

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE COMMISSION'S
REVIEW OF CHAPTER 4901:1-19 OF THE
OHIO ADMINISTRATIVE CODE.

CASE NO. 22-812-GA-ORD

FINDING AND ORDER

Entered in the Journal on November 16, 2022

I. SUMMARY

{¶ 1} The Commission adopts proposed amendments to the alternative rate plan and exemption rules in Ohio Adm.Code Chapter 4901:1-19.

II. DISCUSSION

{¶ 2} R.C. 121.95, effective October 17, 2019, required state agencies, including the Commission, to create a base inventory of regulatory restrictions contained in each of their rules by December 31, 2019.

{¶ 3} R.C. 121.951(A)(1), effective June 8, 2022, requires the Commission to amend or rescind rules identified in its base inventory – using the criteria listed in R.C. 106.03(A) – as necessary to reduce the total number of regulatory restrictions by thirty percent over the course of three years.

{¶ 4} In performing the above review, R.C. 106.03(A) requires the Commission to determine, among other things, whether the rule should be amended or rescinded (including for the purpose of accomplishing the requirements of R.C. 121.951) because it exceeds or conflicts with the purpose, scope, or intent of the statute(s) under which the rule was adopted; creates a compliance or oversight burden that is greater than the burden that would be created if the agency accomplished the intended purpose of the restriction by other means; is no longer useful or beneficial; or duplicates, overlaps with, or conflicts with a federal or state law or rule. Additionally, the Commission must assess whether the rule has an adverse impact on businesses, as determined under R.C. 107.52, or any other person or entity.

{¶ 5} In evaluating whether the rule has an adverse impact on business, the Commission must also prepare a business impact analysis (BIA) pursuant to R.C. 121.82. If there will be an adverse impact on businesses, as defined in R.C. 107.52, the Commission is tasked to incorporate features into the draft rules to eliminate or adequately reduce the adverse business impact. R.C. 121.82 also requires the Commission to provide a copy of the draft rules and BIA to the Common Sense Initiative office for comment.

{¶ 6} Staff evaluated the rules contained in Ohio Adm.Code Chapter 4901:1-19 in order to reduce the number of regulatory restrictions pursuant to R.C. 121.951(A)(1). As a result of that review, Staff proposed substantive changes to reduce the total number of regulatory restrictions present as well as non-substantive changes to provide clarity.

{¶ 7} On October 5, 2022, the Commission issued an Entry seeking comments on the proposed amendments to Ohio Adm.Code Chapter 4901:1-19 and a BIA. Initial and reply comments were due by October 20, 2022, and October 28, 2022, respectively.

{¶ 8} No comments were received in response to the October 5, 2022 Entry.

III. CONCLUSION

{¶ 9} Under R.C. 121.95 and R.C. 121.951, the Commission was obligated to produce a base inventory of the regulatory restrictions contained in each of our rules and then, not later than June 30, 2025, reduce that total number of regulatory restrictions by thirty percent. During this process, the Commission is guided by the criteria provided in R.C. 106.03(A), including

{¶ 10} During this process, the Commission is required to consider the criteria provided in R.C. 106.03(A), including the continued need for the rules, the nature of any complaints or comments received concerning the rules, and any relevant factors that have changed in the subject matter area affected by the rules. Pursuant to R.C. 106.03(A)(6) and R.C. 121.82(A), the Commission must also demonstrate that we have evaluated the impact of the rule on businesses. The Commission has included stakeholders, has considered the

impact of the rules on businesses and other entities in developing these revised rules, and has adhered to the requirement regarding the removal of regulatory restrictions.

{¶ 11} At this time, the Commission finds that the proposed amendments to Ohio Adm.Code Chapter 4901:1-14 should be adopted.

{¶ 12} To minimize the expense of this proceeding, interested persons who have not agreed to electronic service will be served a paper copy of this Finding and Order only. The rules are posted on the Commission's Docketing Information System website at <http://dis.puc.state.oh.us>. All interested persons are directed to input case number 22-812 into the Case Lookup box to view this Finding and Order, as well as the rules, or to contact the Commission's Docketing Division to request a paper copy.

