

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission's	)	Case Nos.	17-1843-EL-ORD
Review of Ohio Adm. Code Chapters	)		17-1844-EL-ORD
4901:1-21, 4901:1-23, 4901:1-24,	)		17-1862-EL-ORD
4901:1-27, 4901:1-28, 4901:1-29,	)		17-1845-GA-ORD
4901:1-30, 4901:1-31, 4901:1-32,	)		17-1846-GA-ORD
4901:1-33, and 4901:1-34 Regarding	)		17-1847-GA-ORD
Rules Governing Competitive Retail	)		17-1848-GA-ORD
Electric Service and Competitive Retail	)		17-1849-GA-ORD
Natural Gas Service.	)		17-1850-GA-ORD
			17-1851-GA-ORD
			17-1852-GA-ORD

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**INITIAL COMMENTS OF INDUSTRIAL ENERGY USERS-OHIO**

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**October 8, 2021**

**Counsel for Industrial Energy Users-Ohio**

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**INITIAL COMMENTS OF INDUSTRIAL ENERGY USERS-OHIO**

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**I. INTRODUCTION**

On September 8, 2021, the Public Utilities Commission of Ohio ("Commission") solicited comments regarding the competitive retail electric service and competitive retail natural gas service rules in Ohio Adm. Code Chapters 4901:1-21, 4901:1-23, 4901:1-24, 4901:1-27, 4901:1-28, 4901:1-29, 4901:1-30, 4901:1-31, 4901:1-32, 4901:1-33, and 4901:1-34.<sup>1</sup> In accordance with that Entry, the Industrial Energy Users-Ohio ("IEU-Ohio") hereby offers its initial comments on the rule chapters.

**II. COMMENTS**

**A. 4901:1-24-01(O)**

The current definition of "Filing under seal" carries with it conditions that do not apply in all circumstances. As such, IEU-Ohio proposes the following revisions:

"Filing under seal" means personally delivering to the commission's docketing division, **by any means approved**

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<sup>1</sup> Entry at 1 (Sept. 8, 2021).

**by the commission, a sealed envelope containing copy of any document containing** information intended to be kept proprietary and confidential. This action must be accompanied by the filing and docketing of a "motion for protective order," pursuant to rules 4901-1-24 and 4901:1-24-08 of the Administrative Code.

The reasoning for these edits is described more fully below.

## **B. Means of Confidential Filings**

Given current circumstances due to the pandemic, the Commission has adopted a temporary practice of allowing confidential filings to be made electronically, in accordance with its various Entries in Case No. 20-591-AU-UNC.<sup>2</sup> By modifying the rule in the above fashion, the Commission is able to allow confidential filings in multiple manners, whether temporarily as is the case now, or indefinitely should the Commission choose to make permanent the availability of electronic filing of confidential documents. Likewise, the Commission's docketing has in practice required an unsealed envelope for confidential documents physically delivered so that the documents can be time stamped (after the documents are time stamped, the docketing department does not need and has returned the envelope).

## **C. Motions for Protective Orders**

The definition for "filing under seal" as currently written, requires an accompanying motion for protective order. However, there are several exhibits required in a Competitive Retail Electric Service ("CRES") initial or renewal certification application that are granted, by rule, automatic protective treatment without the need for a motion for protective order when filed. This seeming contradiction can be eliminated by modifying the definition of

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<sup>2</sup> See, e.g., Entry at 4 (July 28, 2021).

“filing under seal” or by adding language in Rule 4901:1-24-08(A) indicating that a motion for protective order is not needed.

**D. 4901:1-24-05**

The Commission should modify the requirements of Rule 4901:1-24-05, or provide direction in its order for purposes of modifying the CRES application renewal form, such that nonprofit entities without any debt could satisfy the “credit report” requirement of the rule by having an officer of the organization attest that there are not any debts or liens or judgments against the entity.

**E. 4901:1-24-08(A)**

IEU-Ohio agrees with and supports Staff’s proposed revision to Rule 4901:1-24-08(A) to include credit reports and credit ratings in the list of exhibits that receive automatic protective treatment when filed with a CRES certification application.

**III. CONCLUSION**

For the foregoing reasons, IEU-Ohio respectfully requests that the Commission adopt its proposed changes to the Ohio Administrative Code.

Respectfully submitted,

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## **CERTIFICATE OF SERVICE**

In accordance with Ohio Adm. Code 4901-1-05, the PUCO's e-filing system will electronically serve notice of the filing of this document upon the following parties. In addition, I hereby certify that a service copy of the foregoing *Comments of Industrial Energy Users-Ohio* was sent by, or on behalf of, the undersigned counsel for IEU-Ohio to the following parties of record this 8th day of October, 2021, *via* electronic transmission.

/s/ Matthew R. Pritchard

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Summary: Comments of Industrial Energy Users-Ohio electronically filed by Mr. Matthew R. Pritchard on behalf of Industrial Energy Users-Ohio