

# THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE COMMISSION'S  
REVIEW OF 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 REGARDING RULES  
GOVERNING COMPETITIVE RETAIL  
ELECTRIC SERVICE AND COMPETITIVE  
RETAIL NATURAL GAS SERVICE.

CASE NOS. 17-1843-EL-ORD  
17-1844-EL-ORD  
17-1862-EL-ORD  
17-1845-GA-ORD  
17-1846-GA-ORD  
17-1847-GA-ORD  
17-1848-GA-ORD  
17-1849-GA-ORD  
17-1850-GA-ORD  
17-1851-GA-ORD  
17-1852-GA-ORD

## ENTRY ON REHEARING

Entered in the Journal on April 17, 2024

### I. SUMMARY

{¶ 1} The Commission denies the application for rehearing filed by the Ohio Consumers' Counsel on March 22, 2024.

### II. DISCUSSION

#### A. *Procedural History*

{¶ 2} R.C. 111.15(B) and R.C. 106.03(A) require 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 competitive retail electric service (CRES) and competitive retail natural gas service (CRNGS) 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.

{¶ 3} Among other things, R.C. 106.03(A) requires the Commission to determine whether the rules should be continued without amendment, be amended, or rescinded, taking into consideration the purpose, scope, and intent of the statute(s) under which the rules were adopted. As part of this analysis, the Commission must ascertain if the rule is

still pertinent and not duplicative of existing state and federal law. Additionally, the Commission must assess if the rule is still reasonably effective for enforcement purposes. As part of this review, the Commission must consider whether the rule has an adverse impact on businesses, as determined under R.C. 107.52, or on any other person or entity. To the extent that a rule incorporates a text or other material by reference, it must provide the necessary level of detail consistent with R.C. 121.71 to 121.75.

{¶ 4} 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, needlessly burdensome, have had negative unintended consequences, or unnecessarily impede business growth.

{¶ 5} Additionally, under R.C. 121.82, in the course of developing draft rules, the Commission must evaluate whether those rules will have an adverse effect on businesses and prepare a business impact analysis (BIA). 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} Further, Amended Sub. H.B. 166 of the 133rd General Assembly, which became effective on October 17, 2019, adopted a new provision, codified at R.C. 121.95, which states that a state agency, including the Commission, cannot adopt a new regulatory restriction unless it simultaneously removes two or more existing regulatory restrictions. In accordance with R.C. 121.95, and prior to January 1, 2020, the Commission identified rules having one or more regulatory restrictions that require or prohibit an action, prepared a base inventory of these restrictions in the existing rules, and submitted this base inventory on the Commission's website.

{¶ 7} On October 3, 2017, the Commission held a workshop in these proceedings to enable interested stakeholders to propose revisions to the rules in Ohio Adm.Code Chapters 4901:1-10,<sup>1</sup> 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 for the Commission's consideration. Representatives of different interested stakeholders attended the workshop, with comments offered by several of the stakeholders.

{¶ 8} According to R.C. 121.95, a state agency, including the Commission, cannot adopt a new regulatory restriction unless it simultaneously removes two or more existing regulatory restrictions.

{¶ 9} In light of R.C. 121.95, Staff recommended minimal changes to the rules contained in Ohio Adm.Code Chapters 4901:1-24, 4901:1-27, and 4901:1-29.

{¶ 10} By Entry issued September 8, 2021, the Commission requested comments from interested persons to assist in the review required by R.C. 111.15 and R.C. 106.03. Attached to that Entry were Staff's proposed amendments to 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 (Attachments A, C, E, G, I, K, M, O, Q, S, and U) and the BIAs (Attachments B, D, F, H, J, L, N, P, R, T, and V).

{¶ 11} R.C. 121.951(A)(1), which was codified as part of Amended Substitute Senate Bill 9 of the 134th Ohio General Assembly and became effective June 8, 2022, requires state agencies to reduce their total number of regulatory restrictions by 30 percent (10 percent per year for the next three years) by June 30, 2025.

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<sup>1</sup> Subsequently, in Case No. 17-1842-EL-ORD, the Commission proceeded separately with the five-year review of Ohio Adm.Code Chapter 4901:1-10. The case caption for these proceedings has been modified accordingly.

