electric utility overcharges a customer, then the electric utility would not be required to credit the customer for the overcharge after 36 months.

We find that FirstEnergy's proposal should be denied because customers do not have the same capabilities as an electric utility to identify an overcharge and request a credit. If a customer maintains its billing history and records for longer than 36 months, and can demonstrate that an overcharge existed, even prior to the 36 months, then the customer may be entitled to a credit for the overcharge. We note that, because of record retention policies for customer billing, these situations are often determined on a case-by-case basis pursuant to the Commission's complaint procedures in Ohio Adm.Code Chapter 4901-9. If an electric utility identifies an overcharge from before the prior 36 months, then it must provide a credit. Otherwise, the customer may file a complaint and due process will be granted to determine the proper result.

Ohio Adm.Code 4901:1-10-24

- (22) Paragraph (F). FirstEnergy and DP&L contend that Ohio Adm.Code 4901:1-10-24(F)(2) is unjust, unreasonable, and unlawful because requiring three or more years of historical data to be used for the generic customer load pattern will be unduly burdensome and exceptionally costly. FirstEnergy argues that it is not possible to rework current formulas for generic customer load patterns without undertaking entirely new load research studies; which can take a year to design, three years for data collection, and another two years to analyze and create. Furthermore, FirstEnergy avers that the installation of smart meters may make this rule unnecessary. DP&L asserts that the Commission should grant utilities a waiver of this rule if the electric utility is not able to immediately comply with the requirement.
- (23) The Commission finds that rehearing on this assignment of error should be denied. The Commission finds that the electric utilities across the state of Ohio should use a uniform

period of time for measuring load pattern information, which should be a minimum of three years of historical customer energy usage data. However, pursuant to Ohio Adm.Code 4901:1-10-02(C), an electric utility may file an application or a motion to waive this requirement if the electric utility believes that it has a reliable system of measuring load pattern information or if it believes the cost of implementing this rule far exceeds the benefit.

- (24) Paragraph (E). Direct Energy, IGS, DP&L, and Duke assert that Ohio Adm.Code 4901:1-10-24(E) is unjust and unreasonable. Direct Energy avers that this rule is unjust and unreasonable because it too broadly requires CRES providers to obtain disclosures for current customers. DP&L and Duke aver that applying the adopted rule to traditional interval meters will result in a setback to the development of the CRES market in Ohio. Duke then contends that it would be impossible to translate potentially tens of thousands of pieces of paper into the ability to release data electronically, on a monthly basis. IGS argues that the written consent form may deter customers from enrolling in CRES services that require granular usage data.

Duke further recommends that a working group be created to further review privacy issues. However, Direct Energy opposes Duke's request for a working group to further discuss customer privacy issues and asserts that this proceeding has had sufficient discussion on the issue.

OCC opposes rehearing on this issue and asserts that the electric utility has an obligation to protect customer-specific information. OCC avers that an unauthorized release of granular customer energy data could have a large impact on customers' privacy, and that written consent before a utility is permitted to release the information is a reasonable safeguard.

- (25) The Commission finds that rehearing on this assignment of error should be granted. The Commission finds that the electric utilities should not disclose customer energy usage data without the customer's consent, including electronic consent, except for customers with traditional interval meters. However, we note that this does not place the

burden on the electric utility to seek customer consent, as the CRES provider may provide the customer consent to the electric utility, whether written or electronic. However, the electric utility must receive consent from the CRES provider or data recipient before sharing the historical and future customer energy usage data.

Additionally, once the EDU has received the authorization to release the customer energy usage data, the customer account should be noted or flagged and the information should be shared electronically or through an internet web portal. The customer energy usage data consent release should be stored in accordance with current data retention policies. The consent form should also include a time period for data collection, which should decrease the burden to monthly verify the customer's consent. To recover the associated costs of this rule, the Commission finds that the electric utilities may propose a recovery mechanism, which should be filed in their supplier tariffs.

Further, the Commission notes that the customer energy usage data disclosure consent in Ohio Adm.Code 4901:1-10-24(E)(3) was intended to apply to residential customers only, therefore the rule generally would not apply to customers using traditional interval meters.

Finally, the Commission recognizes that modern advances in technology will require us to stay proactive to protect the privacy rights of customers, while providing them opportunities to use their customer energy usage data for unique products and services. Accordingly, we note that in Case No. 12-3151-EL-COI we created a market development working group (MDWG) to monitor the development of the competitive market along with advances in modern technology. *In re the Commission's Investigation*, Case No. 12-3151-EL-COI, Finding and Order (Mar. 26, 2014) at 6, 21. We find that the issue of customer energy usage data and proper data release protocols should continue to be evaluated through the MDWG.

- (26) Paragraph (G). DP&L requests clarification on Ohio Adm.Code 4901:1-10-24(G) regarding disclosure of customer lists, and recommends removing subsections one through

three since they will be obsolete when the rule becomes effective.

- (27) The Commission finds that rehearing on DP&L's assignment of error should be granted. The Commission recognizes that subsections one through three will become obsolete, therefore the rule should be revised to indicate that the lists should be provided to any customer upon request. Additionally, the Commission notes that the list of CRES providers provided to customers should be unbiased and should demonstrate no favoritism of one CRES provider over another.

Ohio Adm.Code 4901:1-10-27

- (28) Paragraph (C). FirstEnergy asserts that Ohio Adm.Code 4901:1-10-27(C) is unjust, unreasonable, and unlawful. FirstEnergy argues that requiring an EDU and a transmission owner to file a report with the Commission setting forth its methodology to assess the reliability of its transmission circuits, which is subject to review and approval by Staff, creates confidentiality concerns, is unduly burdensome, creates unnecessary paperwork, and is preempted by federal law. FirstEnergy argues that federal law gives FERC exclusive jurisdiction over unbundled transmission service, which could give rise to a conflict between state and federal law.
- (29) The Commission finds that rehearing on this assignment of error should be denied. The Commission notes that it has not amended the substantive requirements of Ohio Adm.Code 4901:1-10-27(C), and that these provisions were previously adopted by the Commission. The Commission notes that Ohio Adm.Code 4901:1-10-27(C) for transmission system performance assessments was adopted even prior to 2002. See *In re Commission's Review of its Electric Service and Safety Standards*, Case No. 02-564-EL-ORD, Finding and Order (Sep. 26, 2002) at Attachment I, pg. 50. We believe that FirstEnergy's assignments of error regarding Ohio Adm.Code 4901:1-10-27(C) lack merit.
- (30) Paragraph (E). FirstEnergy asserts as one of its assignments of error that Ohio Adm.Code 4901:1-10-27(E) is unjust,

unreasonable, and unlawful because it requires significant expenditures and is needlessly burdensome. FirstEnergy argues that the adopted rule may move the repair of minor deficiencies ahead of other deficiencies that could have a reliability impact. FirstEnergy asserts that the EDUs should prioritize the deficiencies that are most likely to have a reliability impact.

- (31) The Commission finds that rehearing on this assignment of error should be denied. The amended rule requires the EDUs to correct all deficiencies by the end of the year, not just those deficiencies likely to cause an outage. However, the amended rule still requires that lines and equipment with recorded defects, that could reasonably be expected to endanger life or property, be promptly repaired, disconnected, or isolated. Additionally, while FirstEnergy asserts that the rule may cause prioritization that is not the most beneficial for customers; the rule does not eliminate the EDUs' obligation to maintain reliability or to conduct their operations in a manner that is most beneficial to customers.

Ohio Adm.Code 4901:1-10-28

- (32) Paragraph (A); Microturbine Definition. FirstEnergy asserts that the Commission's Order is unjust and unreasonable because it does not contain a definition with a size limit for the term "microturbine." FirstEnergy asserts that the General Assembly intended a size limit by declaring that a net metering system may be a facility that uses a microturbine.

IGS argues that reciprocating engine technology should be included in the definition of microturbine. IGS asserts that reciprocating engines are the most common generation technology used in combined heat and power systems, and should be eligible for net metering. IGS then avers that if the Commission does not modify the definition of microturbine to include reciprocating engine technology, then it should include it in the list of generating technologies eligible for net metering.

FirstEnergy opposes rehearing on the assignment of error raised by IGS. FirstEnergy points out that the net metering

statute does not include reciprocating engines in the list of technologies that are eligible for net metering. FirstEnergy also notes that reciprocating engines are not per se excluded from net metering under the statute.

- (33) The Commission finds that rehearing on this assignment of error should be denied. The Commission notes that this is not the first time the issue of microturbine size has been before us. We previously held that no size limitation for microturbines should be adopted, there is no limitation on the number of distributed generators that can be installed by a customer-generator, and there exists an implied limitation on the size or number of generators. *In re the Commission's Response to Provisions of the Federal Energy Policy Act of 2005*, Case No. 05-1500-EL-COI, Finding and Order (March 28, 2007) at 4.

Further, the Commission finds that IGS's proposed definition of reciprocating engine is too broad for inclusion in the rules. While the Commission recognizes IGS's contention that combined heat and power systems often use reciprocating engine technology, a reciprocating engine can be anything from an internal combustion engine that uses petroleum-based fuel to steam-powered engines. The Commission notes that if a reciprocating engine can meet the criteria in R.C. 4928.01(A)(31), then it could potentially be permissible for net metering. However, as a result of the broad scope of applications that could use reciprocating engine technology, applications for net metering using reciprocating engine technology or microturbines must be considered on a case-by-case basis.

- (34) Paragraph (B)(3). DP&L asserts that rehearing should be granted because Ohio Adm.Code 4901:1-10-28(B)(3) incorrectly incorporates by reference Ohio Adm.Code 4901:1-10-28(B)(10). Additionally, DP&L requests clarification on the Commission's intent behind the one-year review to determine if a customer-generator is an excess generator.
- (35) The Commission finds that rehearing should be granted on the assignment of error raised by DP&L. The Commission finds that the rule should be revised to state that if a

customer-generator is determined by the electric utility to be an excess generator after any twelve month period, then the electric utility shall contact the customer-generator in order to resolve the change in status.