IV. ORDER

{¶ 13} It is, therefore,

{¶ 14} ORDERED, That amended Ohio Adm.Code 4901:1-19-01, -03, -05, -06, -07, -09, -11, -12, -13, and -15 be adopted. It is, further,

{¶ 15} ORDERED, That Ohio Adm.Code 4901:1-19-02, -04, -08, -10, -14 be adopted with no changes. It is, further,

{¶ 16} 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 R.C. 111.15(D). It is, further,

{¶ 17} ORDERED, That the final rules be effective on the earliest date permitted by law. Unless otherwise ordered by the Commission, the five-year review date for Ohio Adm.Code 4901:1-14 shall be in compliance with R.C. 106.03. It is, further,

{¶ 18} ORDERED, That a copy of this Finding and Order, with the rules and BIA, be served upon the Common Sense Initiative at CSIPublicComments@governor.ohio.gov. It is, further,

{¶ 19} ORDERED, That a copy of this Finding and Order be served upon all the Gas-Pipeline industry service list, all regulated natural gas companies, pipeline companies, certified retail natural gas service suppliers, the Ohio Gas Association, Ohio Petroleum Council, the Oil and Gas Association, the Ohio Consumers' Counsel, and all interested persons of record.

COMMISSIONERS:

Approving:

Jenifer French, Chair

Lawrence K. Friedeman

Dennis P. Deters

PAS/hac

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AMENDED

4901:1-19-01 Definitions.

- (A) "Alternative rate plan" means a method, alternate to the method provided in section 4909.15 of the Revised Code, for establishing rates and charges for a distribution service or for a commodity sales service or ancillary service that is not exempt pursuant to section 4929.04 of the Revised Code. Alternative rate plans may include, but are not limited to, methods that provide adequate and reliable natural gas services and goods in this state; minimize the costs and time expended in the regulatory process; tend to assess the costs of any natural gas service or goods to the entity, service, or goods that cause such costs to be incurred; afford rate stability; promote and reward efficiency, quality of service, or cost containment by a natural gas company; provide sufficient flexibility and incentives to the natural gas industry to achieve high quality, technologically advanced, and readily available natural gas services and goods at just and reasonable rates and charges; or establish revenue decoupling mechanisms. Alternative rate plans also may include, but are not limited to, automatic adjustments based on a specified index or changes in a specified cost or costs.
- (B) "Ancillary service" means a service that is ancillary to the receipt or delivery of natural gas to consumers, including, but not limited to, storage, pooling, balancing, and transmission.
- (C) "Applicant" means a natural gas company, as defined in division (G) of section 4929.01 of the Revised Code, that has filed an application under either section 4929.04 or 4929.05 of the Revised Code.
- (D) "Choice-eligible customer" means a customer who is eligible, according to a natural gas company's tariffs, to choose the customer's retail natural gas supplier, and who is not enrolled in the percentage of income payment plan program or any successor program.
- (E) "Choice-ineligible customer" means a customer who is ineligible, according to a natural gas company's tariffs, to choose the customer's retail natural gas supplier, but who is not enrolled in the percentage of income payment plan program or any successor program.
- (F) "Commodity sales service" means the sale of natural gas to consumers, exclusive of any distribution or ancillary service.
- (G) "Consumer" means any person or association of persons purchasing, delivering, storing, or transporting, or seeking to purchase, deliver, store, or transport, natural gas, including industrial consumers, commercial consumers, and residential consumers, but not including natural gas companies.

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- (H) "Default commodity sales service" means commodity sales service supplied to choice-eligible customers who have not chosen their retail natural gas supplier, choice-ineligible customers, or PIPP-enrolled customers.
- (I) "Distribution service" means the delivery of natural gas to a consumer at the consumer's facilities, by and through the instrumentalities and facilities of a natural gas company, regardless of the party having title to the natural gas.
- (J) "Exit the merchant function" means the complete transfer of the obligation to supply default commodity sales service for choice-eligible customers from a natural gas company to retail natural gas suppliers without the occurrence of a competitive procurement process.
- (K) "Market" means the set of all actual and potential buyers and sellers of a particular product.
- (L) "PIPP-enrolled customer" means a customer who is enrolled in the natural gas ~~utility's~~[sutility's](#) percentage of income payment plan program or any successor program.
- (M) "Product" means commodity sales and/or ancillary goods or services.
- (N) "Reasonably available alternatives" means buyers have access to a product that is available soon enough, priced low enough, with quality high enough, under comparable terms and conditions to permit its substitution as an alternative.
- (O) "Relevant market" means the market for the product that is the subject of an application for exemption.
- (P) "Transmission" means the act or process of transporting the commodity in bulk from a source or sources of supply to principal parts of the system or to other utility systems.