{¶ 12} On February 21, 2024, the Commission issued a Finding and Order adopting Staff's proposed amendments, as well as some additional amendments made to satisfy the requirements of R.C. 121.95(A)(1).

{¶ 13} R.C. 4903.10 states that any party who has entered an appearance in a Commission proceeding may apply for rehearing with respect to any matters determined in that proceeding, by filing an application within 30 days after the entry of the order upon the journal of the Commission.

{¶ 14} On March 22, 2024, the Ohio Consumers' Counsel (OCC) filed an application for rehearing, asserting three separate assignments of error.

{¶ 15} On April 1, 2024, the Retail Energy Supply Association (RESA) filed a memorandum contra OCC's application for rehearing.

***B. Summary of Application for Rehearing and Memorandum Contra***

{¶ 16} As its first assignment of error, OCC contends that the Commission erred when it refused to consider consumer protection proposals for Ohio's residential utility consumers regarding marketers' solicitation and enrollment practices. OCC adds that the Commission's decision to delay consideration of these proposals for a new rulemaking to be conducted at some unknown time in the future was unreasonable and harms consumers who may be subjected to marketer abuse. Instead, OCC argues that the Commission should have addressed the alleged lack of consumer protections in the marketer rules to prevent marketers from engaging in unfair, misleading, deceptive, and unconscionable acts or practices, noting the Commission had ample time to do so. OCC asserts that further delaying the consideration of additional consumer protections, especially in light of the numerous investigations by Staff into the practices by marketers, harms residential consumers and the competitive market in Ohio. As such, OCC argues the Commission should grant rehearing.

{¶ 17} In response, RESA initially contends that OCC's first assignment of error should be rejected as procedurally deficient, given it does not meet the statutory specificity requirement set forth in Ohio Adm.Code 4901-1-35(A).<sup>2</sup> Specifically, RESA notes OCC's application for rehearing only substantively addresses two rule changes in its second and third assignments of error yet appears to seek many more unidentified and unexplained rule changes through the "temporal" error OCC raises in the first assignment of error. Regardless, RESA also contends that OCC's claims that the Commission had "ample time" to consider the various proposals and that any further delay considering them will harm consumers and the competitive market have no merit. RESA argues that the Commission's deferral to consider these proposals can hardly be grounds for rehearing when either the Commission has already found them, or variations of them, to be without merit or they are inappropriate and may actually cause harm to the competitive market themselves by stripping away consumer choice.<sup>3</sup> See, e.g., *In re the Proper Procedures and Process for the Commission's Operation and Proceedings During the Declared State of Emergency and Related Matters*, Case No. 20-591-AU-UNC, Entry on Rehearing (Sept. 23, 2021) (where the Commission declined to adopt OCC's proposed indefinite ban on door-to-door sales and finding it proper to allow the resumption of door-to-door sales); *In re the Commission's Review of the Minimum Gas Service Standards in Ohio Adm.Code Chapter 4901:1-13*, Case No. 22-809-GA-ORD, Finding and Order (Dec. 14, 2022) at ¶ 19 (where the Commission rejected OCC's request to establish rules on shadow billing); *In re the Commission-Ordered Investigation of Marketing Practices in the Competitive Retail Electric Service Market*, Case No. 14-568-EL-COI, Second Entry on Rehearing (Mar. 29, 2017). Additionally, RESA asserts that OCC fails to articulate any facts that would support its claim that customers will be harmed by the delayed consideration of these proposals. RESA notes that the suppliers named in OCC's

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<sup>2</sup> According to Ohio Adm.Code 4901-1-35, a party seeking rehearing: "[M]ust set forth, in numbered or lettered paragraphs, the specific ground or grounds upon which the applicant considers the commission order to be unreasonable or unlawful."

<sup>3</sup> RESA also points to its Reply Comments filed in these proceedings and the prior Commission decisions cited therein on pages 7-10 as support to its argument.

application for rehearing have already been subject to Commission action for noncompliance with the existing rules, which demonstrates that, in practice, the existing rules are working to protect Ohio consumers.