- (36) Paragraph (B)(6). DP&L, FirstEnergy, and Ohio Power argue that Ohio Adm.Code 4901:1-10-28(B)(6) is unjust and unreasonable. DP&L asserts that this rule is unreasonable because it requires electric utilities to measure the output of the customer-generator before the electricity flows through the utility's meter. DP&L proposes that the language be revised to state that "a customer-generator that delivers net electricity to the utility that is less than twenty percent of the customer-generator's requirements for electricity, for any 12 month period, shall be considered primarily intending to offset part or all of its requirements for electricity." Ohio Power avers that the Commission should adopt a policy where utilities verify the customer-generator's system to ensure that customers are designing their systems for 100 percent of their requirements for electricity and not more. Additionally, Ohio Power argues that the rebuttable presumption at 120 percent of the customer-generator's requirements for electricity is too vague and uncertain.

Similarly, FirstEnergy and Ohio Power assert that Ohio Adm.Code 4901:1-10-28(B)(6) is unjust and unreasonable because it incents customer-generators to size their net metering system to be at 120 percent of their requirements, in violation of R.C. 4928.01(31).

IREC opposes rehearing on the assignment of error raised by FirstEnergy and Ohio Power. IREC asserts that the Commission sufficiently addressed this issue in its Finding and Order, and that the Commission is right to permit a 20 percent margin of error in order to give customer-generators the ability to implement energy-efficiency measures and to account for the unpredictability of renewable energy. As the Commission pointed out in its Finding and Order, the Commission's intent is to protect customer-generators who incidentally generate more than their requirements for electricity.

IGS also opposes rehearing on the assignments of error because IGS believes that no limit should be placed on the size of net metering facilities. IGS asserts that distributed generation should have the opportunity to compete with all forms of generation.

- (37) The Commission finds that rehearing on the assignments of error raised by DP&L, Ohio Power, and FirstEnergy should be denied. Initially, the Commission notes that while DP&L and Ohio Power argue that the rebuttable presumption at 120 percent is vague and uncertain; this is the result of the primary-intent based test adopted by the General Assembly. Pursuant to R.C. 4928.01(31), a net metering system must be intended primarily to offset part or all of the customer-generator's requirements for electricity. The Commission has recognized that this places an implied limitation on the size of a net metering facility, as the primary intent of a customer-generator must be to offset its requirements for electricity. However, the Commission has seen over the past five years, in the time since the previous 5-year rule review, that the vague and uncertain primary-intent based test in the statute has resulted in electric utilities inconsistently applying the statute to customer-generators. The Commission's adoption of Ohio Adm.Code 4901:1-10-28(B)(6) maintains the primary-intent based test, while providing more clarity, and hopefully consistency, in applying the statute to customer-generators. The rebuttable presumption mechanism permits customer-generators to generate in excess of their requirements for electricity without primarily intending to, and provides the electric utilities an opportunity to rebut the presumption for those customer-generators who are not primarily intending to generate their requirements for electricity.

Further, the Commission notes that it addressed this issue in its Finding and Order, and that the 120 percent threshold for the rebuttable presumption is an appropriate and reasonable threshold. We do not believe that this rule incents customer-generators to intend primarily to generate in excess of their requirements for electricity. Additionally, we do not believe that the statute indicates that a customer-generator who incidentally generates in excess of 100 percent of its

requirements has violated R.C. 4928.01(31). The amended rule will provide a level of consumer protection to customer-generators who incidentally generate in excess of their total requirements. This rule places a reasonable restriction on excess generation while preventing customer-generators from being penalized for incidentally generating in excess of their requirements, which can result from engaging in energy efficiency measures or from the unpredictability of renewable resources.

- (38) Paragraph (B)(7). DP&L requests that the Commission clarify that Ohio Adm.Code 4901:1-10-28(B)(7) requires a one-time calculation of the customer-generator's requirements for electricity, based upon the three previous years before the customer-generator becomes a net metering customer. Additionally, DP&L asserts that if the Commission does not make this clarification, then the Commission clarify whether the rule requires a rolling three-year average computation.
- (39) The Commission finds that rehearing on the assignment of error raised by DP&L should be denied. However, we clarify that Ohio Adm.Code 4901:1-10-28(B)(7) does not require or prohibit a three-year rolling average. The adopted rule requires that when a customer-generator's requirement for electricity is calculated, the amount should be the average amount of electricity consumed annually by the customer-generator over the previous three years. This rule does not require or indicate how often the EDU must make the calculation; although, there must be, at least, a one-time calculation of the customer-generator's requirements for electricity to determine the customer's consumption baseline for sizing the facility. The EDUs may decide, at their discretion, whether to use a one-time calculation or a rolling three-year average. Whether the EDU intends to conduct a one-time calculation or a three year rolling average should be addressed by the EDUs in their net metering tariff.
- (40) Paragraph (B)(9). DP&L asserts that Ohio Adm.Code 4901:1-10-28(B)(9)(c) is unjust and unreasonable because it unnecessarily requires electric utilities to refund annually, without the request of the customer-generator. DP&L

asserts that most net metering customers prefer that the monetary credit for excess generation rollover to the next monthly billing period indefinitely.

- (41) The Commission finds that DP&L's assignment of error should be denied. DP&L's proposal would make an indefinite monetary credit rollover the default and require customers to request a refund if they desire one. The Commission believes that providing customer-generators a monetary refund for net excess generation should be the default.
- (42) Ohio Power and DP&L assert that Ohio Adm.Code 4901:1-10-28(B)(9)(c) is unlawful and unreasonable because it improperly characterizes a competitive generation service as noncompetitive. DP&L asserts that any credit for net excess generation should be the responsibility of the customer's generation supplier, regardless of whether the supplier is a CRES provider or the SSO provider. Ohio Power avers that Ohio law and federal law only require an electric utility to provide net metering for customer-generators that the electric utility is supplying electricity.

DP&L and Ohio Power then assert that if the rules continue to require the electric utilities to provide a monetary credit refund to customer generators, then the rule should clarify how the utility recovers that cost. DP&L and Ohio Power assert that if the Commission finds that net metering is a noncompetitive service, then the electric utility should be permitted to recover the costs through a nonbypassable charge. Ohio Power further argues that if the electric utility is recovering this cost through negative load, then that load should be included as a reduction to the SSO load (accounts) for purposes of PJM settlement.

Direct Energy opposes rehearing on this assignment of error and asserts that the rule, as written, adequately addresses how net metering credits are applied. Additionally, IGS also opposes rehearing on this assignment of error and asserts that CRES suppliers should not be required to credit the customer for net metered generation because CRES suppliers will not be getting access to, or utilization of, the electricity that is delivered back to the distribution system.

IGS asserts that since the electricity generated by a net metering customer-generator is placed directly onto the distribution system, the distribution utility receives the electricity, which reduces the SSO obligation of the electric distribution utility.

- (43) The Commission finds that rehearing on the assignment of error raised by DP&L and Ohio Power should be denied. The Commission has determined that net metering service is a noncompetitive distribution service and that the electric distribution utilities should make a net metering tariff available to all customers, whether shopping or not. The Commission finds that since net metering is a distribution service to be provided by the distribution utility, a customer-generator may shop with a CRES provider for its generation service. Further, metering is a traditional function of the distribution utility and net metering is no different. Therefore, the Commission finds that the EDUs should provide the net metering tariff consistent with R.C. 4928.67. The statute also provides that the distribution tariff or contract should be identical in rate structure, all retail rate components, and any monthly charges to which the same customer would be assigned if that customer were not a customer-generator, consistent with R.C. 4928.67(A)(1). Therefore, a residential customer-generator on the net metering tariff shall remain a residential customer and not be placed on a small power producer tariff, and no additional distribution charges shall be imposed on the customer-generator that are not identical to which the same customer would be assigned if that customer were not a customer-generator. Additionally, the distribution tariff should include provisions for the distribution utility to provide a refund to customer-generators for their net excess generation, since it is being supplied directly to the distribution utility's distribution system.
- (44) Ohio Power argues that Ohio Adm.Code 4901:1-10-28(B)(9)(c) should be revised so that the credit for net excess generation should reflect only energy charges. Ohio Power avers that the SSO rate has both energy and capacity built into it, and that the refund for net excess generation should only reflect energy charges. Ohio Power further asserts that

under the Supreme Court's holding in *FirstEnergy Corp.*, it would be unlawful to refund customer-generators for capacity when they have provided no capacity to the utility. *FirstEnergy Corp. v. Pub. Util. Comm.*, 95 Ohio St.3d 401 (2002).

IREC opposes rehearing on the assignment of error raised by Ohio Power. IREC notes that the Commission already addressed this issue in its Finding and Order and requests that the Commission deny rehearing on the assignment of error alleged by Ohio Power. IREC argues that Ohio Power's proposal would decrease the credit rate that customer-generators receive for their net excess generation. IREC further avers that Ohio Power's proposal is adverse to industry best practices and is contrary to the Commission's intent in the rules.

- (45) The Commission finds that rehearing on the assignment of error raised by Ohio Power should be denied. Pursuant to the Supreme Court's holding in *FirstEnergy Corp.* and R.C. 4928.67(B)(1) and (2), the refund for net excess generation must be for the electricity supplied and may not include distribution, transmission, ancillary services, transition, universal service fund, or energy efficiency fund costs. *FirstEnergy Corp. v. Pub. Util. Comm.*, 95 Ohio St.3d 401 (2002) at 405. The Court pointed out that R.C. 4928.67 speaks in terms of electricity generated and supplied, which is generation service. Included in generation service and the generation service rate are energy, demand, and capacity. The Commission has carefully considered its amendments and finds that using the SSO generation rate for calculating the monetary refund for customer-generators is consistent with the Revised Code and the Supreme Court's holding in *FirstEnergy Corp.*

Further, the Commission notes that energy, demand, and capacity are the components of electricity, which is indicated on customer bills as generation. Consistent with the Supreme Court's holding, the adopted rule for Ohio Adm.Code 4901:1-10-28(B)(9)(c) appropriately establishes a refund for net excess generation that compensates customer-generators for electricity generated and supplied to the EDU's distribution system, not just for the energy

component of the generation. While Ohio Power may contend that it does not receive capacity from the customer-generator, this is an oversimplification of the issue. In reality, the net metering customer-generator has offset their demand, which requires less capacity to be procured by the EDU for the area. While Ohio Power may not receive a supply of capacity from the customer-generator, it has in actuality received a demand-side reduction in the amount of capacity that it must procure.