NO CHANGE

4901:1-19-02 Purpose and scope.

- (A) This chapter governs the filing, consideration, and implementation of an application made pursuant to section 4929.04 of the Revised Code to exempt any commodity sales service or ancillary service of a natural gas company from all provisions of Chapter 4905. of the Revised Code with the exception of section 4905.10, Chapter 4909., and Chapter 4935. with the exception of sections 4935.01 and 4935.03; from sections 4933.08, 4933.09, 4933.11, 4933.123, 4933.17, 4933.28, and 4933.32 of the Revised Code; and from any rule or order issued under those chapters or sections, including the obligation under section 4905.22 of the Revised Code, to provide the commodity sales service or ancillary service, subject to divisions

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- (D) and (E) of section 4929.04 of the Revised Code.
- (B) This chapter also governs the filing and consideration of an application made pursuant to section 4929.04 of the Revised Code by a natural gas company to exit the merchant function.
- (C) This chapter also governs the filing and consideration of an application made pursuant to section 4929.05 of the Revised Code, by a natural gas company to request approval of an alternative rate plan. The applicant has the burden to document and demonstrate in its alternative rate plan filing that the applicant is in compliance with section 4905.35 of the Revised Code, that the applicant is in substantial compliance with the state's natural gas regulatory and economic policy specified in section 4929.02 of the Revised Code, that the applicant is expected to continue to be in substantial compliance with section 4929.02 of the Revised Code, after implementation of its alternative rate plan, and that the alternative rate plan is just and reasonable.
- (D) 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.

AMENDED

4901:1-19-03 Filing requirements for exemption applications filed pursuant to section 4929.04 of the Revised Code.

(A) Notice of intent.

The applicant shall notify the commission staff by letter addressed to the directors of the rates and analysis department and the service monitoring and enforcement department of its intent to file an application at least thirty calendar days prior to the expected date of filing.

(B) Form of an application.

- (1) An exemption application must be supported by direct testimony.
- (2) All direct testimony and exhibits supporting the application shall be filed with the application, unless the application is being filed in conjunction with an application for an increase in rates under section 4909.18 of the Revised Code, in which case the direct testimony and exhibits ~~shall~~ may be filed within fourteen days of the filing of the application.
- (3) The applicant shall provide a copy of its application and supporting testimony to the office

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of the consumers' counsel and each party of record in its previous alternative rate plan or rate case proceeding. Such copies may be provided either in hard copy or by electronic service. ~~The applicant shall keep at least one copy of the application at the applicant's principal business office in Ohio and on its web page for public inspection.~~

- (4) The applicant shall provide or cause to be provided a copy of the application to any person upon request. Such copies may be provided either in hard copy or by electronic service, if electronic service is feasible and the requestor consents to electronic service.
- (5) ~~An exemption~~Exemption applications ~~shall be~~are designated by the commission's docketing division using the acronym EXM.

(C) Exhibits to an exemption application.

- (1) The applicant shall provide a detailed description of each commodity sales service(s) and/or ancillary service(s) for which the applicant is requesting an exemption.
- (2) If the applicant is proposing to implement an auction or other competitive procurement process for provision of default commodity sales service, the applicant shall provide a detailed description of ~~how~~whether the proposed auction or competitive procurement process ~~may or may not be~~is consistent with previous commission orders considering exemption applications as well as best industry practices.
- (3) ~~The applicant shall fully demonstrate that it is in substantial compliance with the policy of this state specified in section 4929.02 of the Revised Code.~~ The applicant shall ~~also~~ include a detailed discussion as to how the approval of the proposed exemption(s) will promote ~~such~~the policy of the state under section 4929.02 of the Revised Code.
- (4) The applicant shall provide a discussion showing that the requested exemption(s) does not involve undue discrimination for similarly situated customers. The applicant shall provide a description of the internal process for addressing customer complaints and inquiries. The applicant shall also include the name of a contact person to work with the commission staff. This person shall have the authority to resolve customer complaints and inquiries received by commission staff. ~~The applicant shall also provide clear and accurate written materials related to service and product offerings which promote effective customer choice and the provision of adequate customer service.~~

