

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Amendment of Rules)
 4901-1-01 through 4901-1-05 of the Ohio) Case No. 07-535-AU-ORD
 Administrative Code to Permit the Electronic)
 Filing of Documents.)

ENTRY

The Commission finds:

- (1) Ohio's Uniform Electronic Transactions Act, Chapter 1306, Revised Code, generally provides for the acceptance of electronic documents and signatures by agreement of the parties where adequate security and retention measures are satisfied. The Commission began a test program of electronic filing (E-filing) in *In the Matter of the Request of AT&T Ohio for Waiver of Procedural Rules 4901-1-02 to 4901-1-04, Ohio Administrative Code, to Permit Electronic Filing*, Case No. 05-548-AU-WVR (September 14, 2005). By initial entry issued July 26, 2006, and various subsequent entries issued in Case No. 06-900-AU-WVR, *In the Matter of the Expansion of the Electronic Filing Pilot Project and Waiver of Procedural Rules 4901-1-02 through 4901-1-04, Ohio Administrative Code*, the Commission noted that it had modified its case recordkeeping system, referred to as the Docketing Information System (DIS), to permit the electronic filing (E-filing) of certain documents in selected case types. DIS is available at www.puco.ohio.gov.
- (2) The Commission recently approved revisions to its Rules of Practice and Procedure found in Chapter 4901-1 of the Ohio Administrative Code (O.A.C.) in *In the Matter of the Review of Chapters 4901-1, 4901-3, and 4901-9 of the Ohio Administrative Code*, Case No. 06-685-AU-ORD (December 6, 2006; February 7, 2007; and April 4, 2007). The Commission finds that it is now appropriate to amend certain of those rules to permit the E-filing of most documents in all Commission cases. E-filing will not be made available to Power Siting Board cases at this time.
- (3) Staff is proposing to amend Rule 4901-1-01, Definitions, to add a definition of E-filing. Staff is proposing to amend Rule 4901-1-02, Filing of Pleadings and Other Papers, to state, among other things, who may E-file documents, what documents may

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not be E-filed, the time of acceptance of an E-filed document, how notice of acceptance of an E-filed document will occur, and who bears the risk if an attempt to E-file fails. Staff is proposing to amend rules 4901-1-03 and 4901-1-05 to clarify the process for agreeing to be served by facsimile transmission or E-mail. Staff is proposing to amend Rule 4901-1-04, Signing of Pleadings, to permit the typed name of the filer of an E-filed document to be substituted for the signature of the filer. Staff is proposing to amend Rule 4901-1-24, Motions for Protective Orders, to provide that no E-filed document will be given confidential treatment by the Commission.

- (4) Staff is proposing to amend Rule 4901-1-05, Service of Pleadings and Other Papers, to explain the service of an E-filed document and to require that the filer of an E-filed document include in the certificate of service included with the E-filed document the following statement:

The PUCO Docketing Information System will electronically serve notice of the filing of this document on the following parties: (list the names of the parties referenced on the service list of the case docket card who have electronically subscribed to the case).

While staff may in the future recommend eliminating this requirement, staff believes that initially it will help to ensure that all parties in a case are either electronically served notice of a filing by DIS or routinely served notice of a filing by the filer.

- (5) Staff is also proposing to amend paragraph (E) of Rule 4901-1-35 and Rule 4901-1-36 to provide that an application for rehearing filed under Section 4903.10, Revised Code, a memorandum contra an application for rehearing filed pursuant to Rule 4901-1-35, and a notice of appeal of a Commission order to the Ohio Supreme Court shall not be filed via electronic filing. While staff may recommend at some future time to allow for the electronic filing of these documents, because of the strict statutory timelines for the filing of an application for rehearing and the notice of an appeal, staff believes that until there is more experience with the E-filing

system, it is best for all concerned to require the paper filing of these documents at this time.

- (6) Staff is also proposing to amend Rule 4901-1-02 to explain the Commission's case archiving procedure. Currently, when Commission staff believes that activity in a case has been completed, the Commission's Docketing Division will close a case. That designation is misleading because, if a document is received that references a closed case, Docketing Division employees will still file the document in the case file. Under the new procedure, a closed case will mean one in which no further filings may be made without the consent of the Commission's Legal Department. Under the new policy, Commission staff will inform Docketing Division when it believes that activity in a case has been completed. This notice will not occur by entry, but by a form memorandum that will be included in the case file. When a case has been closed, the Commission's DIS will reflect the "closed" case designation in the status field of the case record directly under the case name. DIS will be modified to not accept filings in closed cases. Docketing Division employees will instruct any party wishing to make a filing in a closed case to contact the Attorney Examiner assigned to the case, or the Legal Director, who will then notify Docketing Division if the case is to be reopened. If additional filings are permitted, the case status will be changed to "open." After a case has been in "closed" status for approximately one year, Commission staff will inform Docketing Division by memo to change the case designation to "archived." An archived case is a closed case in which no further filings will be permitted for any reason. When a case has been archived, DIS will reflect the "archived" case designation in the status field of the case record directly under the case name. An archived case cannot be reopened for any reason. A successor case will be created if additional activity is required on the matter addressed in the original case. When a case has been archived, Docketing Division employees will microfilm documents in the case file for preservation. The new policy is intended to facilitate the Commission's recordkeeping by decreasing the number of cases that must be maintained to receive additional documents.