{¶ 18} As its second assignment of error, OCC asserts that the Commission erred when it indefinitely extended marketers' existing waivers from the Commission's rules regarding consumer consent and third-party verification (TPV) of enrollments, increasing the risk of unauthorized enrollments, i.e., slamming. Finding and Order at ¶ 19. The purpose of these waivers, according to OCC, is to allow marketers to complete customer enrollments and TPVs through texts or online digital chat mechanisms rather than telephonic TPVs with a live person. OCC avers that the existing Commission TPV rules are essential to protect consumers from slamming, which has been an issue raised in recent Commission-initiated marketer investigations. *See, e.g., In re the Investigation of RPA Energy Inc. d/b/a Green Choice Energy's Compliance with the Ohio Administrative Code and Potential Remedial Actions for Non-Compliance*, Case No. 22-441-GE-COI; *In re the Commission's Investigation of XOOM Energy Ohio, LLC's Compliance with the Ohio Administrative Code and Potential Remedial Actions for Non-Compliance*, Case No. 22-267-GE-COI. Moreover, OCC emphasizes that some of the marketers that have received and/or requested such waivers have allegedly engaged in misleading and deceptive marketing practices. *See, e.g., In re Direct Energy Services, LLC*, Case No. 22-583-GE-UNC; *In re the Application of RPA Energy, Inc.*, Case No. 21-157-GE-WVR; *In re the Application of Inspire Energy Holdings, LLC*, Case No. 22-29-GE-WVR. Thus, OCC argues the Commission should grant rehearing and modify its Finding and Order to prevent further customer harm.

{¶ 19} RESA contends that OCC's second assignment of error mischaracterizes the Commission's Finding and Order, is an improper collateral attack on decisions in other proceedings, and represents an attempt to use a broad rule change to address a narrow issue. RESA further argues that OCC's argument fails to recognize the underlying facts from the individual waiver cases where the Commission found that a basis for the waivers had been substantively demonstrated and did not diminish the customer protections

afforded through the TPV process. Instead, the Commission noted this alternative streamlined the process and provided additional customer choice in the manner in which they confirmed consent to enrollment. RESA also notes OCC's arguments can be construed as collateral attacks on the underlying waiver cases, which the Commission generally does not entertain. *See In re the Procurement of Std. Service Offer Generation Service for Customers of The Dayton Power and Light Co.*, Case No. 17-957-EL-UNC, Entry on Rehearing (Nov. 16, 2022) at ¶ 19 (denying OCC's application for rehearing as an improper collateral attack). Consequently, RESA asserts that OCC's argument is an untimely application for rehearing of the decisions in the underlying waiver cases. According to RESA, all of these issues were thoroughly considered in those proceedings and have no bearing on the decisions of other marketers who have subsequently violated the standard TPV requirement. Finally, RESA claims that OCC mischaracterizes the Commission's Finding and Order, as the Commission indicated it would revisit these rules, as well as addresses whether the existing waivers should be extended, in the next rulemaking. In summary, RESA contends that OCC raises no new issues and has not established that the alternative consent verification process granted via waiver should not be continued as authorized by the Commission.

{¶ 20} As its final assignment of error, OCC claims that the Commission erred when it ruled that the credit reports and credit ratings filed by marketers when applying for certificates should automatically be treated as confidential, as these credit reports and credit ratings are otherwise available in the public domain. According to OCC, the burden should remain on the marketer to demonstrate that its credit rating and credit report should be protected from the public, instead of receiving automatic confidential treatment. R.C. 4905.07 provides that all facts and information in the possession of the Commission shall be made public, except as provided in R.C. 149.43. *In re the OVEC Generation Purchase Rider Audits Required By R.C. 4928.148 for Duke Energy Ohio, Inc., The Dayton Power And Light Co. d/b/a AES Ohio, and Ohio Power Co. d/b/a AEP Ohio*, Case No. 21-477-EL-RDR, Entry (Jan. 24, 2024) at ¶ 21, citing *State ex rel. Besser v. Ohio State Univ.*, 89 Ohio St.3d 396, 399, 732 N.E.2d 373 (2000). OCC avers that an entity claiming confidentiality bears the burden to identify

and demonstrate that the material is included in categories of protected information under the statute and additionally must take some active steps to maintain its secrecy. Therefore, where information is publicly available, it should not be automatically entitled to confidential status. *Id.* OCC notes that “the Commission and, by extension its attorney examiners retain the right to reconsider the confidential status of information \* \* \* when it becomes apparent that the information no longer satisfies the criteria for protective treatment, including occasions in which it is later determined that information is available in the public domain.” *Id.* at ¶ 26. OCC claims credit ratings do not fall within one of the categories of protected information under the statute as they typically are not confidential. In fact, according to OCC, some business credit reports can be obtained through sources such as Dun & Bradstreet, Equifax, and Experian. Thus, OCC argues that the Commission’s Finding and Order is unreasonable and rehearing should be granted to reject this rule amendment.