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- (5) The applicant shall include a detailed discussion of why the applicant believes it is currently subject to effective competition in the provision of each commodity sales service or ancillary service for which it is requesting an exemption and/or a detailed discussion of why the applicant believes the customers in the relevant market currently have reasonably available alternatives to each commodity sales service or ancillary service for which it is requesting an exemption. Detailed discussions shall include all supporting documentation which shall include empirical data.
- (6) The applicant shall submit a proposed separation plan to ensure to the maximum extent practicable that operations, resources, and employees involved in providing or marketing exempt commodity sales services or ancillary services are operated and accounted for separate from nonexempt operations. The applicant shall provide a detailed discussion of its proposed separation plan.
- (7) The applicant shall submit a proposed code of conduct which governs both the applicant's adherence to the state policy specified in section 4929.02 of the Revised Code, and its sharing of information and resources between those employees involved in the provision or marketing of exempt commodity sales services or ancillary services, and those employees involved in the provision or marketing of nonexempt commodity sales services or ancillary services.
- (8) The applicant shall provide one scored copy each of all proposed tariff schedules where applicable (schedule E-1) which have all proposed changes underscored and current tariff schedules to which changes are proposed (schedule E-2). ~~The applicant shall identify each page with "schedule E __, page __ of __" in the upper right hand corner of the schedule.~~
- (9) The applicant shall provide the rationale underlying the proposed changes to the tariff (schedule E-3), referencing. ~~Changes common to multiple rate forms need only be discussed once. The applicant shall reference~~ the appropriate current or proposed rate schedules to which the rationale is applicable and ~~use~~ using the proper schedule and page number. Changes common to multiple rate forms need only be discussed once.
- (10) The applicant shall provide a list and description of all dockets in which there are special arrangements with customers that involve natural gas commodity service, which customers may be affected by the application.

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NO CHANGE

4901:1-19-04 Procedures for exemption applications filed pursuant to section 4929.04 of the Revised Code.

- (A) During the processing of the application, the commission may dismiss any application which does not substantially comply with the filing requirements of rule 4901:1-19-03 of the Administrative Code.
- (B) After notice and a period for public comment, the commission shall conduct a hearing upon an application by a natural gas company with fifteen thousand or more customers for an exemption of any commodity sales service or ancillary service. The commission may, upon its own motion, conduct a hearing upon such an application by a natural gas company with fewer than fifteen thousand customers.
- (C) Discovery shall be served no later than twenty calendar days prior to hearing unless a different deadline has been specified in an order of the commission for the purposes of a specific proceeding.

AMENDED

4901:1-19-05 Filing requirements and procedures for applications to exit the merchant function.

- (A) During the processing of the application, the commission may dismiss any application which does not substantially comply with the filing requirements of this rule.

(B) Notice of intent.

The applicant shall notify the commission staff by letter addressed to the directors of the rates and analysis department and the service monitoring and enforcement department of its intent to file an application at least thirty calendar days prior to the expected date of filing.

(C) Form of an application.

- (1) An exit-the-merchant-function application must be supported by direct testimony.
- (2) All direct testimony and exhibits supporting the application shall be filed with the application, unless the application is being filed in conjunction with an application for an increase in rates under section 4909.18 of the Revised Code, in which case the direct

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testimony and exhibits ~~shall~~may be filed within fourteen days of the filing of the application.

- (3) The applicant shall provide a copy of its application and supporting testimony to the office of the consumers' counsel and each party of record in its previous exemption proceeding. Such copies may be provided either in hard copy or by electronic service. ~~The applicant shall keep at least one copy of the application at the applicant's principal business office and on its web page for public inspection.~~

- (4) The applicant shall provide or cause to be provided a copy of the application to any person upon request. Such copies may be provided either in hard copy or by electronic service; if electronic service is feasible and the requestor consents to electronic service.

- (5) ~~An exit~~Exit-the-merchant-function applications ~~shall be~~are designated by the commission's docketing division using the acronym EMF.

(D) Exhibits to an exit-the-merchant-function application.