- (7) Although not addressed in any of the proposed rules, staff would like to invite comments on whether E-filers, including

the Commission, should be required to submit a source format document in addition to the required PDF format when an E-filing is made. In addition to the official PDF document, DIS incorporates the acceptance of underlying source files wherever feasible. While the PDF version serves as the official document, in most instances the original source files are of greater utility to the parties and the Commission, and provide superior indexing and search capabilities. In addition, software is now available to eliminate metadata and the associated concerns of unintended exposure of data in source documents. The Commission recognizes that in certain circumstances source files may not be available to the filer, and in such cases the filer may substitute a source file explaining why the original source files are unavailable. Parties are encouraged to identify all useful source formats so DIS can be modified to accept them.

- (8) The Commission requests comments on the proposed rule changes attached to this entry from interested persons. Interested persons shall file their comments with the Commission's Docketing Division by Thursday, May 31, 2007. Anyone wishing to file reply comments shall do so by Monday, June 11, 2007. Persons filing comments in this case are encouraged to file their initial and reply comments electronically. Consistent with proposed paragraph (F)(1) of Rule 4901-1-02, a person must submit an application for an account for DIS and E-filers at www.puco.ohio.gov/puco/docketing/index.cfm prior to making an E-filing.

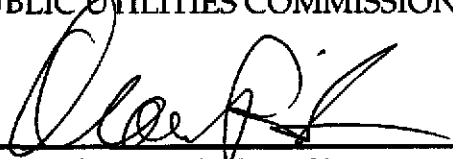
It is, therefore,

ORDERED, That all interested persons shall have until Thursday, May 31, 2007, to file comments to the proposed rule changes and until Monday, June 11, 2007, to file reply comments. It is, further,

ORDERED, That a copy of this entry and the attached rules be served upon all public utilities subject to the jurisdiction of this Commission; the Ohio Consumers' Counsel; the Ohio Telecomm Association; the Ohio Trucking Association; the Ohio Railroad Association; the Ohio Gas Association; the Ohio Electric Utilities Institute; the Ohio Cable Telecommunications Association; the Ohio Manufacturers Association; the Ohio Municipal League; the cities of Cleveland, Columbus, Cincinnati, Dayton, and Toledo; the chair of the Ohio State Bar Association Public Utilities Committee; the Ohio

Environmental Council; the Legal Aid Societies of Cleveland, Columbus, Cincinnati, Dayton, and Toledo; Ohio Partners for Affordable Energy; and Ohio Gas Marketers Group.

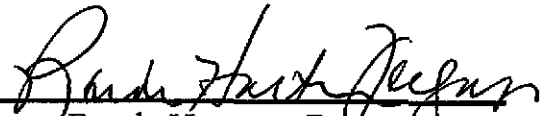
THE PUBLIC UTILITIES COMMISSION OF OHIO




Alan R. Schriber, Chairman



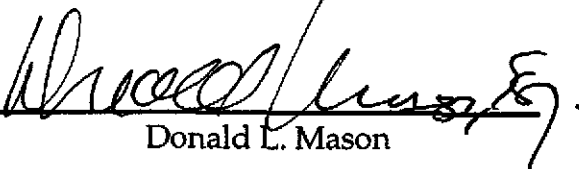
Paul A. Centolella



Ronda Hartman Fergus



Valerie A. Lemmie



Donald L. Mason

PJD/vrm

Entered in the Journal

MAY 09 2007



Renee J. Jenkins
Secretary

4901-1-01 **Definitions.**

As used in this chapter:

- (A) "Business day" means any day which is not a Saturday, Sunday, or legal holiday.
- (B) "Commission" means the public utilities commission.
- (C) "Electric utility" means an electric light company as defined in section 4905.03 of the Revised Code and an electric services company as defined in section 4928.01 of the Revised Code.
- (D) **"ELECTRONIC FILING" MEANS THE PROCESS OF TRANSMITTING A DIGITIZED ELECTRONIC FILE VIA THE INTERNET TO THE COMMISSION'S DOCKETING INFORMATION SYSTEM FOR THE PURPOSE OF FILING THE DOCUMENT AND REFERS, AS INDICATED BY THE CONTEXT, TO THE MEANS OF TRANSMISSION OR TO A DOCUMENT SO TRANSMITTED.**
- (E) "Emergency rate proceeding" means any case involving an application for an emergency rate adjustment filed under section 4909.16 of the Revised Code.
- (EF) "Facsimile transmission" means the transmission of a source document by a facsimile machine or other electronic device that encodes a document into signals and transmits and reconstructs the signals to print a duplicate of the source document at the commission's docketing division or a party's location.
- (FG) "Gas utility" means a gas or natural gas company as defined in section 4905.03 of the Revised Code.
- (GH) "General rate proceeding" means any case involving an application for an increase in rates filed under section 4909.18 of the Revised Code, a complaint or petition filed under section 4909.34 or 4909.35 of the Revised Code, or an investigation into the reasonableness of a public utility's rates initiated by the commission under section 4905.26 of the Revised Code.
- (HI) "Long-term forecast report" has the meaning set forth in section 4935.04 of the Revised Code.
- (IJ) "Motor carrier proceeding" means any proceeding involving the regulation of one or more motor transportation companies or private motor carriers.
- (JK) "Motor transportation company" has the meaning set forth in section 4921.02 of the Revised Code.
- (KL) "Person" means a person, firm, corporation, unincorporated association, government agency, the United States, the state of Ohio or one of its political subdivisions, or any other legally cognizable entity including any entity defined as a "person" in division (A) of section 4906.01 of the Revised Code.
- (LM) "Presiding hearing officer" means the commissioner or attorney examiner presiding at a public hearing or prehearing conference.