Additionally, the Commission believes that it would be impractical, if not impossible, for each EDU to accurately isolate just the energy price component from its full requirements SSO products and attribute it to the electricity generated by a customer-generator. Ohio Power has not demonstrated to us that it would be practical, or even possible, to attribute an energy price to the electricity generated by a customer-generator. Further, Ohio Power has not demonstrated that it is not being adequately compensated for its capacity obligation, as it receives capacity revenues from SSO customers through an established state compensation mechanism. See *In re Commission Review of the Capacity Charges of Ohio Power*, 10-2929-EL-UNC, Opinion and Order (July 2, 2012) at 33. Accordingly, rehearing on the assignment of error raised by Ohio Power is denied.

- (46) Paragraph (B)(10). DP&L asserts that Ohio Adm.Code 4901:1-10-28(B)(10) is unlawful and unreasonable because it does not recognize that customer-generators with excess generation avoid the cost of using the distribution system, at the expense of customers without net metering. DP&L proposes that an exception be added to Ohio Adm.Code 4901:1-10-28(B)(10) that excess generation shall be charged at the electric utility's base distribution rate.

IREC opposes DP&L's assignment of error and notes that DP&L previously raised this same issue in its comments and the Commission denied it. Additionally, IREC avers that charging customer-generators at the base distribution rate would violate Ohio Adm.Code 4901:1-10-28(B)(10) and 4901:1-10-28(B)(9)(c). IREC notes that the Commission has adopted numerous safeguards to prevent significant excess

generation and has adopted mechanisms for the purpose of encouraging the electric utilities and net metering customers to engage in proper dialogue to discourage excess generation while recognizing that it may incidentally occur.

IGS also opposes rehearing on this assignments of error. IGS asserts that DP&L and FirstEnergy intend to increase the cost of distributed generation so as to discourage its deployment. IGS argues that it would be unreasonable to levy additional distribution or administrative charges on customer-generators.

- (47) The Commission finds that rehearing on DP&L's assignment of error should be denied. Initially, the Commission notes that, pursuant to Ohio Adm.Code 4901:1-10-28 and the Supreme Court's holding in *FirstEnergy Corp.*, customer-generators still pay for distribution service. *FirstEnergy Corp. v. PUCO*, 95 Ohio St.3d 401, 2002-Ohio-2430. Therefore, customer-generators are not avoiding the cost of using the distribution system since they are still paying distribution charges. While net metering is a distribution service offered by the distribution utility, a net metering system decreases the generation portion of the customer-generator's bill. If there is excess generation that is credited to the customer-generator's next monthly bill, then the monetary credit should be calculated at the SSO rate. That monetary credit would then be applied to the customer-generator's next monthly bill. This does not mean that the customer-generator will not pay its distribution charges in the next month. Rather, the monetary credit from the previous month may offset the monetary amount owed by the customer-generator for that month's total bill. Since excess generation is calculated as a monetary credit, the monetary amount of the total bill owed to the utility is offset by the monetary amount that the utility credited the customer-generator for its previous months excess generation. The distribution charges, just like all of the other charges, have still been paid by the net metering customer-generator, they were just offset by the monetary credit from the previous month's excess generation.

Additionally, R.C. 4928.67(A)(1) also provides that the net metering tariff or contract should be identical in rate

structure, all retail rate components, and any monthly charges to which the same customer would be assigned if that customer were not a customer-generator. The statute provides that no additional distribution charges shall be imposed on the customer-generator for being a customer-generator. We find that DP&L's proposal would actually violate R.C. 4928.67(A)(1).

- (48) Paragraph (C). DP&L requests clarification on how an electric utility is to bill a hospital net metering customer on both tariff charges and market value. Additionally, DP&L seeks clarification on how to calculate hourly values in a process that is done at month's end and of the net of two different meter reads.
- (49) The Commission finds that rehearing on the assignment of error raised by DP&L should be denied. The Commission notes that pursuant to Ohio Adm.Code 4901:1-10-28(C)(6), the hospital should be charged for electricity provided by the utility at the regular tariff rate. However, electricity delivered by the hospital should be calculated at the market value as of the time the hospital generated the electricity. The Commission notes that R.C. 4928.67(A)(1)(b) requires that the contract or tariff be based upon the market value of the customer generated electricity at the time it was generated. Pursuant to Ohio Adm.Code 4901:1-10-28(C)(4), the hospital customer-generator must have a meter capable of measuring electricity generated by the hospital at the time it is generated. Pursuant to R.C. 4928.67(A)(1)(b) and Ohio Adm.Code 4901:1-10-28(C)(6)(b), the electric utility should use the LMP for the generated electricity at the time it was generated. If the electric utility makes this calculation at the end of the month, then it should use the historical real-time total LMP for its transmission zone and apply it to the electricity generated by the hospital net metering customer at the time it was generated. While this may be a laborious or burdensome process, this is the result of the statutory requirement in R.C. 4928.67(A)(1)(b). Additionally, we note that the statute only requires that the electricity generated by the hospital customer-generated be calculated at the market value as of the time it was generated. It is for this reason

that the price paid by the hospital customer-generator may be the tariff price.

- (50) Virtual and Aggregate Net Metering. FirstEnergy asserts that the Commission's Order was unjust and unreasonable as it relates to opening a new docket for further evaluation of virtual and aggregate net metering.
- (51) The Commission finds that rehearing on FirstEnergy's assignment of error should be denied. The Commission has the authority to decide to open a new docket to further consider virtual and aggregate net metering. The Commission may open dockets at its discretion pursuant to effectuate the policy of the state of Ohio pursuant to R.C. 4928.02 and 4928.06. If FirstEnergy desires to oppose virtual and aggregate net metering, then it may do so in the appropriate docket. However, FirstEnergy's assertion that the Commission's decision to open a docket was unjust or unreasonable lacks merit.

Ohio Adm.Code 4901:1-10-34

- (52) Ohio Power avers that the Commission should clarify the scope and impact of adopted Ohio Adm.Code 4901:1-10-34. Ohio Power asserts that current business practice is that SSO load is reduced by the QF energy amount, and if this is what the Commission intended in the rule, then the Commission should provide clarification. However, the existing rule could be interpreted as requiring the QF load to be included in the SSO load, which would require a revision to the auction rules and other auction related documents. Additionally, this could require a plan for the EDUs to handle QFs separate from the auction. Ohio Power requests clarification on this issue.

FirstEnergy proposes that the EDUs be authorized to establish a mechanism for full and timely recovery of the costs of all energy payments made under the rule to QFs, as well as all other costs reasonably incurred to comply with the rule. FirstEnergy argues that requiring the EDUs to absorb the costs would be contrary to law. FirstEnergy proposes that new language be adopted that states "the EDU is entitled to full and timely recovery of all energy payments

made under this rule to qualifying facilities together with all costs reasonably incurred to comply with this rule. Cost recovery may occur through an existing recovery mechanism of the EDU or through a newly proposed recovery mechanism." FirstEnergy also argues that Ohio Adm.Code 4901:1-10-34 needs clarified to explain whether the LMP is the Day-Ahead LMP or the Real-Time LMP.

- (53) The Commission finds that rehearing on the assignments of error raised by Ohio Power and FirstEnergy should be granted. The Commission finds that the energy procured by the EDU to serve SSO load should be reduced by the amount of QF purchased energy. Further, the Commission finds that the EDU may recover all prudently incurred costs associated with energy payments to QFs, including any market settlement charges, penalties, or administrative costs directly attributable to the QF, through the existing mechanisms that the EDU currently uses to recover other costs incurred to serve SSO load through the auction process.

Additionally, the Commission finds that the EDU should purchase the energy from the QF at the Day-Ahead LMP, net of any market settlement charges, penalties, or administrative costs directly attributable to the QF.

Finally, the Commission finds that to maintain the integrity of existing auction products, as well as the existing auction process, we will permit the EDUs to file applications for waiver of Ohio Adm.Code 4901:1-10-34 as needed.

Conclusion

- (54) In making its review, an agency is required to consider the continued need for the rules, the nature of any complaints or comments received concerning the rules, and any factors that have changed in the subject matter area affected by the rules. The Commission has evaluated the rules in Ohio Adm.Code Chapter 4901:1-10 and recommends amendments to several rules as shown in the attachment to this entry.
- (55) An agency must also demonstrate that it has included stakeholders in the development of the rule, that it has evaluated the impact of the rule on businesses, and that the

purpose of the rule is important enough to justify the impact. The agency must seek to eliminate excessive or duplicative rules that stand in the way of job creation. The Commission has included stakeholders in the development of these rules and has sought to eliminate excessive or duplicative rules that stand in the way of job creation.

- (56) In order to avoid needless production of paper copies, the Commission will serve a paper copy of this entry only and will make the rules, as well as the business impact analysis, available online at: www.puco.ohio.gov/puco/rules. All interested persons may download the rules and the business impact analysis from the above website, or contact the Commission's Docketing Division to be sent a paper copy.