- (1) The applicant shall demonstrate that the retail natural gas suppliers providing default commodity sales service to the natural gas company's choice-eligible customers have done so reliably for at least two consecutive heating seasons through a competitive procurement process.
- (2) The applicant shall provide details of the proposed assignment and transfer of choice-eligible customers to retail natural gas suppliers for default commodity sales service.
- (3) The applicant shall provide an accounting of the costs to implement the exit-the-merchant-function plan.
- (4) The applicant shall provide a plan for customer education regarding the exit-the-merchant-function plan, which shall include efforts to encourage customers to choose retail natural gas suppliers before the company fully exits the merchant function.
- (5) The applicant shall demonstrate that the application satisfies section 4929.04 of the Revised Code, and is just and reasonable.

(E) The applicant may request recovery of its reasonable costs of exiting the merchant function.

(F) The commission shall order such procedures as it deems necessary, consistent with these rules,

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in its consideration of an application to exit the merchant function.

(G) Review of the application.

- (1) ~~The burden of proof shall be on~~ It is the applicant's burden to show that the application satisfies ~~section 4929.04 of the Revised Code, and is just and reasonable~~ paragraph (D)(5) of this rule.
- (2) Any party opposing an exit-the-merchant-function plan may present evidence to the commission that the application to exit the merchant function does not meet the criteria in paragraph ~~(G)(D)~~ (+5) of this rule.
- (3) If the commission finds that the applicant has failed to meet the criteria in paragraph ~~(G)(D)~~ (+5) of this rule, no exit from the merchant function shall be granted.

AMENDED

4901:1-19-06 Filing requirements for alternative rate plan applications filed pursuant to section 4929.05 of the Revised Code.

(A) Notice of intent.

The applicant shall notify the commission staff by letter addressed to the directors of the rates and analysis department and the service monitoring and enforcement department of its intent to file an application at least thirty calendar days prior to the expected date of filing.

(B) Form of an application.

- (1) An alternative rate plan application must be supported by direct testimony.
- (2) All direct testimony and exhibits supporting the application shall be filed with the application, unless the application is being filed in conjunction with an application for an increase in rates under section 4909.18 of the Revised Code, in which case the direct testimony and exhibits ~~shall~~ may be filed within fourteen days of the filing of the application.
- (3) The applicant shall provide a copy of its application and supporting testimony to the office of the consumers' counsel and each party of record in its previous alternative rate plan or

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rate case proceeding. Such copies may be provided either in hard copy or by electronic service. ~~The applicant shall keep at least one copy of its application at the applicant's principal business office and on its web page for public inspection.~~

- (4) The applicant shall provide or cause to be provided a copy of the application to any person upon request. Such copies may be provided either in hard copy or by electronic service, if electronic service is feasible and the requestor consents to electronic service.
- (5) ~~An alternative~~Alternative rate plan applications ~~shall be~~are designated by the commission's docketing division using the acronym ALT.

(C) Exhibits to an alternative rate plan application.

- (1) For alternative rate plan applications that are for an increase in rates, applicants shall submit the exhibits described in divisions (A) to (D) of section 4909.18 of the Revised Code and the schedules and other information described in the standard filing requirements pursuant to rule 4901-7-01 of the Administrative Code unless otherwise waived by paragraph (D) of rule 4901:1-19-02 of the Administrative Code. Except as otherwise provided in rule 4901:1-19-13 of the Administrative Code or as otherwise determined by the commission, an alternative rate plan application that does not use the same billing determinants and revenue requirement authorized by the commission in the applicant's most recent rate case proceeding ~~shall be~~is considered an application for an increase in rates.
 - (a) The applicant may use up to nine months of forecasted data for its unadjusted test year operating income statement. ~~However, the~~The forecasted data shall use the corporate budget which has been approved by the highest level of officers of the applicant and is utilized to manage and operate the applicant on a day-to-day basis. Adjustments the applicant believes are necessary to make the corporate budget more appropriate for ratemaking purposes are to be presented on schedule C-3 ~~of its filing requirements.~~ Failure to use the corporate budget as the basis of the forecasted portion of the test year may result in the commission finding that the application is deficient.
 - (b) The applicant may request, no later than the filing of the application, to file a ~~two-month~~two-month update to provide actual financial data and significant changes in budgeted data (to be fully documented). ~~Such a request shall be filed no later than the filing of the application.~~