(~~MN~~) "Private motor carrier" has the meaning set forth in section 4923.02 of the Revised Code.

(~~NO~~) "Public utility" has the meaning set forth in section 4905.02 of the Revised Code.

(~~OP~~) "Purchased gas adjustment proceeding" means any proceeding heard under section 4905.302 of the Revised Code and rule 4901:1-14-08 of the Administrative Code.

(~~PQ~~) "Railroad" has the meaning set forth in section 4907.02 of the Revised Code.

(~~QR~~) "Reporting person" means any person required to file a long-term forecast report under section 4935.04 of the Revised Code.

4901-1-02 **Filing of pleadings and other papers.**

(A) The official address of the commission's docketing division is: "Public Utilities Commission of Ohio, Docketing Division, 180 East Broad Street, Columbus, Ohio 43215-3793." Except as discussed in paragraphs (B) AND (F) of this rule, all applications, complaints, reports, pleadings, or other papers to be filed with the commission shall be mailed or delivered to the commission's docketing division at that address, together with the number of copies required by paragraph (C) of this rule. Additional copies shall be supplied to the commission or the attorney examiner assigned to the case, if requested. ~~Ne~~ **EXCEPT AS DISCUSSED IN PARAGRAPH (F) OF THIS RULE, NO** pleading or other paper shall be considered filed with the commission until it is received and date-stamped by the docketing division. An application for an increase in rates filed under section 4909.18 of the Revised Code, a complaint concerning an ordinance rate filed by a public utility under section 4909.34 of the Revised Code, and a petition filed by a public utility under section 4909.35 of the Revised Code shall not be considered filed until the date, as determined by the commission, upon which the application, complaint, or petition complied with the requirements of rule 4901-7-01 of the Administrative Code.

(B) A ~~party~~ **PERSON** may file documents with the commission via facsimile transmission (fax) under the following conditions:

(1) The following documents may not be delivered via facsimile transmission:

(a) The application, complaint, or other initial pleading which is responsible for the opening of a case.

(b) An application for rehearing which may be filed under section 4903.10 of the Revised Code or a memorandum contra an application for rehearing filed pursuant to rule 4901-1-35 of the Administrative Code.

(c) A notice of appeal of a commission order to the Ohio supreme court which may be filed pursuant to section 4903.13 of the Revised Code.

- (2) All documents sent via facsimile transmission must include:
 - (a) A transmission sheet which states the date of transmission, case number, case title, brief description of the document, and number of pages following the transmission sheet.
 - (b) The name and telephone number of the document originator and facsimile operator.
 - (3) The originator of the document or their facsimile transmission operator must contact the commission's docketing division at (614) 466-4095 prior to sending a facsimile transmission. A party **PERSON** must notify the docketing division of its intent to send a document by facsimile transmission by four p.m. on the date the document is to be sent. The party **PERSON** must be prepared to commence transmission at the time the docketing division is notified.
 - (4) All documents must be sent to the facsimile machine in the commission's docketing division at (614) 466-0313. If that machine is inoperable, directions for alternative arrangements will be given when the contact required under paragraph (B)(3) of this rule is made. Unrequested documents sent to any of the commission's other facsimile machines will not be relayed to the docketing division by commission employees.
 - (5) Excluding the transmission sheet, all documents transmitted by facsimile transmission must be thirty pages or less.
 - (6) All documents must be legible when received. If the document is illegible, docketing division will contact the sender to resolve the problem. The person making a facsimile filing shall bear all risk of transmitting a document by facsimile transmission, including all risk of equipment failure.
 - (7) No document received via facsimile transmission will be given confidential treatment by the commission.
 - (8) If a document is filed via facsimile transmission, the party must make arrangements for the original signed document and the required number of copies of the pleading to be delivered to the commission no later than the next business day.
 - (9) Because a document sent to the commission by facsimile transmission will be date-stamped, and thus filed, the day it is received by the docketing division, the originator of the document shall serve copies of the document upon other parties to the case no later than the date of filing.
- (C) ~~IN~~ **EXCEPT AS DISCUSSED IN PARAGRAPH (F) OF THIS RULE**, IN addition to the original, any person filing a pleading or other document for inclusion in a case file must submit the required number of copies of the pleading or document. Information regarding the number of copies required by the commission may be obtained by going to the commission's web site at www.puco.ohio.gov and searching case filing requirements under the docketing information system (DIS) section, by calling the docketing division at 614-466-4095, or by visiting the

docketing division at the offices of the commission. As an alternative, a filer may submit twenty copies of the filing.

