BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's Review of Chapter 4901-7, Ohio Administrative Code, Standard Filing Requirements for Rate Increases Filed Pursuant to Chapter 4909, Revised Code.	)))))	Case No. 08-558-AU-ORD

FINDING AND ORDER

The Commission finds:

(1) Sections 111.15 and 119.032, Revised Code, require the Commission to conduct a review, every five years, of its rules and to determine whether to continue its rules without change, amend its rules, or rescind its rules. The Chapter 4901-7, Ohio Administrative Code (O.A.C.), governs the standard filing requirements (SFRs) for rate increase applications.

(2) Section 119.032(C), Revised Code, requires the Commission to determine all of the following:

(a) Whether the rules should be continued without amendment, be amended, or be rescinded, taking into consideration the purpose, scope, and intent of the statute(s) under which the rules were adopted.

(b) Whether the rules need amendment or rescission to give more flexibility at the local level.

(c) Whether the rules need amendment or rescission to eliminate unnecessary paperwork, or whether the rules incorporate a text or other material by reference and, if so, whether the text or other material incorporated by reference is deposited or displayed as required by Section 121.74, Revised Code, and whether the incorporation by reference meets the standards stated in Sections 121.72, 121.75, and 121.76, Revised Code.

(d) Whether the rules duplicate, overlap with, or conflict with other rules.

(3) In making its review, an agency is required to consider the continued need for the rules, the nature of any complaints or comments received concerning the rules, and any factors that have changed in the subject matter area affected by the rules.

(4) In addition, on February 12, 2008, the governor of the state of Ohio issued Executive Order 2008-04S, entitled "Implementing Common Sense Business Regulation," (executive order) which sets forth several factors to be considered in the promulgation of rules and requires the Commission to review its existing body of promulgated rules. Specifically, among other things, the Commission must review its rules to ensure that each of its rules is needed in order to implement the underlying statute; must amend or rescind rules that are unnecessary, ineffective, contradictory, redundant, inefficient, or needlessly burdensome, or that unnecessarily impede economic growth, or that have had unintended negative consequences; and must reduce or eliminate areas of regulation where federal regulation now adequately regulates the subject matter.

(5) By entry issued May 7, 2008, the Commission issued that the Staff-proposed revisions and suggestions for Chapter 4901-7, O.A.C., for comment. The Commission noted that this chapter consists of one rule, Rule 4901-7-01, O.A.C., and an appendix that sets forth the SFRs for applications requesting an increase in rates pursuant to Section 4909.18, Revised Code, all complaints filed under Section 4909.34, Revised Code, and all petitions filed under Section 4909.35, Revised Code. The Staff-proposed modifications to the appendix included the elimination of the SFRs in Section F pertaining to the projected financial data, the elimination of the medium utility category, and the inclusion of a requirement that all schedules be provided in electronic format. In addition, with regard to the electric industry, the Commission also stated that the SFRs for the standard service offer in accordance with S.B. 221 would be considered in a separate docket.[1]

(6) Initial comments were filed in this docket on July 15, 2008, by the office of the Ohio Consumers' Counsel (OCC); Cleveland

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1 The SFRs for the standard service offers of the electric utilities was addressed in *In the Matter of the Adoption of Rules for Standard Service Offer, Corporate Separation, Reasonable Arrangements, and Transmission Riders for Electric Utilities Pursuant to Sections 4928.14, 4928.17, and 4905.31, Revised Code, as Amended by Amended Substitute Senate Bill No. 221*, Case No. 08-777-EL-ORD (*Electric SSO Rulemaking Case*).

Thermal Steam Distribution, LLC (Cleveland Thermal); Ohio Edison Company, the Cleveland Electric Illuminating Company, and The Toledo Edison Company (jointly referred to as FirstEnergy); Columbus Southern Power Company and Ohio Power Company (jointly referred to as AEP); and the Ohio Gas Association, the East Ohio Gas Company d/b/a Dominion East Ohio, Columbia Gas of Ohio, Inc., Duke Energy Ohio, Inc., and Vectren Energy Delivery of Ohio, Inc. (jointly referred to as the gas companies). Reply comments were filed on September 30, 2008, by OCC and FirstEnergy, with AEP filing a letter in support of FirstEnergy's reply comments.

(7) The Commission will address the more relevant comments below. The Commission would also note that some minor, noncontroversial changes have been incorporated into the amended rules without Commission comment. Any recommended change that is not discussed below or incorporated into the amended rules should be considered denied.