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- (2) For any alternative rate plan application, regardless of whether the plan is for an increase in rates, the applicant will have the burden of proof to document, justify, and support its plan and shall provide the following information. This additional information ~~shall be~~ is considered to be part of the standard filing requirements for a natural gas company filing an alternative rate plan that is for an increase in rates. ~~The applicant shall have the burden of proof to document, justify, and support its plan.~~
- (a) The applicant shall provide a detailed alternative rate plan, which states the facts and grounds upon which the application is based, and which sets forth the plan's elements, transition plans, and other matters as required by these rules. This exhibit shall also state and support the rationale for the initial proposed tariff changes for all impacted natural gas services.
- (b) If the applicant has been authorized to exempt any services, the applicant shall provide a listing of the services which have been exempted, the case number authorizing such exemption, a copy of the approved separation plan(s), and a copy of the approved code(s) of conduct.
- (c) The applicant shall provide a detailed discussion of how potential issues concerning cross-subsidization of services have been addressed in the plan.
- (d) The applicant shall provide a detailed discussion of how the applicant meets the conditions of division (A) of section 4929.05 of the Revised Code ~~is in compliance with section 4905.35 of the Revised Code, and is in substantial compliance with the policies of the state of Ohio specified in section 4929.02 of the Revised Code. In addition, the applicant shall also provide a detailed discussion of how it expects to continue to be in substantial compliance with the policies of the state specified in section 4929.02 of the Revised Code after implementation of the alternative rate plan. Finally, the applicant shall demonstrate that the alternative rate plan is just and reasonable.~~
- (e) The applicant shall submit a list of witnesses sponsoring each of the exhibits in its application.

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4901:1-19-07 Procedures for alternative rate plan applications.

- (A) The following procedures and timelines shall be used to determine the date of acceptance for an application for purposes of calculating the time periods provided in section 4929.07 of the Revised Code. The procedures and timelines are consistent with those contained in chapter II, paragraph (A)(4)(c) of appendix A to rule 4901-7-01 of the Administrative Code, which are used to determine the date of a rate case application's acceptance by the commission.
- (1) The commission staff will inform the applicant by letter within thirty calendar days of the date of the original docketing of the application whether the application as originally filed is in technical compliance, is substantially in compliance or fails to substantially comply with the filing requirements. The letter will indicate any defects or deficiencies with the filing requirements.
 - (2) If the application is in technical compliance, the application shall be deemed to have been filed as of the date the original application was filed.
 - (3) If the application is in substantial compliance, the applicant shall file its response to the commission staff's letter within fifteen calendar days. ~~The If the applicant's response places the application in technical compliance, the~~ application ~~shall be~~is considered ~~as having been~~ filed as of the date of the original application if the applicant's response places the application in technical compliance~~was filed~~.
 - (4) If the application does not substantially comply, the application shall be considered as having been filed as of the date upon which the supplemental information rendering the application in technical compliance with the filing requirements was filed.
- (B) Commission entry accepting alternative rate plan application.
- (1) Within sixty days from the date of the original docketing of the application with the commission, the commission will issue an entry indicating whether the application has complied with the filing requirements. The commission shall consider supplemental information docketed by the applicant in determining the completeness of the filing.
 - (2) During the processing of the application, the commission may dismiss any application which does not substantially comply with the filing requirements of rule 4901:1-19-06 of the Administrative Code.