- (D) A failure to submit the number of copies required by paragraphs (B) or (C) of this rule shall not invalidate or delay the effective date of a filing if the person making the filing submits the number of copies needed to correct any deficiency within two business days after notification of such deficiency by the docketing division.
- (E) Unless a request for a protective order is made concurrently with or prior to the reception by the commission's docketing division of any document that is case-related, the document will be considered a public record.
- (F) A PERSON MAY FILE DOCUMENTS WITH THE COMMISSION VIA ELECTRONIC FILING (E-FILING) UNDER THE FOLLOWING CONDITIONS:**
- (1) A PERSON MUST CREATE AN ACCOUNT FOR DIS AND E-FILERS AT WWW.PUCO.OHIO.GOV/PUCO/DOCKETING/, COMPLETE AND SEND IN A PARTICIPATION AGREEMENT, AND COMPLETE A DIS PROFILE PRIOR TO MAKING AN E-FILING.**
- (2) THE FOLLOWING DOCUMENTS SHALL NOT BE DELIVERED VIA E-FILING:**
- (A) A REQUEST FOR A SUBPOENA. PURSUANT TO RULE 4901-1-25 OF THIS CHAPTER, A COPY OF THE MOTION FOR A SUBPOENA AND THE SUBPOENA ITSELF MUST FIRST BE SUBMITTED FOR SIGNATURE BEFORE BEING DOCKETED.**
- (B) AN APPLICATION FOR REHEARING WHICH MAY BE FILED UNDER SECTION 4903.10 OF THE REVISED CODE OR A MEMORANDUM CONTRA AN APPLICATION FOR REHEARING FILED PURSUANT TO RULE 4901-1-35 OF THIS CHAPTER.**
- (C) A NOTICE OF APPEAL OF A COMMISSION ORDER TO THE OHIO SUPREME COURT FILED PURSUANT TO SECTION 4903.13 OF THE REVISED CODE.**
- (D) ANY DOCUMENT FOR WHICH PROTECTIVE OR CONFIDENTIAL TREATMENT IS REQUESTED. (IF A DOCUMENT FOR WHICH PROTECTIVE TREATMENT WILL BE SOUGHT IS LENGTHY, A FILER MAY REQUEST, PRIOR TO FILING, PERMISSION FROM THE DOCKETING DIVISION TO FILE THE DOCUMENT ON A COMPACT DISC.)**
- (E) ANY DOCUMENT IN A POWER SITING BOARD CASE. SEE CHAPTER 4906 OF THE OHIO ADMINISTRATIVE CODE FOR RULES APPLICABLE TO POWER SITING BOARD CASES.**
- (3) EXCEPT AS DISCUSSED IN PARAGRAPH (F)(2) OF THIS RULE, FILINGS IN A CASE IN WHICH A PUBLIC UTILITY IS SEEKING TO INCREASE ITS RATES PURSUANT TO SECTION 4909.18 OF THE REVISED CODE MAY BE E-FILED EXCEPT THAT A COMPANY E-FILING AN APPLICATION TO INCREASE RATES PURSUANT TO CHAPTER II OF THE STANDARD FILING REQUIREMENTS IN RULE 4901-7-01 OF THE ADMINISTRATIVE CODE SHALL (I) SUBMIT ONE COMPLETE PAPER COPY OF THE APPLICATION TO THE COMMISSION'S DOCKETING DIVISION ON THE SAME DAY THAT AN E-FILING OF THE APPLICATION IS MADE, AND (II) CONTACT THE RATE CASE MANAGER OF THE**

COMMISSION'S UTILITIES DEPARTMENT PRIOR TO THE FILING OF THE APPLICATION TO DETERMINE THE NUMBER OF PAPER COPIES OF THE APPLICATION THAT WILL BE REQUIRED BY THE COMMISSION STAFF.