It is, therefore,

ORDERED, That the applications for rehearing filed by DP&L, FirstEnergy, Duke, Ohio Power, Direct Energy, and IGS are granted, in part, and denied, in part, as discussed herein. It is, further,

ORDERED, That the application for rehearing filed by OHA is denied, as discussed herein. It is, further,

ORDERED, That attached amended Ohio Adm.Code 4901:1-10-14, 4901:1-10-24, 4901:1-10-28, and 4901:1-10-34 be adopted. It is, further,

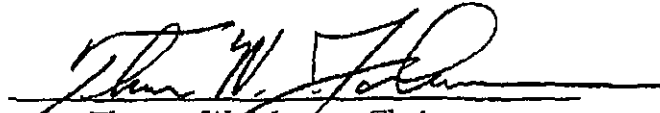
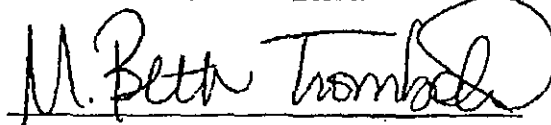
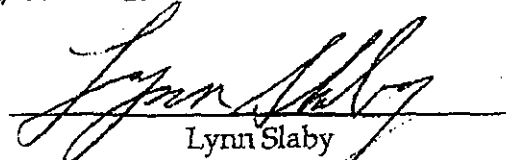
ORDERED, That the electric distribution utilities file four complete copies of proposed tariffs consistent with the Commission's Finding and Order and this Second Entry on Rehearing. One copy shall be filed in this case docket, one shall be filed in the utility's TRF docket, and the remaining two copies shall be designated for distribution to the Rates and Tariffs Division of the Commission's Utilities Department. It is, further,

ORDERED, That the adopted rules 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 R.C. 111.15. 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 Chapter 4901:1-10 shall be in compliance with R.C. 119.032. It is, further,

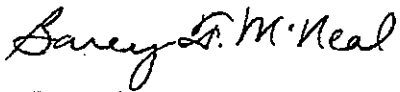
ORDERED, That a copy of this Second Entry on Rehearing be served upon all electric utilities in the state of Ohio, all certified competitive retail electric service providers in the state of Ohio, the Electric-Energy industry list-serve, and all other interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO


Thomas W. Johnson, Chairman
Steven D. Lesser
M. Beth Trombold
Lynn Slaby
Asim Z. Haque

BAM/sc

Entered in the Journal

MAY 28 2014Barcy F. McNeal
Secretary

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4901:1-10-14 Establishment of credit for applicants and customers.

- (A) Each electric utility shall establish written procedures to determine creditworthiness of applicants and customers for service based solely on the customer's or applicant's creditworthiness. These procedures shall be submitted in current form to the staff upon request.
- (B) Upon request, each electric utility shall provide applicants/customers with the following information:
 - (1) Their credit history with that company.
 - (2) A copy of this rule, the commission's website and the toll-free and TTY numbers of the commission's call center.
- (C) An applicant shall be deemed creditworthy if one of the following criteria is satisfied:
 - (1) The electric utility verifies that the applicant is a creditworthy property owner or verifies the applicant's creditworthiness in accordance with legally accepted practices to verify credit. Verification methods for residential applicants shall include, but not be limited to, consideration of the applicant's employer and length of service, reference letters, and substantive credit cards;
 - (a) The company may request the applicant's social security or tax identification number in order to obtain credit information and to establish identity, however if the applicant elects not to provide his/her social security number or tax identification number, the utility company may not refuse to provide service.
 - (b) If the applicant declines the utility company's request for a social security or tax identification number, the utility company shall inform the applicant of other options for establishing creditworthiness.
 - (2) The applicant had a prior account with ~~the-an~~ electric utility for the same class of service within two years before the date of application, and the applicant provides proof of the prior account, unless during the final year of prior service one of the following occurred:

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- (a) The company disconnected applicant for nonpayment.
- (b) The applicant failed to pay its bill by the due date at least two times.
- (c) The company disconnected the applicant for a fraudulent practice, tampering, or unauthorized reconnection.
- (3) The applicant furnishes a reasonably safe guarantor, who is a customer of that electric utility, to secure payment of bills in an amount sufficient for a sixty-day supply for the service requested.
- (4) The applicant makes a cash deposit as set forth in this rule.
- (D) Unless otherwise provided in paragraph (H) of this rule, when an electric utility fails to demand security within thirty calendar days after initiation of service, it may not require security for that service.
- (E) Deposit to establish tariffed service; review of deposit upon customer request.
 - (1) An electric utility may require an applicant who fails to establish creditworthiness to make a deposit. The amount of the deposit shall not exceed one hundred thirty per cent of the estimated annual average monthly bill for the customer's tariffed service for the ensuing twelve months.
 - (2) Upon the customer's request, the amount of the deposit paid is subject to adjustment, when the deposit paid differs by twenty per cent or more from the deposit which would have been required, based upon actual usage for three consecutive billing periods while taking into account seasonal variations in usage.
- (F) Each electric utility which requires a cash deposit shall communicate to the applicant/customer:
 - (1) The reason(s) for its decision.
 - (2) Options available to establish credit (including a guarantor to secure payment).
 - (3) The applicant/customer's right to contest the electric utility's decision and to demonstrate creditworthiness.
 - (4) The applicant/customer may appeal the electric utility's decision to the staff.

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- (5) The commission's website and the toll-free and TTY telephone numbers of the commission's call center.

Upon request of the applicant/customer, the information in ~~paragraph (G)~~ of this rule shall be provided in writing.

- (G) Deposit to reestablish creditworthiness for tariffed service.

- (1) An electric utility may require a customer to make ~~an initial or additional a~~ deposit, not to exceed one hundred thirty percent of the estimated annual average monthly bill for the customer's tariffed service for the ensuing twelve months, on an existing account, as set forth in this rule, to reestablish creditworthiness for tariffed service based on the customer's credit history on that account with that electric utility.

- (2) A deposit may be required if the customer meets one of the following criteria:

- (a) ~~The customer has not made full payment or payment arrangements by the due date for two consecutive bills during the preceding twelve months~~ After considering the totality of the customer's circumstances, a utility company may require a deposit if the customer has not made full payment or payment arrangements for any given bill containing a previous balance for regulated service provided by that utility company.

- (b) ~~The customer has been issued a disconnection notice for nonpayment on two or more occasions during the preceding twelve months.~~

- (eb) The customer has had service disconnected for nonpayment, a fraudulent practice, tampering, or unauthorized reconnection during the preceding twelve months.

- (H) Upon acceptance of a deposit, each electric utility shall furnish a receipt to the applicant or customer which shows:

- (1) The name of the applicant.
- (2) The address of the premises currently served or to be served.
- (3) The billing address for service.
- (4) The amount of the deposit.

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- (5) A statement as to the interest rate to be paid and the length of time the deposit must be held to qualify for interest.
- (6) The conditions for refunding the deposit.
- (I) Each electric utility shall:
 - (1) Review each nonresidential account after the first two years of service for which a deposit is being held, and shall promptly refund the deposit or credit the nonresidential customer's account, plus interest accrued, if during the preceding twenty-four months, both of the following are true:
 - (a) The customer's service was not disconnected for nonpayment, a fraudulent practice, tampering, or unauthorized reconnection.
 - (b) The customer had not more than three past due bills.
 - (2) Upon customer request, but not more than annually, review each nonresidential account after the first two years of service for which a deposit is being held, and shall promptly refund the deposit or credit the customer's account, plus interest accrued, if, with regard to the preceding twelve months, both of the following are true:
 - (a) The customer's service was not disconnected for nonpayment, a fraudulent practice, tampering, or unauthorized reconnection.
 - (b) The customer had not more than two past due bills.
 - (3) Annually review each residential account, for which a deposit is being held, and shall promptly refund the deposit or credit the customer's account, plus interest accrued, if during the preceding twelve months:
 - (a) The customer's service was not disconnected for nonpayment, a fraudulent practice, tampering, or unauthorized reconnection; and
 - (b) The customer had not more than two past due bills.
- (J) Each electric utility shall pay interest on a deposit of not less than three per cent per annum, provided the company has held the deposit for at least six consecutive months.
- (K) When service is terminated or disconnected, each electric utility shall promptly:

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- (1) Apply the deposit and interest accrued to the final bill for service.
- (2) Refund any amount in excess of the final bill to the customer, unless the amount of the refund is less than one dollar.

A transfer of service from one premise to another premise within the electric utility's certified territory or service area shall not be deemed a disconnection under this paragraph.

- (L) Deposits for customers leaving bundled or standard offer services.

When a customer who has previously paid a deposit to the electric utility switches to a competitive retail electric service provider and is no longer served under an electric utility's bundled service or standard offer service, the electric utility shall apply the electric utility's generation service portion of the deposit and the accrued interest to the amounts due and payable on the next bill and refund any amount remaining to the customer, unless the amount of the refund is less than one dollar.

- (M) Residential service guarantors.

- (1) Each electric utility shall annually review an account where the residential customer provided a guarantor. When a residential customer satisfies the requirements for a deposit refund under paragraph (I) of this rule, each company shall notify the guarantor in writing within thirty days that he/she is no longer obligated for that account.
- (2) The guarantor shall sign a written guarantor agreement provided by the commission and posted on the commission website. The electric utility shall provide the guarantor with a copy of the signed agreement upon request and shall keep a copy of the original on file during the term of the guaranty.
- (23) Each electric utility shall provide to the guarantor of a residential account all notices of disconnection of service which are provided to the customer.
- (34) Upon the residential customer's default, an electric utility may:
 - (a) Transfer the balance owed by the customer, not to exceed the amount for sixty days service, to his/her guarantor's account; and
 - (b) Disconnect service under the guaranty, if the guarantor fails to pay the customer's balance within thirty days after notice of the customer's

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default or fails to make other payment arrangements acceptable to the electric utility.

- (5) Under the circumstances where a guarantor's electric utility service is subject to disconnection or has requested release of financial responsibility related to a customer's account, the electric utility shall, within ten calendar days, advise the customer who provided the guarantor that the guarantor's responsibility to the customer's account will end by a specific date (thirty days from the date of the notice to the guaranteed customer). The electric utility shall also advise the customer that, prior to the specific end date stated in the notice he/she must reestablish credit through one of the alternative means set forth in paragraph (C) of this rule, or be subject to disconnection according to the applicable disconnection rules in Chapter 4901:1-18 of the Administrative Code.
- (N) Each electric utility shall retain records of customer deposits for at least one year after the deposit, including interest, is returned and/or applied to the customer's bill.