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- (3) Provided the applicant has complied with paragraph (A)(3) of this rule, if the commission issues no entry within sixty calendar days from the date of the original docketing of the application, the application shall be considered in compliance with the filing requirements and as having been filed as of the date of the original docketing of the application for purposes of calculating the time periods provided in section 4929.07 of the Revised Code.
- (C) The commission staff will file a written report which addresses, at a minimum, the justness and reasonableness of the proposed alternative rate plan.
- (D) At its discretion, the commission may ~~require~~ conduct a hearing to consider the application. If the commission, at its discretion, ~~requires~~ conducts local public hearings, such hearings ~~shall be held in accordance with~~ are subject to the procedural parameters set forth in section 4903.083 of the Revised Code.
- (E) Intervention ~~shall be governed by~~ is subject to section 4903.221 of the Revised Code and rule 4901-1-11 of the Administrative Code.
- (F) Objections.
- (1) Objections must:
- (a) Be filed with the commission and served on all parties within thirty calendar days after the filing of the written report by the commission staff.
 - (b) Specifically designate those portions of the staff report and/or the application that are considered to be objectionable and explain the objection.
 - (c) Sufficiently explain how the portions of the report and/or the application objected to are unjust and unreasonable.
- (2) Intervenors shall segregate their objections into two areas:
- (a) Objections to the staff report for issues discussed in the staff report and any other issues relating to the review of the reasonableness of the proposed alternative rate plan; and
 - (b) Objections to the applicant's application for issues relating to the applicant's proposed alternative rate plan to the extent the issue was not addressed in the staff report.
- (G) Discovery shall be that time period applicable to general rate proceedings pursuant to paragraph (B) of rule 4901-1-17 of the Administrative Code. Any motions or requests to change the timing of discovery shall be fully supported. Except as otherwise provided herein, discovery

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shall proceed according to Chapter 4901-1 of the Administrative Code.

NO CHANGE

4901:1-19-08 Notice of intent to implement the exemption, exit-the-merchant-function plan, or alternative rate plan (or withdraw the application).

- (A) Within thirty calendar days after the date of issuance of a commission order granting approval of an exemption, an exit-the-merchant-function plan, or alternative rate plan under section 4929.04 or 4929.05 of the Revised Code, or within twenty calendar days after the issuance of a rehearing entry or the denial by operation of law of an application for rehearing pursuant to section 4903.10 of the Revised Code, whichever is later, the applicant shall either:
- (1) File with the commission a notice of the applicant's intention to implement the exemption, exit-the-merchant-function plan, or alternative rate plan as directed by the commission in its order, and a final and redline copy of the applicant's revised rate schedules.
 - (2) Withdraw the exemption, exit-the-merchant-function plan, or alternative rate plan application if the commission modifies or does not approve the application as filed.
- (B) If the applicant files a notice of intent to implement the exemption, exit-the-merchant-function plan, or alternative rate plan as approved by the commission, it shall serve that notice on all parties to the proceeding which authorized the exemption, exit-the-merchant-function plan, or alternative rate plan.
- (C) Failure to file a notice of intent to implement the exemption, exit-the-merchant-function plan, or alternative rate plan as ordered by the commission within the time period in paragraph (A) of this rule will be deemed a withdrawal of the exemption, exit-the-merchant-function plan, or alternative rate plan application, unless the notice is later filed and the applicant shows either good cause for the initial failure to file or that timely filing was not practicable despite the exercise of due diligence.

AMENDED

4901:1-19-09 Implementation of an exit-the-merchant-function plan.

- (A) A natural gas company that has an approved exit-the-merchant-function plan shall continue to supply default commodity sales service for choice-ineligible customers and PIPP-enrolled customers after the natural gas company's choice-eligible customers have been transferred to retail natural gas suppliers pursuant to the approved plan. Natural gas commodity for choice-

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ineligible customers and PIPP-enrolled customers shall be procured by a competitive procurement process.

- (B) A natural gas company that has an approved exit-the-merchant-function plan shall retain the natural gas company's distribution function, including safety, but ~~shall not be~~ is not responsible for supplying default commodity sales service to any choice-eligible customer. However, the natural gas company may use best efforts to be the provider of last resort.

NO CHANGE

4901:1-19-10 Consumer protection for exemptions and exit-the-merchant-function plans.

Retail natural gas suppliers assigned a choice-eligible customer shall:

- (A) Not charge that customer any more than the retail natural gas supplier's posted standard variable rate, which the supplier shall submit to the commission and which the commission shall post on its web site.
- (B) Not charge that customer a termination fee if the customer chooses another retail natural gas supplier.
- (C) Not require that the customer remain a customer of that retail natural gas supplier for a minimum period of time beyond the first month in which that customer is assigned to the retail natural gas supplier.
- (D) Keep the assigned customer's personal, billing, account number, and usage information confidential except to the natural gas company with the distribution function or as otherwise provided under commission rules.

AMENDED

4901:1-19-11 Abrogation or modification of an order granting an exemption, exit-the-merchant-function plan, or alternative rate plan.