(8) Initially, the Commission has determined that it would be appropriate to number the pages in the appendix sequentially and to add a table of contents. In light of this decision, it was unfeasible to provide a redlined version of the appendix with this finding and order. However, in order to assist the reader, for each paragraph referred to in this order, we have provided a citation to the page numbers contained in the appendix attached to the Commission's May 7, 2008, entry issuing the rule and appendix for comment, followed by a citation to the page numbers contained in the amended appendix attached to this order. For example, the first cite set forth in finding (11) is II-1(12)/p. 8, with II-1(12) referencing the rules put out for comment and p. 8 referencing the page number in the appendix attached to this order. Finally, we would note that, as a result of our review, some of the chapters and paragraphs in the appendix attached to this order have been renumbered. Throughout this order, however, our references to chapter and paragraph numbers refer to the chapter and paragraph numbers as enumerated in the Commission's May 7, 2008, entry.

General Comments

(9) OCC proposes that, because of the importance of the policies stated in S.B. 221 concerning distributed generation, demand response, and energy efficiency, utilities' rate filings should include schedules providing information pertaining to the progress of each of these items. (OCC at 11-13.)

FirstEnergy disagrees with OCC's proposal pointing out that OCC has failed to show how OCC's proposed requirements would fit within the scope of a distribution rate case. FirstEnergy notes that distributed generation and smart metering are the subjects of separate proceedings and any appropriate benefits or costs associated with them would be included in those proceedings. Moreover, FirstEnergy emphasizes that the purpose of a rate case is to recover through rates the costs in rate base, a return on those costs, and reasonable operating expenses; therefore, if there are monetary costs or benefits associated with these items, they would already be included in the applicable accounts that are included in the rate case filing. With regard to OCC's request for information on energy efficiency, FirstEnergy submits that the issues raised by OCC are addressed in statutes unrelated to the ratemaking statutes and a distribution rate case is not the forum in which to review a utility's compliance with the statutes addressing energy efficiency. (FE Reply at 4-5.)

In accordance with Section 4935.04, Revised Code, and S.B. 221, the Commission's rules, as set forth in Chapter 4901:5-5, O.A.C, require that electric companies file forecast reports on a regular basis. Specifically, pursuant to Rule 4901:5-5-01(C)(3), O.A.C., electric companies must file information with the Commission regarding, among other things, demand reduction and demand response programs. These requirements are filed independent from a rate application; however, the Commission agrees that, if there are costs or benefits associated with distributed generation, demand response, or energy efficiency, such information must be included in the applicable accounts that are included in the rate case filing. We believe that the information requested in the SFRs proposed by the Staff appropriately covers this information. Therefore, the Commission finds that, to the extent OCC's request seeks

information beyond that set forth in the SFRs, as attached to this order, OCC's request should be denied.

(10) OCC recommends that a utility be required to identify any fines or penalties it has incurred or settlements it has reached with any governmental agency, along with an explanation addressing the circumstances, as part of its SFR supplemental information in a rate filing. (OCC at 13.)

FirstEnergy opposes OCC's recommendation stating that to mandate disclosure of underlying circumstances of a settlement would overstep the Commission's authority and could create a chilling effect on settlements. Furthermore, any costs associated with fines, penalties, or settlements, for which the applicant seeks recovery, would be included in the application. (FE Reply at 6.)

The Commission notes that, to the degree a utility company requests recovery from ratepayers resulting from fines or penalties that the company has incurred, the proposed SFRs require that this information be included in the company's rate case filing. However, to the extent OCC requests that a new filing requirement be created that mandates that any fines or penalties incurred or any settlement the company has reached with any governmental agency, along with an explanation addressing the circumstances, must be included as part of the SFR supplemental information in a rate filing, the Commission finds that such a requirement is unnecessary. Therefore, OCC's request should be denied. However, if recovery from ratepayers is requested by a public utility, such information may be obtained through discovery.

Revisions to Multiple Chapters

(11) The current chapters in the appendix set forth four categories that contain threshold numbers based on access line or customer counts that determine which SFRs an applicant must file (e.g., abbreviated, small, medium, or large). The table below sets forth the customer or access line counts, for both the current rules and the Staff-proposed rules, for each category.