4901:1-10-24 Customer safeguards and information.

- (A) Each electric utility shall notify customers annually, by bill insert or other notice, about its summary of customer rights and responsibilities, as prescribed by rule 4901:1-10-12 of the Administrative Code, and how to request a copy from the electric utility.
- (B) Each electric utility shall maintain a listing in each local telephone service provider's directory operating in the electric utility's certified territory.
- (C) Customer education and marketing practices.

Each electric utility shall provide informational, promotional, and educational materials that are non-customer specific and explain services, rates, and options to customers. The staff may review and/or request modification of informational, promotional, and educational materials. Such materials, shall include the following information:

- (1) An explanation of the service, its application, and any material exclusions, reservations, restrictions, limitations, modifications, or conditions.

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- (2) If services are bundled, an identification and explanation of service components and associated prices.
 - (3) An identification and explanation of:
 - (a) Any one-time or nonrecurring charge(s) (e.g., penalties and open-ended clauses).
 - (b) Recurring charge(s) (e.g., usage).
 - (4) An explanation of how the customer can access the approximate generation resource mix and environmental disclosure data, as prescribed in Rule 4901:1-10-31.
- (D) Unfair and deceptive acts or practices. No electric utility shall commit an unfair or deceptive act or practice in connection with the promotion or provision of service, including an omission of material information. An unfair or deceptive act/practice includes, but is not limited to, the following:
- (1) An electric utility states to a customer that distribution service will or may be disconnected unless the customer pays any amount due for a ~~non-tariffed~~ non-tariffed or nonregulated non-regulated service.
 - (2) An electric utility charges a customer for a service for which the customer did not make an initial affirmative order. An affirmative order means that a customer or applicant for service must positively elect to subscribe to a service before it is added to the account. Failure to refuse an offered or proposed service is not an affirmative order for the service.
- (E) Customer specific information.
- (1) An electric utility shall not disclose a customer's account number without the customer's ~~written consent and proof of that consent as delineated in paragraph (E)(4) of this rule, or electronic authorization, or a court or commission directive ordering disclosure, except for the following purposes:~~
 - (a) An electric utility's collections and/or credit reporting activities.
 - (b) Participation in the home energy assistance program, the emergency home energy assistance program, and programs funded by the universal service fund, pursuant to section 4928.52 of the Revised Code, such as the percentage of income payment plan programs.

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- (c) Cooperation with governmental aggregation programs, pursuant to section 4928.20 of the Revised Code.

~~The electric utility must use the consent form set forth in paragraph (E)(3) of this rule, unless authorization is obtained electronically.~~

- (2) An electric utility shall not disclose a customer's social security number without the customer's written consent as delineated in paragraph (E)(4) of this rule, or without a court order, except for the following purposes:
- (a) Completing a customer credit evaluation.
 - (b) An electric utility's or competitive retail electric service (CRES) provider's collections and/or credit reporting activities.
 - (c) Participation in the home energy assistance program, the emergency home energy assistance program, and programs funded by the universal service fund, pursuant to section 4928.52 of the Revised Code, such as the percentage of income payment plan programs.

~~The electric utility must use the consent form set forth in paragraph (E)(3) of this rule.~~

- (3) An electric utility shall not disclose residential customer energy usage data that is more granular than the monthly historical consumption data, provided on the customer pre-enrollment list pursuant to Rule 4901:1-10-29(E) of the Administrative Code, without the customer's written consent as delineated in paragraph (E)(4)(a) of this rule, or a court or commission directive ordering disclosure.

- (4) Customer information release consent form

- (3a) ~~The~~Written consent form shall be on a separate piece of paper and shall be clearly identified on its face as a release of personal information and all text appearing on the consent form shall be in at least sixteen-point type. The following statement shall appear prominently on the consent form, just prior to the signature, in type darker and larger 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 electric utility) to release the information set forth above. By my signature, I freely give (name of the electric utility) permission to release the information designated above." The written consent form for the release of customer

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energy usage data shall specify the identity of any recipients of the data, type and granularity of the data being collected, and uses for which the data is being collected. ~~information that the electric utility 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.

- (b) Electronic consent shall be verifiable and in a substantially similar format to the written consent in section (a) of this rule. The following statement shall appear prominently: "I realize that under the rules and regulations of the public utilities commission of Ohio, I may refuse to allow (name of the electric utility) to release the information set forth above. By providing my electronic signature, I freely give (name of the electric utility) permission to release the information designated above."

- (45) Nothing in this rule prohibits the commission from accessing records or business activities of an electric utility, as provided for in paragraph (B) of rule 4901:1-10-03 of the Administrative Code.

(F) Customer load pattern information. An electric utility shall:

- (1) Upon request, timely provide twenty-four months of a customer's usage history, payment history, detailed consumption data, if available, and time differentiated price data, if applicable, to the customer without charge.
- (2) Provide generic customer load pattern information, in a universal and user-friendly file format, to other electric service providers on a comparable and nondiscriminatory basis. Load pattern information shall be based upon a minimum of three years of historical customer usage data.
- (3) Provide customer-specific information to CRES providers on a comparable and nondiscriminatory basis as prescribed in paragraph (E) of rule 4901:1-10-29 of the Administrative Code, unless the customer objects to the disclosure of such information.
- (4) 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

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list of eligible customers that is made available to other competitive retail electric service providers. If you do not wish to be included on this list, please call (electric utility telephone number) or write (electric utility address). If you have previously made a similar election, your name will continue to be excluded from the list without any additional action on your part. If you previously decided not to be included on the list and would like to reverse that decision, please call or write us at the same telephone number and address. An election not to be included on this list will not prevent (electric utility name) from providing your information to governmental aggregators."

In addition, the electric utility may offer its customers the option of contacting the electric utility by electronic means and, if it does so, the electric utility shall add its electronic mail address or web site to the above notice.

- (5) If a customer objects as provided in paragraphs (F)(3) and (F)(4) of this rule, the electric utility shall not release such information unless and until the customer affirmatively indicates that the information may be released.
- (G) Each electric utility shall develop, update, and maintain a list of certified CRES providers that are actively seeking residential customers within the electric utility's service territory. Where CRES providers are actively seeking residential customers, the electric utility shall disclose such lists on the electric utility's website, in an unbiased manner, and shall provide such lists to any customer upon request to:
- ~~(1) All of its customers quarterly.~~
 - ~~(2) All applicants for new service and customers returning to standard offer service.~~
 - ~~(3) Any customer upon request.~~

4901:1-10-28 Net metering.

(A) For purposes of this rule, the following definitions shall apply:

- (1) "Customer-generator" shall have the meaning set forth in section 4928.01(A)(29) of the Revised Code. A customer that hosts or leases third-

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party owned generation equipment on its premises is considered a customer-generator.

- (2) "Electric utility" shall have the meaning set forth in section 4928.01(A)(11) of the Revised Code.
- (3) "Excess-generator" means a customer-generator that generates in excess of the customer-generator's requirements for electricity as specified in (B)(6) of this rule.
- (4) "Net metering" shall have the meaning set forth in section 4928.01(A)(30) of the Revised Code.
- (5) "Net metering system" shall have the meaning set forth in section 4928.01(A)(31) of the Revised Code.
- (6) "Third party" means a person or entity that may be indirectly involved or affected but is not a principal party to an arrangement, contract, or transaction between other parties.

(B) Standard net metering.

- (1) Each electric utility shall develop a tariff for net metering. Such tariff shall be made available to customer-generators upon request in a timely manner and on a nondiscriminatory basis.
- (2) Net metering arrangements shall be made available regardless of the date the customer-generator's generating facility was installed.
- (3) The electric utility's tariff for net metering shall be identical in rate structure, all retail rate components, and any monthly charges, to the tariff to which the same customer would be assigned if that customer were not a customer-generator. Such terms shall not change simply because a customer becomes a customer-generator. The tariff shall also contain provisions on the procedures the electric utility will follow in working with and handling a customer-generator that becomes an excess-generator. Subsequent to the one year review, as specified in (B)(10), if the customer-generator thereafter becomes an excess-generator after any twelve-month period, the electric utility shall contact the customer-generator in order to resolve the change in status.
 - (a) The electric utility shall disclose on the electric utility's website and to

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customer-generators upon request, the name, address, telephone number, and email address of the electric utility's net metering department or contact person.

- (b) The electric utility shall provide all necessary information regarding a customer's potential enrollment in net metering on the electric utility's website. The electric utility shall also provide this information to a customer within the net metering application packet. The website and application packet shall describe and/or provide the following information in a straightforward manner: net metering tariff terms and conditions, sample net metering and interconnection agreements, and the terms and conditions regarding excess generation. The terms and conditions regarding excess generation should include, but are not limited to, criteria used in determining whether a customer-generator is considered to be an excess-generator and the procedures an electric utility has in place to address excess-generator situations. The website and application packet shall also provide information on costs that the customer may incur as a result of net metering enrollment, including, but not limited to, any costs associated with the following: application, interconnection, and meter installation.
- (4) No electric utility's tariff for net metering shall require customer-generators to:
- (a) Comply with any additional safety or performance standards beyond those established by rules in Chapter 4901:1-22 of the Administrative Code, and the "National Electrical Code," the "Institute of Electrical and Electronics Engineers," and "Underwriters Laboratories," in effect as set forth in rule 4901:1-22-03 of the Administrative Code.
- (b) Perform or pay for additional tests beyond those required by paragraph (B)(4)(a) of this rule.
- (c) Purchase additional liability insurance beyond that required by paragraph (B)(4)(a) of this rule.
- (5) A customer-generator's premises include areas owned, operated, or leased by the customer-generator. A net metering system must be located on the customer-generator's premises, which may include a contiguous lot that is owned, operated, or leased by the customer-generator. For purposes of this rule, a property is considered a contiguous lot, regardless of easements,

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public thoroughfares, transportation rights-of-way, or utility rights-of-way contained on such lot.