- (A) The commission may, upon its own motion or upon the motion of any person adversely affected by an exemption, exit-the-merchant-function plan, or alternative rate plan, including the natural gas company operating under the exemption or plan, and after notice and hearing pursuant to division (A) of section 4929.08 of the Revised Code, modify or abrogate any order

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granting the exemption, exit-the-merchant-function plan, or alternative rate plan under section 4929.04 or 4929.05 of the Revised Code, where both of the following conditions exist:

- (1) The commission determines that the findings upon which the order was based are no longer valid and that the modification or abrogation is in the public interest.
 - (2) The modification or abrogation is not made more than eight years after the effective date of the order, unless the affected natural gas company consents.
- (B) The commission ~~shall~~may order such procedures as it deems necessary, consistent with this chapter, in its consideration of whether to modify or abrogate an order granting an exemption, exit-the-merchant-function plan, or alternative rate plan.
- (C) If the commission has issued an order approving an exemption under section 4929.04 of the Revised Code, the natural gas company will not be required to provide default commodity sales service through a purchased gas adjustment clause, unless the commission determines that market conditions are not competitive or that the physical supply of natural gas commodity has been compromised by unforeseen circumstances. The commission may issue orders or directives imposing temporary measures necessary for the provision of default commodity sales service and ~~shall~~ set an expedited hearing on the orders or directives. Any such orders or directives ~~shall be~~are drawn as narrowly as possible to accomplish the purpose of protecting the public on an interim basis. The commission ~~shall~~takes all possible steps to ensure that the temporary measures remain in place only long enough to remedy noncompetitive market conditions or resumption of the ordinary function of the physical supply of natural gas commodity. A natural gas company may request recovery of all costs reasonably incurred by the company in complying with any temporary measures imposed under this chapter.

AMENDED

4901:1-19-12 Progress reports for alternative rate plans.

The commission may ~~require the~~request that an applicant ~~to~~ provide progress reports during the term of its authorized alternative rate plan. The commission ~~shall~~may order such procedures as it deems necessary, consistent with this chapter, regarding such progress reports, including the frequency, form, and content of such reports.

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AMENDED

4901:1-19-13 Initiation or continuation of an alternative rate plan.

- (A) A natural gas company may request approval of an alternative rate plan by filing an application under section 4909.18 of the Revised Code, regardless of whether the application is for an increase in rates.
- (B) An alternative rate plan filed by a natural gas company under section 4929.05 of the Revised Code that proposes to initiate or continue a revenue decoupling mechanism shall be considered an application not for an increase in rates if the rates, joint rates, tolls, classifications, charges, or rentals are based upon the billing determinants and revenue requirement authorized by the commission in the company's most recent rate case proceeding and the plan also establishes, continues, or expands an energy efficiency or energy conservation program.
- (C) An alternative rate plan filed by a natural gas company under section 4929.05 of the Revised Code that seeks authorization to continue a previously approved alternative rate plan ~~shall be~~is considered an application not for an increase in rates. An alternative rate plan that proposes material or substantial changes to a previously approved alternative rate plan ~~shall is not be~~ considered as seeking authorization to continue a previously approved alternative rate plan.

NO CHANGE

4901:1-19-14 Compliance provision.

Nothing in these rules limits the ability of the commission and/or its staff to obtain whatever information deemed appropriate to monitor the compliance with a commission order issued under Chapter 4929. of the Revised Code or to carry out the responsibilities of the commission and/or its staff under Title 49 of the Revised Code.

AMENDED

4901:1-19-15 Assessment of costs and enforcement.

The commission may, in its discretion, assess the costs of hearing or investigation on a non-consenting applicant or any other party pursuant to section 4903.24 of the Revised Code. ~~The commission shall also prescribe on~~On a case-by-case basis, the commission may prescribe such costs, restrictions, or other enforcement measures as it deems necessary for any applicant

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failing to comply with rules 4901:1-19-01 to 4901:1-19-15 of the Administrative Code.

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Case No(s). 22-0812-GA-ORD

Summary: Finding & Order adopting proposed amendments to the alternative rate plan and exemption rules in Ohio Adm.Code Chapter 4901:1-19 electronically filed by Heather A. Chilcote on behalf of Public Utilities Commission of Ohio