

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's Response)
to Provisions of the Federal Energy Policy)
Act of 2005 Regarding Net Metering, Smart)
Metering and Demand Response,) Case No. 05-1500-EL-COI
Cogeneration and Power Production)
Purchase and Sale Requirements, and)
Interconnection.)

ENTRY ON REHEARING

The Commission finds:

- (1) On March 28, 2007, the Commission issued a finding and order in response to the Energy Policy Act of 2005 (EPAct) that adopted recommendations of Commission staff regarding net metering, smart metering, cogeneration and small power production purchase and sale requirements, and interconnection. In addition, the March 28, 2007 finding and order modified the Commission's rules for interconnection set forth in Chapter 4901:1-22, Ohio Administrative Code (O.A.C.), and the Commission's rules for net metering set forth in Rules 4901:1-10-28 and 4901:1-21-01, O.A.C., and incorporated revisions to the safety and performance standards established by the Institute of Electrical and Electronics Engineers (IEEE), the Underwriters Laboratory (UL), and the National Electric Code (NEC).
- (2) By entry of July 25, 2007, the Commission issued a supplemental entry amending the rules to give a cross-reference to Rule 4901:1-22-03, O.A.C., to provide the effective date of the IEEE, UL, and NEC standards.
- (3) Section 4903.10, Revised Code, indicates that any party who has entered an appearance in a Commission proceeding may apply for rehearing with respect to any matters determined by filing an application within 30 days after the entry of the order upon the journal of the Commission.
- (4) On August 24, 2007, Office of the Ohio Consumers' Counsel (OCC) filed an application for rehearing. OCC argues that the Commission erred by not ensuring that the standards

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referenced in Rules 4901:1-10-28(B) and 4901:1-21-13(C), O.A.C., specifically, the IEEE, UL, and NEC standards, are available to all customers who are interested in net-metering. OCC stated that it is concerned that some persons interested in net-metering will be unable to easily obtain the standards that are incorporated into the Commission's rules and may be discouraged in attempting to net-meter. In addition, OCC claims that Section 121.72, Revised Code, requires that when a public agency incorporates standards into a rule by reference, the agency must explain how the public reasonably expected to be affected by the rule can obtain copies of the text or other material that has been incorporated by reference. Further, OCC argues that Section 121.74, Revised Code, requires that an agency must, when filing a rule in final form with JCARR in which materials are incorporated by reference, before the effective date of the rule, either deposit one complete and accurate copy of the text or other material in each of the five depository libraries designated by the state library board or display a complete and accurate copy of the text or other material on a web site maintained by the agency. According to OCC, the Commission should incorporate into the revised rules the means whereby persons interested can reasonably obtain the standards they will be required to meet.

- (5) We find no merit to OCC's application for rehearing. Section 121.75, Revised Code, provides that

Sections 121.71 to 121.74 of the Revised Code do not apply with regard to the incorporation by reference into a rule of any of the following so long as the incorporation by reference consists of a citation that will be intelligible to the persons who reasonably can be expected to be affected by the rule and that, if the incorporated text or other material was, is, or reasonably can be expected to be subject to change, identifies, and specifies the date of, the particular edition or other version that is incorporated:

(A) A section of the United States Code;

(B) An uncodified federal statute, if it has been appended as a legislative note to a section in the United States Code;

(C) An act of this state in the Laws of Ohio or a federal act in the Statutes at Large;

(D) A regulation in the Federal Register or Code of Federal Regulations; or

(E) A text or other material, including, without limitation, generally accepted industry standards, that is generally available to persons who reasonably can be expected to be affected by the rule.

In this case, Sections 121.72 and 121.74, Revised Code, cited to by OCC, do not apply to the incorporation of the IEEE, UL, and NEC standards by reference in the Commission's rules, including Chapters 4901:1-10, 4901:1-21, and 4901:1-22, O.A.C.


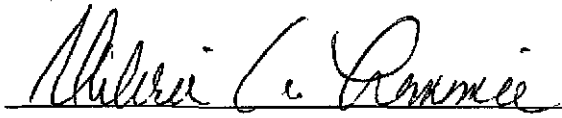
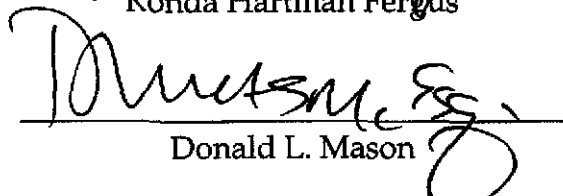
- (6) First, the Commission notes that the IEEE, UL, and NEC standards are highly technical engineering standards for interconnecting distributed resources with the electric power system. While residential customers are potential interconnection customers, particularly for net metering arrangements, they will necessarily have to look to the engineering expertise of the utilities, manufacturers and installers of distributive generation equipment for insuring that the connection of their facility with the utility's system conforms to these standards. Thus, the incorporation of the IEEE, UL, and NEC standards into the Commission's rules by citation is intelligible to the persons who reasonably can be expected to be affected by the rules. Moreover, these standards are generally known and available to the utilities, as well as the manufacturers and installers of distributive generation equipment. Customers who are interested in reviewing these standards can contact the manufacturer or installer of such equipment or purchase a copy of the standards from the publishers. Additionally, to assist potential interconnection customers, the Commission has, as a public service, posted on our website a plain language guide for customers wishing to interconnect their distributive resource to the electric utility power system. Finally, the Commission observes that, consistent with Section 121.75, Revised Code, our rules specify the particular edition of the IEEE, UL, and NEC standards that are incorporated, in this case, the rules adopted in final form and effective as of March 31, 2007.

It is, therefore,

ORDERED, That OCC's application for rehearing be denied. It is, further,

ORDERED, That copies of this entry on rehearing be served upon parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO


Alan R. Schriber, Chairman
Paul A. Centolella
Ronda Hartman Fergus
Valerie A. Lemmie
Donald L. Mason

SEF:ct

Entered in the Journal

SEP 19 2007



Renee J. Jenkins
Secretary