- (6) A customer-generator must intend primarily to offset part or all of the customer-generator's requirements for electricity. A customer-generator that annually generates less than one hundred and twenty percent of its requirements for electricity is presumed to be primarily intending to offset part or all of its requirements for electricity.
- (7) A customer-generator's requirements for electricity is the average amount of electricity consumed annually by the customer-generator over the previous three years. If the electric utility does not have the data or cannot calculate the average amount of electricity consumed annually over the previous three years, such as in instances of new construction, vacant properties, facility expansion, or other unique circumstances, the electric utility shall use any available consumption data and any appropriate data or measures submitted by the customer-generator to determine the customer-generator's consumption baseline for sizing a facility, and provide the estimation data to the customer-generator.
- (8) Net metering shall be accomplished using a single meter capable of registering the flow of electricity in each direction. A customer's existing single-register meter that is capable of registering the flow of electricity in each direction satisfies this requirement. If the customer's existing electrical meter is not capable of measuring the flow of electricity each direction, the electric utility, upon written request from the customer, shall install at the customer's expense a meter that is capable of measuring electricity flow in each direction. The electric utility shall provide a detailed cost estimate to the customer as outlined in (B)(3)(b) of this rule.

 - (a) The electric utility, at its own expense and with the written consent of the customer-generator, may install one or more additional meters to monitor the flow of electricity in each direction.
 - (b) If a customer's existing meter needs to be reprogrammed or set up for the customer to become a customer-generator or to accommodate net metering, the electric utility shall provide the customer a detailed cost estimate for the reprogramming or setup of the existing meter. The cost of setting up the meter to accommodate net metering shall be at the customer's expense. If a customer-generator has a meter that is capable

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of measuring the flow of electricity in each direction, is sufficient for net metering, and there are no set up costs, then the customer-generator shall not be charged meter fees.

(9) The measurement of net electricity supplied or generated shall be calculated in the following manner:

(a) The electric utility shall measure the net electricity produced or consumed during the billing period, in accordance with normal metering practices.

(b) If the electric utility supplies more electricity than the customer-generator feeds back to the system in a given billing period, the customer generator shall be billed for the net electricity that the electric utility supplied, as measured in accordance with normal metering practices.

(c) If the customer-generator accrues excess generation during a monthly billing period, the electric utility shall issue a monetary credit in the amount of the net excess generation onto the customer-generator's next monthly bill. If the full amount of the monetary credit is not used within the next monthly billing period, the remaining monetary credit shall be stored in the customer-generator's account and subsequently credited to the customer-generator in months where the monetary credit from the previous month is insufficient to cover the cost of the customer-generator's requirements for electricity. The electric utility shall issue a refund to the customer-generator for the amount of the monetary credit remaining in the account at the end of the May billing cycle, regardless of whether the customer-generator is receiving generation from the electric utility or a competitive retail electric service provider. This refund shall be calculated at the electric utility's standard service offer generation rate. The annual refund shall be issued to customer-generators by July 1.

~~(10) If the electric utility cannot determine the generation rate paid by a customer to a competitive retail electric supplier, the utility's SSO rate shall be applied.~~

~~(11) In no event shall the electric utility impose on the customer-generator any charges that relate to the electricity the customer-generator feeds back to the system.~~

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(1211) Customer-generators shall comply with the interconnection standards set forth in Chapter 4901:1-22 of the Administrative Code.

(1312) Renewable energy credits associated with a customer-generator's net metering facility shall be the property of the customer-generator, unless otherwise contracted through a separate transaction, independent of the net metering tariff or the customer-generator's net metering agreement with the electric utility.

(1413) The electric utility shall report net metering data to the commission consistent with Chapter 4901:1-25 of the Administrative Code, which shall include:

- (a) The total number and rated generation capacity of net metering systems in the electric utility's service territory, as well as the number and installed capacity of net metering systems for each technology type and customer class.
- (b) The number of net metering customers who have exported excess generation to the grid, and the number whose on-site generation does not exceed load during the reporting period.
- (c) The total number of new eligible net metering customers that began participating in the net metering tariff during the reporting period of June 1 to May 31.
- (d) The total number of eligible net metering customers that ceased to participate in the net metering tariff during the reporting period.
- (e) The estimated total net kilowatt hours supplied to customer-generators by the electric utility, as well as the estimated total kilowatt-hours received from customer-generators by the electric utility.
- (f) The total estimated kilowatt hours of energy produced by the customer-generators, if known.
- (g) The total number of customer-generators deemed by the electric utility to be excess-generators at the end of the reporting period.
- (h) The total dollar amount issued in refunds for net excess generation.
- (i) Any other data the commission deems necessary or appropriate.

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(C) Hospital net metering.

- (1) Each electric utility shall develop a separate tariff providing for net metering for hospitals. Such tariff shall be made available to qualifying hospital customers upon request.
 - (a) As defined in section 3701.01 of the Revised Code, "hospital" includes public health centers and general, mental, chronic disease, and other types of hospitals, and related facilities, such as laboratories, outpatient departments, nurses' home facilities, extended care facilities, self-care units, and central service facilities operated in connection with hospitals, and also includes education and training facilities for health professions personnel operated as an integral part of a hospital, but does not include any hospital furnishing primarily domiciliary care.
 - (b) A qualifying hospital customer generator is one whose generating facilities are:
 - (i) Located on a customer-generator's premises.
 - (ii) Operated in parallel with the electric utility's transmission and distribution facilities.
- (2) Net metering arrangements shall be made available regardless of the date the hospital's generating facility was installed.
- (3) The tariff shall be based both upon the rate structure, rate components, and any charges to which the hospital would otherwise be assigned if the hospital were not taking service under this rule and upon the market value of the customer-generated electricity at the time it is generated. For purposes of this rule, market value means the locational marginal price of energy determined by a regional transmission organization's operational market at the time the customer-generated electricity is generated.
- (4) For hospital customer-generators, net metering shall be accomplished using either two meters or a single meter with two registers that are capable of separately measuring the flow of electricity in both directions. One meter or register shall be capable of measuring the electricity generated by the hospital at the output of the generator or net of the hospital's load behind the meter at the time it is generated. If the hospital's existing electrical meter is not capable of separately measuring electricity the hospital generates at

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the time it is generated, the electric utility, upon written request from the hospital, shall install at the hospital's expense a meter that is capable of such measurement.

- (5) The tariff shall allow the hospital customer-generator to operate its electric generating facilities individually or collectively without any wattage limitation on size. The interconnection review process shall determine any needed distribution equipment upgrades to accommodate the hospital net metering facility, and these additional costs shall be borne by the hospital customer-generators.
- (6) The hospital customer-generator's net metering service shall be calculated as follows:

 - (a) All electricity flowing from the electric utility to the hospital shall be charged as it would have been if the hospital were not taking service under this rule.
 - (b) All electricity generated by the hospital and delivered to the electric utility rather than consumed on-site shall be measured and credited at the market value as of the time the hospital generated the electricity.
 - (c) Each monthly bill shall reflect the net of paragraphs(C)(6)(a) and (C)(6)(b) of this rule. If the resulting bill indicates a net credit dollar amount, the credit shall be netted against the hospital customer-generator's bill until the hospital requests in writing a refund that amounts to, but is no greater than, an annual true-up of accumulated credits over a twelve-month period.
- (7) No electric utility's tariff for net metering shall require hospital customer-generators to:

 - (a) Comply with any additional safety or performance standards beyond those established by rules in Chapter 4901:1-22 of the Administrative Code, and the National Electrical Code, the institute of electrical and electronics engineers, and underwriters laboratories, in effect as set forth in rule 4901:1-22-03 of the Administrative Code.
 - (b) Perform or pay for additional tests beyond those required by paragraph (C)(7)(a) of this rule.
 - (c) Purchase additional liability insurance beyond that required by

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paragraph (C)(7)(a) of this rule.

- (8) In no event shall the electric utility impose on the hospital customer-generator any charges that relate to the electricity the customer-generator feeds back to the system.

4901:1-10-34 Compliance with PURPA.

(A) For purposes of this rule, the following definitions shall apply:

- (1) "Day-ahead energy market" means the day-ahead hourly forward market in which participants offer to sell and bid to buy energy.
- (2) "Locational marginal price" means the hourly integrated market clearing price for energy at the location the energy is delivered or received.
- (3) "PURPA" means the Public Utility Regulatory Policies Act of 1978, as amended by the Energy Policy Act of 2005, at 16 U.S.C.S. Section 824a-3.
- (4) "Qualifying facility" means a small power producer and/or cogenerator that meets the criteria specified by the Federal Energy Regulatory Commission in 18 C.F.R. Sections 292.203(a) and (b).
- (5) "RTO/ISO" means the regional transmission organization or independent system operator.

(B) The purpose of this rule is to implement a standard market-based rate for electricity transactions between EDUs and qualifying facilities as provided by PURPA, specifically for small power production facilities and cogeneration facilities.

(C) Except to the extent consistent with the voluntary negotiated agreement pursuant to rule 4901:1-10-34(I) of the Administrative Code, the rates paid by each EDU in Ohio to purchase energy from qualifying facilities that have a net capacity of 20 megawatts or less shall be set in accordance with Section 4901:1-10-34(L) of the Administrative Code.

(D) An EDU's qualifying facility energy purchase obligation shall not be abrogated by the establishment of a power procurement auction mechanism within the EDU's standard service offer supply framework. The energy provided to the

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EDU by a qualifying facility supplier shall not be included as part of the product being offered through a competitive auction process.