{¶ 21} RESA responds by noting that the Commission, on its own initiative, concluded years ago that suppliers would no longer be required to file motions for protective orders if a supplier chooses to file a credit report or credit rating under seal. *In re the Commission’s Consideration of a New Electronic Certification Processing System for Providers of Competitive Retail Electric Service and Competitive Retail Natural Gas Service and the Waiver of Applicable Procedural Rules Contained in Ohio Adm.Code Chapters 4901:1-24 and 4901:1-27*, Case No. 20-1077-GE-WVR, Entry (June 3, 2020) at ¶ 6(b). The Commission noted it reached that conclusion in order to effectuate the PUCO Community’s then-new functionality and to streamline the certification process for the competitive suppliers. *Id.* at ¶ 6. RESA argues that the Commission verified that this rationale still exists today in its February 21, 2024 Finding and Order. Finding and Order at ¶ 17. Moreover, RESA argues that OCC’s third assignment of error should also be rejected because it wrongly suggests that credit reports and credit ratings will forever be treated as confidential by the Commission. Contrarily, RESA contends the rule revisions do not mandate the filing of credit reports or credit ratings under seal, and do not provide indefinite confidential treatment. As RESA noted in its



comments, since the waivers have been in place, some suppliers have opted to file their credit ratings and credit reports publicly, while others have not. Further, RESA argues that the adopted rule revisions also do not prevent an interested party from challenging confidential treatment when first submitted, or if the supplier requests to extend confidential treatment. Finding and Order at ¶ 17. Similar to its opposition to the second assignment of error, RESA suggests that OCC's argument is nothing more than a collateral attack of the Commission's June 2020 decision in Case No. 20-1077-GE-UNC, which OCC failed to challenge at the time. As such, RESA asserts that OCC should not be provided yet another opportunity to challenge the Commission's decision. RESA also notes that OCC's argument is factually incorrect, as there are existing restrictions from credit rating agencies on the public disclosure of such information. Finally, RESA notes that the Commission already considered and rejected this argument in its Finding and Order, and because OCC fails to raise anything new for the Commission's consideration, this assignment of error should be rejected.

### *C. Commission Conclusion*

{¶ 22} We find OCC's first assignment of error should be rejected. In the Finding and Order, the Commission noted that the September 8, 2021 Entry specifically indicated that, in light of R.C. 121.95, the proposed amendments to these rules were limited to maintaining consistency with prior Commission decisions, including Case Nos. 20-1077-GE-WVR, 13-2225-GA-ORD, and 19-1429-GA-ORD, and that, consistent with that Entry, we generally declined to address substantive changes falling outside of that established scope or comments that did not address Staff's proposed revisions. Finding and Order at ¶ 17. It appears that OCC's main dispute is not with the Commission, but instead with the General Assembly's passage of R.C. 121.95. In testimony prepared for the Ohio House Government Oversight Committee in 2021, OCC noted that, when the Commission solicited comments on the CRES and CRNGS rules, it proposed limited amendments due to the constraint in R.C. 121.95(F) that state agencies may not adopt a new regulatory restriction unless it simultaneously removes two or more existing regulatory restrictions. In