- (4) PROVIDED THAT A DOCUMENT IS NOT SUBSEQUENTLY REJECTED BY THE DOCKETING DIVISION, AN E-FILED DOCUMENT WILL BE CONSIDERED FILED AS OF THE DATE AND TIME RECORDED ON THE CONFIRMATION PAGE THAT IS ELECTRONICALLY ATTACHED TO THE FILING UPON RECEIPT BY THE COMMISSION, EXCEPT THAT ANY DOCUMENT E-FILED ON A DAY THAT IS NOT A BUSINESS DAY OR ON A BUSINESS DAY AFTER FIVE-THIRTY P.M. SHALL BE CONSIDERED FILED AT SEVEN-THIRTY A.M. THE NEXT BUSINESS DAY. AN E-FILING SHALL BE REJECTED IF IT IS UNREADABLE OR IN A DIGITAL FORMAT NOT ACCEPTABLE TO THE COMMISSION, INCLUDES ANYTHING DEEMED INAPPROPRIATE FOR INCLUSION ON THE COMMISSION'S WEB SITE, OR IS INCONSISTENT WITH PARAGRAPHS (F)(2) OR (3) OF THIS RULE. IF AN E-FILING IS REJECTED BY THE DOCKETING DIVISION, AN ELECTRONIC MAIL (E-MAIL) MESSAGE WILL BE SENT TO INFORM THE FILER OF THE REJECTION AND THE REASON FOR THE REJECTION.
- (5) IF AN E-FILING IS ACCEPTED, NOTICE OF THE FILING WILL BE SENT VIA E-MAIL TO ALL PERSONS WHO HAVE ELECTRONICALLY SUBSCRIBED TO THE CASE, INCLUDING THE FILER. THIS E-MAIL NOTICE WILL CONSTITUTE SERVICE OF THE E-FILED DOCUMENT UPON THOSE PERSONS ELECTRONICALLY SUBSCRIBED TO THE CASE. UPON RECEIVING E-MAIL NOTICE THAT THE E-FILED DOCUMENT HAS BEEN ACCEPTED BY THE COMMISSION'S DOCKETING DIVISION, THE FILER SHALL SERVE COPIES OF THE DOCUMENT IN ACCORDANCE WITH RULE 4901-1-05 OF THIS CHAPTER UPON OTHER PARTIES TO THE CASE WHO ARE NOT ELECTRONICALLY SUBSCRIBED TO THE CASE.
- (6) THE COMMISSION'S DOCKETING DIVISION CLOSES AT FIVE-THIRTY P.M. TO ALLOW TIME FOR SAME-DAY REVIEW OF E-FILINGS, PERSONS MAKING E-FILINGS ARE ENCOURAGED TO MAKE THEIR FILINGS BY NO LATER THAN FOUR P.M.
- (7) THE PERSON MAKING AN E-FILING SHALL BEAR ALL RISK OF TRANSMITTING A DOCUMENT, INCLUDING BUT NOT LIMITED TO ALL RISK OF EQUIPMENT FAILURE OR INCOMPATIBLE TECHNOLOGY AND REJECTION.
- (8) E-FILED DOCUMENTS MUST BE COMPLETE DOCUMENTS. APPENDICES OR ATTACHMENTS TO AN E-FILED DOCUMENT MAY NOT BE FILED BY OTHER METHODS.
- (9) EXCEPT FOR PARAGRAPH (F)(3) OF THIS RULE OR UNLESS OTHERWISE ORDERED BY THE COMMISSION, A PERSON FILING A DOCUMENT ELECTRONICALLY NEED NOT FILE ANY ORIGINAL PAPER COPY OR COPIES OF THE ORIGINAL WITH THE COMMISSION'S DOCKETING DIVISION BUT MUST MAINTAIN IN HIS OR HER RECORDS, AND HAVE AVAILABLE FOR PRODUCTION ON REQUEST OF THE COMMISSION'S SECRETARY, A COPY OF ANY DOCUMENT E-FILED AND A COPY OF THE NOTICE FROM DOCKETING DIVISION THAT THE DOCUMENT HAS BEEN FILED. THE FILER MUST MAINTAIN A COPY OF THE E-FILED DOCUMENT AND A COPY OF THE NOTICE FROM THE

DOCKETING DIVISION THAT THE DOCUMENT HAS BEEN FILED UNTIL THE FINAL DISPOSITION OF THE CASE AND THROUGH ANY APPEAL PERIOD.

(G) THE COMMISSION'S DIS DESIGNATES THE STATUS OF EACH CASE UNDER THE CASE NUMBER AND CASE NAME ON THE DOCKET CARD. AS DISCUSSED BELOW, ATTEMPTS TO MAKE FILINGS IN CERTAIN DESIGNATED CASES WILL BE DENIED.

- (1) AN "OPEN" CASE IS AN ACTIVE CASE IN WHICH FILINGS MAY BE MADE.
- (2) A "CLOSED CASE" MEANS A CASE IN WHICH NO FURTHER FILINGS MAY BE MADE WITHOUT THE CONSENT OF THE COMMISSION'S LEGAL DEPARTMENT. GENERALLY, A CASE IS CLOSED APPROXIMATELY NINETY DAYS AFTER THE ISSUANCE OF AN ENTRY, FINDING AND ORDER, OR OPINION AND ORDER THAT RESOLVES THE ISSUES IN THE CASE AND AFTER ALLOWING TIME FOR APPLICATION FOR REHEARING, COURT APPEAL, OR ANY DOCUMENTATION ORDERED TO BE FILED BY THE COMMISSION. WHEN A CASE IS CLOSED, ANY PERSON SEEKING TO MAKE A FILING IN THE CASE MUST FIRST CONTACT THE ATTORNEY EXAMINER ASSIGNED TO THE CASE OR THE COMMISSION'S LEGAL DIRECTOR TO CONSIDER THE REQUEST. IF THE ATTORNEY EXAMINER OR LEGAL DIRECTOR AGREES TO PERMIT THE FILING, THE DOCKETING DIVISION WILL BE NOTIFIED TO REOPEN THE CASE. IF AN ADDITIONAL FILING IS PERMITTED, THE CASE STATUS WILL BE CHANGED TO "OPEN" AND SERVICE OF THE FILING MUST BE MADE BY THE FILER UPON THE PARTIES TO THE CASE IN ACCORDANCE WITH RULE 4901-1-05 OF THIS CHAPTER.
- (3) AN "ARCHIVED CASE" MEANS A CLOSED CASE IN WHICH NO FURTHER FILINGS WILL BE PERMITTED AND THE CASE CANNOT BE REOPENED. A CASE WILL NOT BE ARCHIVED UNTIL IS HAS BEEN CLOSED FOR APPROXIMATELY ONE YEAR. A "RELATED" CASE WILL BE CREATED IF ADDITIONAL ACTIVITY IS THEREAFTER REQUIRED ON ANY MATTER ADDRESSED IN THE ORIGINAL CASE. THE DOCKETING INFORMATION SYSTEM DISPLAYS A "RELATED CASES" TAB TO PROVIDE A LINK TO RELATED CASES.
- (4) A "RESERVED" CASE IS ONE RESERVED FOR FUTURE USE. NO FILINGS SHOULD BE MADE IN THE CASE UNTIL THE PARTY WHO RESERVED THE CASE MAKES AN INITIAL FILING.
- (5) A "VOID" CASE IS ONE THAT WILL NOT BE USED AND NO DOCUMENTS MAY BE FILED IN IT.