	Large Chapter II II-1(12)/p. 8	Medium Chapter III III-1(196)/NA	Small Chapter IV IV-1(275)/p. 160	Abbreviated Chapter V V-1(296)/ p. 188
Electric- current and Staff-proposed	All			
Steam - current and Staff-proposed	All			
Steam - as revised in this order			All	
Gas current	10,000 or more customers	5,000 to 10,000 customers	2,000 to 5,000 customers	2,000 or less customers
Gas staff-proposed	10,000 or more customers		2,000 to 10,000 customers	2,000 or less customers
Telephone current	35,000 or more access lines	10,000 to 35,000 access lines	2,000 to 10,000 access lines	2,000 or less access lines
Telephone Staff-proposed	50,000 or more access lines		Less than 50,000 access lines	
Water/Sewer current	15,000 or more customers	5,000 to 15,000 customers	2,500 to 5,000 customers	2,500 or less customers
Water/Sewer Staff-proposed	15,000 or more customers		2,500 to 15,000 customers	2,500 or less customers

As depicted in the above table, the Staff proposed that the threshold for large telephone companies be raised from 35,000 to 50,000 access lines in conformity with the definition of large and small incumbent local exchange carriers provided in the Rule 4901:1-4-01(J) and (L), O.A.C., respectively. In addition, the Staff proposed the elimination of the medium utility category; therefore, with the proposed elimination of the

medium utility category, any applicant whose customer or access line counts fall between the thresholds for an abbreviated filing and the thresholds for a large utility filing would need to file the SFRs required for a small utility.

(a) In its comments, Cleveland Thermal states that, while it is not opposed to the elimination of the medium utility category, it objects to the classification of steam utilities as large utilities. According to Cleveland Thermal, steam utilities should be classified as small utilities. In support of its position, Cleveland Thermal compares its customer base with those of other large and small utilities and points out that it currently has less that 100 customer accounts. Also, Cleveland Thermal believes that its employee count is more akin to the number of employees at a small gas or waterworks utility. Furthermore, Cleveland Thermal notes that, while four years ago all steam utility systems in Ohio were affiliated with electric utilities, such is not the case today; therefore, there is no reason to group steam utilities with electric utilities. (Cleve. Thermal at 1-2.)

The Commission finds that, in light of the number of customer accounts that Ohio steam companies have, Cleveland Thermal's request is reasonable and should be granted. Therefore, the appendix, at II-1(12)/p. 8 and IV-1(275)/p. 160, should be revised to reflect that all Ohio steam utilities should be defined as small utilities.

(b) OCC points out that, as proposed by the Staff, with the elimination of the medium utility category, the threshold for qualifying as a small company has been raised; thus, most companies that are currently medium companies would be considered small companies, under the Staff's proposal. OCC requests that it be clarified whether, in determining under which category a utility must file: the thresholds for water companies and sewer companies are for these

types of companies as combined companies or separate companies (OCC recommends that the combined companies should count all of their customers); and whether a water and/or sewer company must include year-round customers, seasonal customers, and available-for-use customers (OCC recommends that they must consider their entire customer base). (OCC at 7-9.)

In response to OCC's request for clarification, the Commission states that a combined water and sewer company must count all of its customers combined, including year-round customers, seasonal customers, and available-for-use customers.

(c) OCC also recommends that the upper limit for water and/or sewer companies to file abbreviated SFRs and the lower limit for small water and/or sewer companies should be 2,000 customers, consistent with the gas and telephone threshold. (OCC at 9-10.)

The Commission disagrees with OCC's request to lower the current customer count for an abbreviated filing from 2,500 customers to 2,000; therefore, OCC's request should be denied.

The Commission notes that the change adopted by this order will require the renumbering of the chapters in the appendix. Chapter I will continue to be for notice of intent and Chapter II will continue to be for large utilities. Chapter III will now be for small utilities and Chapter IV will now be for utilities making an abbreviated filing.

(12) Waivers: Recently, the Commission made modifications to various Chapters of the O.A.C., regarding the waiving of Commission rules. Accordingly, we find it appropriate to modify the appendix to this rule to comport with the rule waiver provisions in those chapters. Specifically, Chapter II, Paragraph (A)(4), at II-2(13)/p. 9, and current Chapter IV, Paragraph (A)(4), at IV-2(276)/p. 162, should be revised.

(13) Uniform Systems of Accounts (USOA):

(a) Chapter II, Paragraph (A)(2), at II-2(13)/p. 9 – This paragraph requires that, in completing the schedules required by this rule, the utility must follow the USOA prescribed for that utility.