that testimony, OCC requested that the Commission be exempt from the requirements of R.C. 121.95, stating “[t]his result where R.C. 121.95 is preventing the [Commission] from adopting consumer protection regulations is bad for Ohioans. More regulations are needed to protect consumers.” Ohio House Government Oversight Committee, *Ohio Consumers’ Counsel Testimony Opposing Senate Bill 9* (Dec. 9, 2021), available at <https://www.occ.ohio.gov/testimony/sb-9/2021-12-09>. However, as a creature of statute, the Commission can only exercise the authority conferred upon it by the General Assembly. *Tongren v. Pub. Util. Comm.*, 85 Ohio St.3d 87,88, 706 N.E.2d 1255 (1999); *In re Application of Ohio Edison Co.*, 158 Ohio St.3d 27, 2019-Ohio-4196, 139 N.E.3d 875, ¶ 17 citing *Discount Cellular, Inc. v. Pub. Util. Comm.*, 112 Ohio St.3d 360, 2007-Ohio-53, 859 N.E.2d 957, ¶ 51; *Columbus S. Power Co. v. Pub. Util. Comm.*, 67 Ohio St.3d 535, 537-541, 620 N.E.2d 835 (1993); *Time Warner AxS v. Pub. Util. Comm.*, 75 Ohio St.3d 229, 238-241, 661 N.E.2d 1097 (1996). OCC recognized the need for the Commission to adhere to the statutory requirements of R.C. 121.95 when it requested an exemption. OCC is well aware that the Commission was not exempted from the statute, as requested by OCC, and we have worked tirelessly to effectuate the General Assembly’s intent behind R.C. 121.95 while, at the same time, continued to use our limited resources to target and reprimand concerning behavior from CRES and CRNGS providers in Ohio under our existing rules. See, e.g., *In re the Commission’s Investigation into RPA Energy Inc.’s Compliance with the Ohio Administrative Code and Potential Remedial Actions for Non-Compliance*, Case No. 22-441-GE-COI; *In re Inspire Energy Holdings, LLC*, Case No. 23-720-EL-UNC; *In re Direct Energy Services, LLC*, Case No. 22-583-GE-UNC; *In re the Commission’s Investigation into XOOM Energy Ohio, LLC’s Compliance with the Ohio Administrative Code and Potential Remedial Actions for Non-Compliance*, Case No. 22-267-GE-COI; *In re the Commission’s Investigation of PALMco Power OH, LLC, d/b/a Indra Energy’s Compliance with the Ohio Administrative Code and Potential Remedial Actions for Non-Compliance*, Case No. 19-957-GE-COI; *In re the Commission’s Investigation into Verde Energy USA Ohio, LLC’s Compliance with the Ohio Administrative Code and Potential Remedial Actions for Non-Compliance*, Case No. 19-958-GE-COI; *In re the Commission’s Investigation of PALMco Power OH, LLC, d/b/a Indra Energy and PALMco Power OH, LLC, d/b/a Indra Energy’s*

*Compliance with the Ohio Administrative Code and Potential Remedial Actions for Non-Compliance*, Case No. 19-2153-GE-COI; *In re the Commission's Investigation into SFE Energy Ohio, Inc. and Statewise Energy Ohio, LLC's Compliance with the Ohio Administrative Code and Potential Remedial Actions for Non-Compliance*, Case No. 20-1216-GE-COI. OCC fails to identify any instances of demonstrated competitive supplier misbehavior which the Commission was precluded from addressing.

{¶ 23} We appreciate OCC's concerns; however, the Commission is a creature of statute, and, apart from the minimal changes proposed by Staff, compliance with R.C. 121.95 was necessarily the Commission's priority in allocating our limited resources in these particular cases. Notably, OCC does not contest the elimination of any regulatory restrictions made in the Commission's Finding and Order. Accordingly, we will not address the merits of the various proposals raised by OCC in its application for rehearing. Instead, interested stakeholders, including RESA and OCC, will have a full opportunity to raise, or respond to, such proposals for the Commission's consideration in the future rulemaking, in addition to proposing ways to achieve further consistency between CRES and CRNGS rules.

{¶ 24} We also find no merit in OCC's second assignment of error. In each of the Entries granting the waiver requests, the Commission specifically found that, although the applicants had requested waivers for an indefinite period of time, "the waiver should be granted only until the Commission issues an order addressing [the TPV and/or enrollment requirements] in the pending five-year rule review" in Case Nos. 17-1843-EL-ORD and/or 17-1847-GA-ORD, as applicable. *In re Direct Energy Services, LLC*, Case No. 17-2358-GA-WVR, Entry (Nov. 14, 2018) at ¶ 18; *In re AEP Energy, Inc.*, Case No. 18-371-EL-WVR, Entry (July 17, 2019) at ¶ 14; *In re AEP Energy, Inc.*, Case No. 18-372-GA-WVR, Entry (July 17, 2019) at ¶ 14; *In re the Application of Direct Energy Business, LLC, and Direct Energy Services, LLC*, Case No. 18-382-GE-WVR, Entry (Sept. 26, 2019) at ¶ 16; and *In re the Joint Application of Constellation NewEnergy, Inc. and Constellation NewEnergy-Gas Division, LLC*, Case No. 18-604-GE-WVR, Entry (Sept. 26, 2019) at ¶ 15. The Commission acknowledged no substantive modifications to the existing TPV enrollment and consent