4901-1-03 Form of pleadings and other papers

- (A) All pleadings or other papers to be filed with the commission shall contain a caption or cover sheet setting forth the name of the commission, the title of the proceeding, and the nature of the pleading or paper. All pleadings or papers filed subsequently to the original filing or commission entry initiating the proceeding shall contain the case name and docket number of

the proceeding. Such pleadings or other papers shall also contain the name, address, and telephone number of the person filing the paper, or the name, address, and telephone number of his or her attorney, if such person is represented by counsel. ~~The party~~ ANY PERSON making a filing ~~should~~ MAY include a facsimile transmission number and/or an electronic message (e-mail) address ~~if the party~~ FOR INFORMATIONAL PURPOSES, BUT SUCH INFORMATION MUST BE PROVIDED IF THE PERSON is willing to accept service of pleadings by facsimile transmission or e-mail CONSISTENT WITH PARAGRAPHS (C)(3) AND (4) OF RULE 4901-1-05 OF THIS CHAPTER.

- (B) All pleadings or other papers to be filed with the commission shall be printed, typewritten, or legibly handwritten on eight and one-half by eleven-inch paper. This requirement does not apply to:
- (1) Original documents to be offered as exhibits.
 - (2) Copies of original documents to be offered as exhibits, where compliance with this requirement would be impracticable.
 - (3) Forms approved or supplied by the commission.
- (C) Nothing in paragraph (B) of this rule prohibits the filing of photocopies of documents which otherwise meet the requirements of that paragraph.

4901-1-04 **Signing of pleadings.**

~~ALL~~ EXCEPT FOR ELECTRONICALLY FILED DOCUMENTS, ALL applications, complaints, or other pleadings filed by any person shall be signed by that person or by his or her attorney, but need not be verified unless specifically required by law or by the commission. ELECTRONIC FILERS SHALL USE "/s/" FOLLOWED BY THE SIGNER'S NAME TO INDICATE A SIGNATURE WHERE APPLICABLE.

4901-1-05 **Service of pleadings and other papers.**

- (A) Unless otherwise ordered by the commission, the legal director, the deputy legal director, or an attorney examiner, all pleadings or papers filed with the commission subsequent to the original filing or commission entry initiating the proceeding shall be served upon all parties, no later than the date of filing. Such pleadings or other papers shall contain a certificate of service. The certificate of service shall state the date and manner of service, identify the names of the persons served, and be signed by the attorney or the party who files the document. The certificate of service for a document served by mail or personal service shall also include the address of the person served. The certificate of service for a document served by facsimile transmission shall also include the facsimile number of the person to whom the document was transmitted. The certificate of service for a document served by electronic message (E-MAIL) shall also include the e-mail address of the person to whom the document was sent.

IF AN ELECTRONIC FILING (E-FILING) IS ACCEPTED, AN E-MAIL NOTICE OF THE FILING WILL BE SENT TO ALL PERSONS WHO HAVE ELECTRONICALLY SUBSCRIBED TO THE CASE. THE E-MAIL NOTICE WILL CONSTITUTE SERVICE OF THE DOCUMENT UPON THE RECIPIENT. UPON RECEIVING NOTICE THAT AN E-FILING HAS BEEN ACCEPTED BY THE COMMISSION'S DOCKETING DIVISION, THE FILER SHALL SERVE COPIES OF THE DOCUMENT IN ACCORDANCE WITH THIS RULE UPON ALL OTHER PARTIES TO THE CASE WHO ARE NOT SERVED VIA E-MAIL. A PERSON MAKING AN E-FILING SHALL LIST IN THE CERTIFICATE OF SERVICE INCLUDED WITH AN E-FILING THE PARTIES WHO WILL BE SERVED VIA E-MAIL NOTICE BY THE COMMISSION'S DOCKETING INFORMATION SYSTEM AND WHICH PARTIES WILL BE SERVED VIA TRADITIONAL METHODS BY THE PERSON MAKING THE E-FILING. THE CERTIFICATE OF SERVICE FOR AN E-FILED DOCUMENT SHALL INCLUDE THE FOLLOWING: THE COMMISSION'S DOCKETING INFORMATION SYSTEM WILL ELECTRONICALLY SERVE NOTICE OF THE FILING OF THIS DOCUMENT ON THE FOLLOWING PARTIES: (LIST THE NAMES OF THE PARTIES REFERENCED ON THE SERVICE LIST OF THE CASE DOCKET CARD WHO HAVE ELECTRONICALLY SUBSCRIBED TO THE CASE).