- (E) All qualifying facilities must operate their interconnected facilities pursuant to the operating requirements of the RTO/ISO and in accordance with the EDU's specifications for interconnection and parallel operation.
- (F) All qualifying facilities interconnecting at the distribution level must comply with the guideless set forth in Section 4901:1-22 of the Administrative Code, as well as the standard interconnection agreement by the EDU.
- (G) All qualifying facilities interconnected at the transmission level must comply with the RTO/ISO's policies and procedures for interconnection, including interconnection procedures for small generators.
- (H) Nothing in this rule shall affect, modify, or amend the terms and conditions of any existing qualifying facility's contract with an EDU.
- (I) A qualifying facility may elect to execute a negotiated contract with the EDU instead of selling the electrical output of the qualifying facility at the standard market-based rate.
- (J) The terms of the contract may take into account, among other factors, a utility's system costs, contract duration, qualifying facility availability during daily or system peaks, whether the utility avoids costs from the daily or system peaks, and costs or savings from line losses. Any such contract shall be subject to approval by the Commission within 120 days of its filing with the Commission.
- (K) The EDU or the qualifying facility may seek alternative dispute resolution of any disputes which may arise out of the EDU tariffs filed under these rules, in accordance with Chapter 4901:1-26 of the Administrative Code.
- (L) Energy payments to qualifying facilities shall be based on the day-ahead locational marginal price at the RTO/ISO's pricing node that is closest to the qualifying facility's points of injection, or at a relevant trading hub or zone. The energy payments may be adjusted for any market settlement charges, penalties, or administrative costs directly attributable to the qualifying facility.
- (M) The EDUs shall file a report in accordance with the market monitoring rules set forth in rule 4901:1-25-02 of the Administrative Code, detailing the qualifying facility activity in the EDU's service territory that includes the following:

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

- (1) The name and address of each owner of a qualifying facility.
- (2) The address of the location of each qualifying facility.
- (3) A brief description of the type of each qualifying facility.
- (4) The date of installation and the on-line date of each qualifying facility.
- (5) The design capacity of each qualifying facility.
- (6) A discussion identifying any qualifying facility that was denied interconnection by the EDU, including a statement of reasons for such denial.

Attachment D

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

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

THIRD 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 electric service and safety (ESS) rules contained in Ohio Adm.Code Chapter 4901:1-10, as required by R.C. 119.032.
- (2) On January 15, 2014, the Commission issued its Finding and Order (Order), adopting the rules in Ohio Adm.Code Chapter 4901:1-10. Pursuant to R.C. 4903.10, any party who has entered an appearance in a Commission proceeding may apply for rehearing with respect to any matters determined by the Commission, within 30 days of the entry of the Order upon the Commission's journal.
- (3) On February 14, 2014, Direct Energy Services, LLC (Direct Energy), the Ohio Hospital Association (OHA), The Dayton Power and Light Company (DP&L), Duke Energy Ohio, Inc. (Duke), the Ohio Power Company (Ohio Power), Ohio Edison Company, Toledo Edison Company, and the Cleveland Electric Illuminating Company (collectively, FirstEnergy), and IGS Energy (IGS) filed Applications for Rehearing. Memoranda contra the Applications for Rehearing were filed by the Interstate Renewable Energy Council, Inc. (IREC), Direct Energy, IGS, FirstEnergy, and the Ohio Consumers' Counsel (OCC).
- (4) On March 12, 2014, the Commission issued an entry on rehearing granting rehearing for further consideration of the matters specified in the applications for rehearing. Thereafter, on May 28, 2014, the Commission issued our Second Entry on Rehearing granting, in part, and denying, in part, the applications for rehearing filed by DP&L, FirstEnergy, Duke,

Ohio Power, Direct Energy, and IGS. Additionally, the Commission denied the application for rehearing filed by OHA.

- (5) On June 27, 2014, FirstEnergy filed an application for rehearing regarding the Second Entry on Rehearing. In its sole assignment of error, FirstEnergy alleges that the Commission's Second Entry on Rehearing is unlawful or unreasonable because the Commission's interpretation of Ohio Adm.Code 4901:1-10-28(B)(9)(c) requires the electric distribution utilities (EDUs) to issue a monetary credit for excess generation in a manner that violates the Revised Code and *FirstEnergy Corp. v. Pub. Util. Comm.*, 95 Ohio St.3d 401 (2002). Subsequently, on July 7, 2014, IGS filed a memorandum contra to FirstEnergy's application for rehearing.
- (6) The Commission has now reviewed and considered the assignment of error raised in FirstEnergy's application for rehearing. Any arguments in support of its assignment of error not specifically discussed herein have been thoroughly and adequately considered by the Commission and are hereby denied. The Commission will address the merits of FirstEnergy's application for rehearing below.
- (7) As a preliminary matter, IGS argues in its memorandum contra to FirstEnergy's application for rehearing that FirstEnergy's application is procedurally improper. IGS asserts that R.C. 4903.10 prohibits FirstEnergy from filing an additional application for rehearing on matters that have already been denied. IGS notes that FirstEnergy's initial application for rehearing failed to provide any arguments regarding Ohio Adm.Code 4901:1-10-28(B)(9)(c), and that the Commission has already denied rehearing on other parties' arguments regarding Ohio Adm.Code 4901:1-10-28(B)(9)(c).
- (8) The Commission finds that IGS's argument has merit and that rehearing on FirstEnergy's application for rehearing should be denied for being procedurally improper. We find that FirstEnergy's application for rehearing is procedurally improper because it requests rehearing on a matter that has already been denied by the Commission. R.C. 4903.10 does not permit parties to have "two bites at the apple" to file rehearing upon rehearing of the same issue. *In re Ohio Power Company*

and Ormet Primary Aluminum Corporation, Case Nos. 96-999-EL-AEC, et al., Second Entry on Rehearing (Sept. 13, 2006) at 3-4. After the Commission issued its Finding and Order in this matter on January 15, 2014, numerous parties filed applications for rehearing, including FirstEnergy. Regardless, the Commission denied all of the assignments of error raised by the parties regarding Ohio Adm.Code 4901:1-10-28(B)(9)(c). FirstEnergy now requests rehearing on the Commission's interpretation of Ohio Adm.Code 4901:1-10-28(B)(9)(c), which is a matter that has already been addressed and denied by the Commission.

- (9) However, even if FirstEnergy's application for rehearing was not procedurally improper, the Commission would still deny rehearing on the Companies' assignment of error because FirstEnergy has presented an unreasonable reading of R.C. 4928.67, which would prevent the Commission from furthering the policies of the state of Ohio enumerated in R.C. 4928.02. FirstEnergy makes multiple arguments in support of its single assignment of error that the Commission's Second Entry on Rehearing is unlawful or unreasonable because the Commission's interpretation of Ohio Adm.Code 4901:1-10-28(B)(9)(c) requires the EDUs to issue a monetary credit for excess generation in a manner that violates the Revised Code and *FirstEnergy Corp. v. Pub. Util. Comm.*, 95 Ohio St.3d 401 (2002). We will address these arguments below individually.
- (10) FirstEnergy first argues that the Commission's interpretation of the word "electricity" in Ohio Adm.Code 4901:1-10-28(B)(9)(c) is inconsistent with the plain language of R.C. 4928.01(A)(31). According to FirstEnergy, R.C. 4928.01(A)(31) indicates that a net metering facility is a facility for the production of electrical energy, not for the production of electricity. Therefore, according to FirstEnergy, a customer-generator is permitted by law to only provide electrical energy to an EDU because a net metering system may only produce electrical energy. FirstEnergy then asserts that the subsequent use of the term "electricity" in R.C. 4928.67 must be interpreted to mean "electrical energy," to be consistent with R.C. 4928.01(31).

Further, FirstEnergy argues that the Commission's interpretation of "electricity" to include all of the components of electricity creates a conflict between R.C. 4928.01 and

4928.67. Specifically, FirstEnergy argues that the Commission's interpretation rewrites the statute to include the words "demand" and "capacity" into the definition of net metering system in R.C. 4928.01(31). FirstEnergy asserts that the General Assembly's use of the term "electrical energy" signals their intent for a net metering system to provide just the energy component of electricity to the EDU. Therefore, FirstEnergy asserts that the rate paid to customer-generators should include only the energy component of electricity.

IGS argues that FirstEnergy incorrectly asserts that the Commission ignored the plain definition of the term "electricity" in R.C. 4928.01(30). Additionally, IGS avers that the statutory definition of net metering system in R.C. 4928.01(31) does not limit the Commission's authority; it merely describes the function of a net metering system. IGS asserts that the controlling statute, which is R.C. 4928.67(A)(1), indicates that credits for excess generation may include compensation for the capacity and demand components of electricity. IGS claims that the components of electricity supplied include capacity, demand, and energy; therefore, the electricity generated should also be recognized to include the components of capacity, demand, and energy. IGS argues that R.C. 4928.67(A)(1) confirms this by requiring that the contract or tariff for net metering must be identical in rate structure, *all retail rate components*, and any monthly charges to the contract or tariff to which the same customer would be assigned if that customer were not a customer-generator.

The Commission agrees with IGS that electricity supplied to a customer generator includes components such as capacity, demand, and energy; therefore, the electricity generated by the customer-generator should also be recognized to include the components of capacity, demand, and energy. As the Supreme Court of Ohio has noted, "the net-generator provisions . . . speak solely in terms of electricity generated and supplied, as they should. A net-generator customer of FirstEnergy only generates and supplies electricity; it does not provide transmission, distribution, or ancillary services." *FirstEnergy Corp. v. Pub. Util. Comm.*, 95 Ohio St.3d 401 (2002). Therefore, by using the SSO rate for the credit to customer-generators, we have provided a full and complete rate, exclusive of transmission, distribution, or ancillary services, to be applied to

the electricity generated and supplied by the customer generator.

We find no merit to FirstEnergy's argument that the Commission's interpretation of "electricity" in Ohio Adm.Code 4901:1-10-28(B)(9)(c) is inconsistent with the definition of "net metering system" set forth in R.C. 4928.01(31). The Commission notes that the definition of "net metering" in R.C. 4928.01(30) states that net metering means measuring the difference in an applicable billing period between the *electricity* supplied by an electric service provider and the *electricity* generated by a customer-generator that is fed back to the electric service provider. This definition is consistent with the use of "electricity" in R.C. 4928.67, which also speaks in terms of electricity supplied and electricity generated.

