

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE COMMISSION'S
REVIEW OF CHAPTER 4901:1-10 OF THE
OHIO ADMINISTRATIVE CODE.

CASE NO. 12-2050-EL-ORD

FINDING AND ORDER

Entered in the Journal on May 18, 2016

I. SUMMARY

{¶ 1} In this Finding and Order, the Commission finds that a typographical error in Ohio Adm.Code 4901:1-10-21(H)(2)(c) should be corrected. Further, the Commission finds that the adopted rule should be filed with the Joint Committee on Agency Rule Review (JCARR), the Secretary of State, and the Legislative Service Commission, in accordance with Division (D) and (E) of R.C. 111.15.

II. DISCUSSION

{¶ 2} R.C. 111.15(B) 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.

{¶ 3} R.C. 106.03(C) requires that the Commission determine whether the rules:

- (a) Should be continued without amendment, be amended, or be rescinded, taking into consideration the purpose, scope, and intent of the statute under which the rules were adopted;
- (b) Need amendment or rescission to give more flexibility at the local level;
- (c) Need amendment to eliminate unnecessary paperwork;

- (d) Incorporate 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;
- (e) Duplicate, overlap with, or conflict with other rules;
- (f) Have an adverse impact on businesses, as determined under R.C. 107.52; and
- (g) Contain words or phrases having meanings that in contemporary usage are understood as being derogatory or offensive.

{¶ 4} In addition, on January 10, 2011, the governor of the state of Ohio issued Executive Order 2011-01K, entitled "Establishing the Common Sense Initiative," which sets forth several factors to be considered in the promulgation of rules and the review of existing rules. Among other things, the Commission must review its rules to: determine the impact that a rule has on small businesses; attempt to balance the critical objectives of regulation and the cost of compliance by the regulated parties; and amend or rescind rules that are unnecessary, ineffective, contradictory, redundant, inefficient, or needlessly burdensome, or that have had negative, unintended consequences, or unnecessarily impede business growth.

{¶ 5} Additionally, in accordance with R.C. 121.82, in the course of developing draft rules, the Commission must evaluate the rules against the 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.

{¶ 6} On January 15, 2014, the Commission issued a Finding and Order in this case that adopted amended and no change rules in Ohio Adm.Code Chapter 4901:1-10, and ordered that they be filed with JCARR, the Secretary of State, and the Legislative Service Commission. Pursuant to R.C. 106.03, all state agencies are required to conduct a review of their rules and to determine whether to continue their rules without change, amend their rules, or rescind their rules. The Commission regularly reviews and amends its rules to further its mission of ensuring that residential and business consumers have access to reliable and adequate resources, a safe and secure grid, and cost effective rates.

{¶ 7} After issuing its Order and filing the rules with JCARR, Ohio Adm.Code 4901:1-10-21 was withdrawn from JCARR for further consideration due to a typographical error in a citation at 4901:1-10-21(H)(2)(c).

{¶ 8} Accordingly, at this time, the Commission adopts amended Ohio Adm.Code 4901:1-10-21(H)(2)(c) to correct a typographical error of an improper citation. Where the previously adopted rule included an improper citation to 4901:21-08, it will now properly cite to 4901:1-21-08. Accordingly, we find that the amended rule should be corrected and refiled with JCARR.

III. ORDER

{¶ 9} It is, therefore,

{¶ 10} ORDERED, That attached amended Ohio Adm.Code 4901:1-10-21 be adopted. It is, further,

{¶ 11} ORDERED, That the adopted rule 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,

{¶ 12} 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 4901:1-10-28 shall be in compliance with R.C. 119.032. It is, further,

{¶ 13} ORDERED, That a copy of this Entry 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.

Commissioners Voting: Andre T. Porter, Chairman; Asim Z. Haque, Vice Chairman; Lynn Slaby; M. Beth Trombold; Thomas W. Johnson.

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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.
 - (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.

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- (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:
 - (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 4901:1-21-08 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

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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 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.

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- (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 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.*