- (B) If a party has entered an appearance through an attorney, service of pleadings or other papers shall be made upon the attorney instead of the party. If the party is represented by more than one attorney, service need be made only upon the "counsel of record" designated under rule 4901-1-08 of the Administrative Code. If a spokesperson has been designated under rule 4901-1-08 of the Administrative Code, service upon the spokesperson constitutes service upon all of the complainants or petitioners.
- (C) Service upon an attorney or party may be personal, by mail, by facsimile transmission, or by ~~electronic message (e-mail)~~ under the following conditions:
- (1) Personal service is complete by delivery of the copy to the attorney or to a responsible person at the office of the attorney. Personal service to a party not represented by an attorney is complete by delivery to the party or to a responsible person at the address provided by the party in its pleadings.
 - (2) Service by mail to an attorney or party is complete by mailing a copy to his or her last known address. If the attorney or party to be served has previously filed and served one or more pleadings or other papers in the proceeding, the term "last known address" means the address set forth in the most recent such pleading or other paper.
 - (3) *Service of a document to an attorney or party by facsimile transmission may be made only if the person to be served has consented to receive service of the document by facsimile transmission. A PERSON SHALL PROVIDE CONSENT BY STATING ON THE COVER PAGE OF ANY DOCUMENT FILED IN A CASE THAT HE OR SHE AGREES TO ACCEPT SERVICE BY FACSIMILE TRANSMISSION.* Service by facsimile transmission is complete upon the sender receiving a confirmation generated by the sender's facsimile equipment that the facsimile transmission has been sent. The sender shall retain the confirmation as proof of service until the final disposition of the case and through any appeal period.

- (4) Service of a document by ~~electronic message~~ E-MAIL to an attorney or party may be made only if the person to be served has consented to receive service of the document by ~~electronic message~~ E-MAIL. **A PERSON SHALL PROVIDE CONSENT BY STATING ON THE COVER PAGE OF ANY DOCUMENT FILED IN A CASE THAT HE OR SHE AGREES TO ACCEPT SERVICE BY E-MAIL.** Service by electronic message is complete upon the sender receiving a confirmation generated by the sender's computer that the ~~electronic message~~ E-MAIL has been sent. The sender shall retain the confirmation as proof of service until the final disposition of the case and through any appeal period.
- (D) For purposes of this rule, the term "party" includes all persons who have filed motions to intervene which are pending at the time a pleading or paper is to be served, provided that the person serving the pleading or other paper has been served with a copy of the motion to intervene.

4901-1-24 **Motions for protective orders.**

- (A) Upon motion of any party or person from whom discovery is sought, the commission, the legal director, the deputy legal director, or an attorney examiner may issue any order which is necessary to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense. Such a protective order may provide that:
- (1) Discovery not be had.
 - (2) Discovery may be had only on specified terms and conditions.
 - (3) Discovery may be had only by a method of discovery other than that selected by the party seeking discovery.
 - (4) Certain matters not be inquired into.
 - (5) The scope of discovery be limited to certain matters.
 - (6) Discovery be conducted with no one present except persons designated by the commission, the legal director, the deputy legal director, or the attorney examiner.
 - (7) A trade secret or other confidential research, development, commercial, or other information not be disclosed or be disclosed only in a designated way.
 - (8) Information acquired through discovery be used only for purposes of the pending proceeding, or that such information be disclosed only to designated persons or classes of persons.
- (B) No motion for a protective order shall be filed under paragraph (A) of this rule until the person or party seeking the order has exhausted all other reasonable means of resolving any

differences with the party seeking discovery. A motion for a protective order filed pursuant to paragraph (A) of this rule shall be accompanied by:

- (1) A memorandum in support, setting forth the specific basis of the motion and citations of any authorities relied upon.
 - (2) Copies of any specific discovery requests which are the subject of the request for a protective order.
 - (3) An affidavit of counsel, or of the person seeking a protective order if such person is not represented by counsel, setting forth the efforts which have been made to resolve any differences with the party seeking discovery.
- (C) If a motion for a protective order filed pursuant to paragraph (A) of this rule is denied in whole or in part, the commission, the legal director, the deputy legal director, or the attorney examiner may require that the party or person seeking the order provide or permit discovery, on such terms and conditions as are just.
- (D) Upon motion of any party or person with regard to the filing of a document with the commission's docketing division relative to a case before the commission, the commission, the legal director, the deputy legal director, or an attorney examiner may issue any order which is necessary to protect the confidentiality of information contained in the document, to the extent that state or federal law prohibits release of the information, including where the information is deemed by the commission, the legal director, the deputy legal director, or the attorney examiner to constitute a trade secret under Ohio law, and where nondisclosure of the information is not inconsistent with the purposes of Title 49 of the Revised Code. Any order issued under this paragraph shall minimize the amount of information protected from public disclosure. The following requirements apply to a motion filed under this paragraph:
- (1) All documents submitted pursuant to paragraph (D) of this rule should be filed with only such information redacted as is essential to prevent disclosure of the allegedly confidential information. Such redacted documents should be filed with the otherwise required number of copies for inclusion in the public case file.
 - (2) Three unredacted copies of the allegedly confidential information shall be filed under seal, along with a motion for protection of the information, with the secretary of the commission, the chief of the docketing division, or the chief's designee. Each page of the allegedly confidential material filed under seal must be marked as "confidential," "proprietary," or "trade secret."
 - (3) The motion for protection of allegedly confidential information shall be accompanied by a memorandum in support setting forth the specific basis of the motion, including a detailed discussion of the need for protection from disclosure, and citations of any authorities relied upon. The motion and memorandum in support shall be made part of the public record of the proceeding.

- (4) If a motion for a protective order is filed in a case involving a request for approval of a contract between a telecommunications carrier and a customer, and the contract has an automatic approval process, unless the Commission suspends the automatic approval process or otherwise rules on the motion for a protective order, the motion for a protective order will be automatically approved for an eighteen-month period beginning on the date that the contract is automatically approved. Nothing prohibits the Commission from rescinding the protective order during the eighteen-month period. If a motion for a protective order for information included in a gas marketer's renewal certification application case filed pursuant to section 2928.09 of the Revised Code, or a competitive retail electric service provider's renewal certification application case filed pursuant to section 4928.09 of the Revised Code, is granted, the motion will be automatically approved for a twenty-four month period beginning with the date of the renewed certificate. Nothing prohibits the commission from rescinding the protective order during the twenty-four month period. Automatic approval of confidentiality under this provision shall not preclude the Commission from examining the confidentiality issue de novo if there is an application for rehearing on confidentiality or a public records request for the redacted information.
- (E) Pending a ruling on a motion filed in accordance with paragraph (D) of this rule, the information filed under seal will not be included in the public record of the proceeding or disclosed to the public until otherwise ordered. The commission and its employees will undertake reasonable efforts to maintain the confidentiality of the information pending a ruling on the motion. A document or portion of a document filed with the docketing division that is marked "confidential," "proprietary," "trade secret," or with any other such marking will not be afforded confidential treatment and protected from disclosure unless it is filed in accordance with paragraph (D) of this rule.
- (F) Unless otherwise ordered, any order prohibiting public disclosure pursuant to paragraph (D) of this rule shall automatically expire eighteen months after the date of its issuance, and such information may then be included in the public record of the proceeding. A party wishing to extend a protective order beyond eighteen months shall file an appropriate motion at least forty-five days in advance of the expiration date of the existing order. The motion shall include a detailed discussion of the need for continued protection from disclosure.
- (G) The requirements of this rule do not apply to information submitted to the commission staff. However, information submitted directly to the legal director, the deputy legal director, or the attorney examiner, that is not filed in accordance with the requirements of paragraph (D) of this rule, may be filed with the docketing division as part of the public record. No document received via facsimile transmission OR ELECTRONIC FILING will be given confidential treatment by the commission.

4901-1-35

Applications for rehearing.

- (A) Any party or any affected person, firm, or corporation may file an application for rehearing, within thirty days after the issuance of a commission order, in the form and manner and under

the circumstances set forth in section 4903.10 of the Revised Code. An application for rehearing must set forth the specific ground or grounds upon which the applicant considers the commission order to be unreasonable or unlawful. An application for rehearing must be accompanied by a memorandum in support, which sets forth an explanation of the basis for each ground for rehearing identified in the application for rehearing and which shall be filed no later than the application for rehearing.

- (B) Any party may file a memorandum contra within ten days after the filing of an application for rehearing.
- (C) As provided in section 4903.10 of the Revised Code, all applications for rehearing must be submitted within thirty days after an order has been journalized by the secretary of the commission, or, in the case of an application which is subject to automatic approval under the commission's procedures, an application for rehearing must be submitted within thirty days after the date on which the automatic timeframe has expired, unless the application has been suspended by the commission.
- (D) A party or any affected person, firm, or corporation may only file one application for rehearing to a commission order within thirty days following the entry of the order upon the journal of the commission.
- (E) An application for rehearing filed under section 4903.10 of the Revised Code, or a memorandum contra an application for rehearing filed pursuant to rule 4901-1-35 of the Administrative Code may not be delivered via facsimile transmission **OR ELECTRONIC FILING.**

4901-1-36 **Supreme court appeals.**

Consistent with the requirements of section 4903.13 of the Revised Code, a notice of appeal of a commission order to the Ohio supreme court must be filed with the commission's docketing division within the time period prescribed by the court and served, unless waived, upon the chairman of the commission, or, in his absence, upon any public utilities commissioner, or by leaving a copy at the offices of the commission at Columbus. A notice of appeal of a commission order to the Ohio supreme court may not be delivered via facsimile transmission **OR ELECTRONIC FILING.**