requirements set forth in Ohio Adm.Code Chapters 4901:1-21 and 4901:1-29 were adopted in the Finding and Order and, thus, extended the waivers consistent with the terms established in the individual waiver cases. We agree with RESA that OCC fails to demonstrate how these existing waivers have or will harm consumers, as they remain subject to all conditions and requirements prescribed by the Commission. Further, as noted by the Commission, parties which have been granted such waiver requests, as well as all other interested stakeholders, will have the opportunity to fully participate in that future rulemaking process, including submitting comments regarding suggested modifications to the TPV customer enrollment and consent requirements. Finding and Order at ¶ 19. Finally, in addition to Commission-initiated actions, nothing precludes OCC from initiating a complaint proceeding pursuant to R.C. 4928.16 or 4929.15 upon discovering any alleged misuse of those existing waivers.

{¶ 25} Finally, we reject OCC's third and final assignment of error. First and foremost, we agree with RESA that we fully considered OCC's arguments raised in its comments related to its opposition to Staff's proposal to allow credit reports and credit ratings to be filed under seal with an application and these arguments were rejected. As OCC fails to raise any new arguments for the Commission's consideration, rehearing must be denied on this basis. *In re the Complaint of Ohio Power Co. v. Nationwide Energy Partners, LLC*, Case No. 21-990-EL-CSS, Second Entry on Rehearing (Dec. 13, 2023) at ¶ 42. Nonetheless, in the Finding and Order, we agreed that credit reports and credit ratings should be allowed to be filed under seal, consistent with the waiver granted in Case No. 20-1077-GE-WVR. The waiver in that case was awarded to accommodate the expanded functionality of the Commission's web-based system that enables a streamlined process for both CRES and CRNGS providers to complete new certification applications, complete renewal applications, submit material changes, or abandon their certificates. Furthermore, we agree with RESA that nothing in the rule prohibits parties from filing their credit reports or credit ratings in the public domain or contesting the confidential nature of such information. Thus, the Commission's adoption of revisions to Ohio Adm.Code

4901:1-24-08(A) and 4901:1-27-08(A) represent improved administrative efficiency conducive to the Commission's web-based system that will still remain subject to any and all challenges regarding the information's confidentiality. Finding and Order at ¶ 17. Further, Staff will have access to this information in its determination of whether the financial capability of an applicant has been met. As such, OCC again raises no arguments to persuade the Commission to deviate from what has been the status quo for nearly four years at this point.

{¶ 26} In conclusion, we find OCC's application for rehearing should be denied.

### III. ORDER

{¶ 27} It is, therefore,

{¶ 28} ORDERED, That OCC's application for rehearing be denied. It is, further,

{¶ 29} ORDERED, That a copy of this Entry on Rehearing be served upon the Commons Sense Initiative at [CSIPublicComments@governor.ohio.gov](mailto:CSIPublicComments@governor.ohio.gov). It is, further,

{¶ 30} ORDERED, That a copy of this Entry on Rehearing be sent to the electric-energy and gas-pipeline service lists. It is, further,

{¶ 31} ORDERED, That a copy of this Entry on Rehearing be served upon all investor-owned electric utilities in the state of Ohio, all certified CRES providers in the state of Ohio, all regulated gas and natural gas companies, all CRNGS suppliers, OCC, the Ohio Gas Association, the Ohio Petroleum Council, the Ohio Oil and Gas Association, and all other interested persons of record.

**COMMISSIONERS:**

*Approving:*

Jenifer French, Chair  
Daniel R. Conway  
Lawrence K. Friedeman  
John D. Williams

MJA/dr

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Summary: Entry on Rehearing that the Commission denies the application for rehearing filed by the Ohio Consumers' Counsel on March 22, 2024 electronically filed by Ms. Donielle M. Hunter on behalf of Public Utilities Commission of Ohio.