We also disagree with FirstEnergy's assertion that the statutory references in R.C. 4928.67 to the term electricity actually mean electrical energy. We note that FirstEnergy's arguments are internally inconsistent, as FirstEnergy argues that the General Assembly knew exactly what it meant when it used the term electrical energy in R.C. 4928.01(31), but that it did not know what it meant when it used the term electricity throughout R.C. 4928.67, 4928.01(30), and 4928.01(31).

- (11) FirstEnergy next argues that, if one adopts its argument that only the energy component of electricity is provided to the distribution system by a net metering system, then the credit for excess generation should be calculated at an energy-only rate. FirstEnergy asserts that the Commission erred when it found that the parties did not demonstrate that it would be practical, or even possible, to attribute an energy price to the electricity generated by a customer generator.
- (12) We find, as we did in our Order, that the EDUs should credit customer-generators for electricity at the SSO rate, which has energy, demand, and capacity components built into it. We agree with IGS that this determination is consistent with R.C. 4928.67(A)(1), which requires that the contract or tariff for net metering must be identical in rate structure, all retail rate components, and any monthly charges to the contract or tariff to which the same customer would be assigned if that customer were not a customer-generator. The SSO rate is the generation

rate authorized by the Commission pursuant to R.C. 4928.141 for the EDUs to provide the competitive retail electric services necessary to maintain essential electric service to consumers. The electric services necessary to maintain electric service to customers includes energy, capacity, and demand. By using the SSO rate, the Commission ensures that customer-generators are credited for all of the components of electricity that they provide to the distribution system and only for the components of electricity that they provide to the distribution system. Additionally, by using the SSO rate, the Commission ensures that customer-generators are credited for providing electricity without requiring that a demand meter be installed.

- (13) FirstEnergy also argues that the Commission's interpretation of "electricity" to include energy, capacity, and demand is inconsistent with the Commission's denial of DP&L's initial application for rehearing. FirstEnergy argues that the Commission determined that the term "requirements for electricity" in Ohio Adm.Code 4901:1-10-28(B)(7) does not include a demand factor. The Commission held that DP&L's proposal to use a demand factor should be denied, both for sizing a net metering system and for calculating the customer-generator's requirements for electricity.

IGS argues that the Commission's interpretation of "electricity" to include energy, capacity, and demand is unrelated to its determination that "requirements for electricity" for sizing a facility should not include a demand factor adjustment. IGS asserts that Ohio Adm.Code 4901:1-10-28(B)(7) indicates that when determining a customer's primary intentions for offsetting their requirements for electricity, the total consumption in kilowatt hours could be compared to total production in kilowatt hours. IGS avers that the Commission's rule is designed for ease of implementation and to prevent unintended negative consequences. Additionally, IGS asserts that the Commission's determination regarding Ohio Adm.Code 4901:1-10-28(B)(7) is entirely unrelated to the present issue regarding compensation for electricity supplied and generated.

- (14) The Commission finds that FirstEnergy's argument lacks merit. We note that the Commission rejected DP&L's proposal that the term "requirements for electricity" include demand because

the proposal could have been interpreted to require customer-generators to install an electric meter capable of measuring demand. However, the Commission believes that this would have been inconsistent with R.C. 4928.67(B)(1), 4928.02, and the Ohio Supreme Court's holding in *FirstEnergy Corp. v. Pub. Util. Comm.*, 95 Ohio St.3d 401 (2002).

Additionally, we indicated that our intention was to provide clarity and consistency to the rules. Much like we denied DP&L's proposal to provide clarity and consistency to customers, using the SSO rate for excess generation will also provide clarity and consistency to how the rules are applied to customers. Adopting the SSO rate for the credit to customer-generators for excess generation is the most simple, efficient, and understandable way to enforce and accomplish the General Assembly's intentions in R.C. 4928.01(30), 4928.01(31), 4928.02, and 4928.67.

- (15) FirstEnergy next argues that the Commission's Second Entry on Rehearing nullifies the Supreme Court of Ohio's holding in *FirstEnergy Corp. v. Pub. Util. Comm.*, 95 Ohio St.3d 401 (2002). FirstEnergy asserts that, on multiple occasions, the Commission has approved tariff calculations based solely on the energy component of electricity. While FirstEnergy concedes that the Ohio Supreme Court's decision does not explicitly state that the statutory references to electricity in R.C. 4928.67 mean electrical energy, FirstEnergy argues that such a determination is the only outcome that gives meaning to R.C. 4928.01.
- (16) We find no merit to FirstEnergy's argument that the Commission's Second Entry on Rehearing nullifies the Ohio Supreme Court's holding in *FirstEnergy Corp. v. Pub. Util. Comm.*, 95 Ohio St.3d 401 (2002). The single issue in that case was whether the Commission acted unlawfully or unreasonably in ordering FirstEnergy to modify a proposed net-energy metering rider (August Rider) that FirstEnergy argued was consistent with R.C. Chapter 4928 and the Commission's rules. The Ohio Supreme Court held that the Commission acted unlawfully or unreasonably in ordering modifications to FirstEnergy's August Rider when the proposed rider was already in compliance with the R.C. Chapter 4928 and the Ohio Administrative Code. Further, the Court provided direction on how the rules could have been

drafted to violate the Revised Code; specifically, the Court indicated that the rules should not require the EDUs to pay customer-generators for distribution or transmission service.¹ The Ohio Supreme Court then remanded the case to the Commission with instructions for the Commission to approve the August Rider without modification. *FirstEnergy Corp. v. Pub. Util. Comm.*, 95 Ohio St.3d 401 (2002) at ¶19.

We find no merit to the argument proposed by FirstEnergy that the only way the rules can comply with the Ohio Supreme Court's holding is to provide an energy-only credit for excess generation. We recognize that customer-generators do not provide a distribution or transmission service to the EDUs, as the Court indicated; therefore, we did not adopt a rule requiring that customer-generators be compensated for distribution or transmission service. *FirstEnergy Corp. v. Pub. Util. Comm.*, 95 Ohio St.3d 401 (2002). Under the newly adopted Ohio Adm.Code 4901:1-10-28(B)(9)(c), customer-generators will still pay distribution and transmission charges, as well as other nonbypassable charges, in compliance with the Revised Code and the Ohio Supreme Court's holding in *FirstEnergy Corp.* Under the newly adopted Ohio Adm.Code 4901:1-10-28, customer-generators will still be billed for distribution and transmission service, and will still pay their share of non-bypassable riders, even if their credit for excess generation is applied to their total bill pursuant to R.C. 4928.67(B)(1)(b).

- (17) Finally, FirstEnergy argues that the Commission failed to address cost recovery, and that requiring the EDUs to provide a credit refund without providing cost recovery would be an unlawful confiscation of utility property. FirstEnergy requests that the Commission clarify how the EDUs are to receive cost recovery for providing a credit to customer-generators for excess generation. Additionally, FirstEnergy notes that it does not take ownership of the electricity, nor does it collect revenues or experience less cost due to customer-generators'

¹ We note that the Supreme Court's holding in *FirstEnergy Corp.* included transition charges, the energy efficiency fund rider, and the universal service fund rider. Pursuant to R.C. 4928.32 and 4928.33, transition revenues could only be collected by the EDUs during their market development periods (MDPs). The MDPs for each of the EDUs have now ended; therefore, transition revenues are no longer being recovered. Additionally, the universal service fund and the energy efficiency rider are distribution riders that are paid through distribution rates as indicated on the distribution section of customer bills.

excess energy. FirstEnergy avers that from its perspective, any reduction to SSO obligations results in less revenues collected from customers.

IGS argues that it may be unfair to require the EDUs to provide a credit to customer-generators without cost recovery. IGS asserts that a bypassable rider should be put in place to recover the cost of the credit refunds provided to customer-generators for net excess generation.

- (18) We find that FirstEnergy's argument lacks merit. We note that in the Second Entry on Rehearing, we held that net metering is a noncompetitive distribution service that must be offered by the distribution utilities. Therefore, the costs of this distribution service should be recovered through base distribution rates. To recover these costs, the EDUs should record the costs in the test year for their next distribution rate case and recovery of these costs will then be included in base distribution rates.
- (19) Accordingly, the Commission finds that rehearing on FirstEnergy's assignments of error regarding Ohio Adm.Code 4901:1-10-28(B)(9)(c) are denied. Since there are no remaining issues for rehearing, we find that the rules, as adopted, should be filed with the Joint Committee on Agency Rule Review as soon as is reasonably possible. Additionally, we find that the EDUs should file their proposed tariffs consistent with the rules and Orders by no later than 30 days after the effective date of the rules.

It is, therefore,

ORDERED, That the application for rehearing filed by FirstEnergy is denied, in accordance with findings (8) and (19). It is, further,

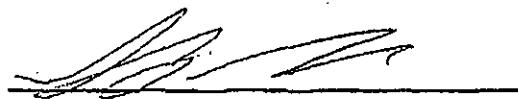
ORDERED, That the adopted rules be filed with the Joint Committee on Agency Rule Review, the Secretary of State, and the Legislative Service Commission, in accordance with Divisions (D) and (E) of R.C. 111.15. It is, further,


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 Chapter 4901:1-10 shall be in compliance with R.C. 119.032. It is, further,

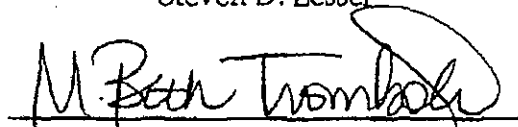
ORDERED, That a copy of this Third Entry on Rehearing be served upon all electric utilities in the state of Ohio, all certified competitive retail electric service providers in the state of Ohio, the Electric-Energy industry list-serve, and all other interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO


Thomas W. Johnson, Chairman


Steven D. Lesser


Lynn Slaby

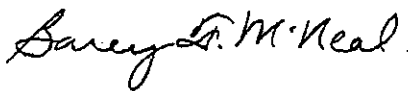

M. Beth Trombold


Asim Z. Haque

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Entered in the Journal

JUL 23 2014


Barcy F. McNeal

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Secretary