OCC notes that it has become more common for a utility to use a chart of accounts for financial reporting purposes that is different from the USOA. Therefore, OCC recommends that, if a utility uses non-USOA accounts, then the details required in the SFRs should be expanded to require the utility to: explain how its use of different charts of accounts impacts the schedules filed in the rate case; reconcile the non-USOA account data with the USOA account data and explain any differences; and explain the utility's accounting system software and how it supports the use of different charts of accounts and conversion of accounting data. Therefore, OCC recommends that Paragraph (A)(2) be revised to recognize the use of non-USOA accounting and require additional detail, and that a new paragraph be added to Paragraph (C) setting forth the required information. (OCC at 2-6.)

FirstEnergy opposes OCC's recommendation stating that to require the utility to provide this additional data, including reconciliation of each account, is redundant with other rules and procedures, and a waste of time and resources. Furthermore, FirstEnergy points out that the information is available to the Staff through audits and data requests, and that OCC may request this information through discovery in a rate case.

The Commission recognizes that in certain, very limited, circumstances there might be a use for non-USOA accounts; however, we continue to believe that the USOA is the best standardized set of accounting rules for utilities to follow. In the

event non-USOA accounts are used by a utility for financial reporting purposes, the information OCC is requesting may be obtained through discovery. In addition, Chapter II, Paragraph (D)(6) of the SFRs, attached to this order, requires that, at the audit, the company must provide a chart of accounts which contains descriptions of all accounts and subaccounts. Therefore, the Commission finds that OCC's request to insert language that would require utilities to file the various explanations and reconciliations for SFR purposes should be denied.

(b) Chapter II, Paragraph (C)(8), at II-24(30)/p. 21 – This paragraph requires that the applicant provide a worksheet showing, by Federal Energy Regulatory Commission (FERC), Federal Communications Commission (FCC), National Association of Regulatory Utility Commission (NARUC), or Commission account, the monthly test year data and totals which agree with Schedule C-2.1.

The gas companies request that this paragraph be revised so that, while an applicant must provide the necessary worksheet, the worksheet does not have to be by FERC, FCC, NARUC, or Commission account. According to the gas companies, if an applicant maintains its accounting records and prepares budgets on a basis other than FERC, FCC, NARUC, or Commission accounting, considerable effort is required to state the test year revenues and expenses in the format currently required by Paragraph (C)(8). (Gas Cos. at 5-6.) The gas companies make a similar request for information required by Chapter II, Section C, Paragraph (A), at II-3(90)/p. 73, that pertains to the provision of information regarding operating income and requires that an applicant use the account classification provided in the USOAs relative to the applicable type of utility.

OCC supports Paragraph (C)(8), as written, and disagrees with the proposal set forth by the gas companies. According to OCC, "[a] utility's decision to maintain its accounting records or prepare its budget on a non-USOA basis should not relieve it from compliance with the Commission's SFR, which appropriately requires use of the USOA." (OCC Reply at 2-4.)

The Commission finds that utilities shall maintain accounting records and prepare their budgets for use in the SFRs in the USOA format. The companies are required by the appropriate federal regulatory bodies to utilize USOA accounting and the Commission has adopted the use of this accounting methodology. We believe that compliance with the USOA format is important to providing consistency within the companies' filings. Therefore, the request by the gas companies should be denied.

(14) Conservation, Demand-side Management, and Integrated Resource Planning (IRP):

(a) Chapter II, Paragraph (B)(9)(i), at II-22(29)/p. 21 – This paragraph requires the provision of information regarding conservation, demand-side management, and IRP.

AEP requests that language be added stating that none of the data required needs to be provided by an electric utility, since these matters should not be an issue in a distribution rate case because they will be addressed in accordance with S.B. 221 under Section 4928.66, Revised Code. (AEP at 4.)

AEP is correct that information relating to conservation, demand-side management, and IRP are issues under S.B. 221, Section 4928.66, Revised Code. However, the Commission disagrees with the assertion that none of the data pertaining to these items should be provided by an electric utility in accordance with the SFRs. Contrary to

AEP's view, the Commission believes that the investments and costs related to items under Section 4928.66, Revised Code, may very well be relevant to a company's rate case application. Consequently, we find that AEP's request should be denied.

(b) Chapter II, Section I, at II-2(186-187)/p. 151 – This section is applicable only to electric companies and sets forth informational requirements pertaining to IRP.

AEP points out that the rules issued in the *Electric SSO Rulemaking Case* will govern topics associated with IRP and these topics will not be relevant to a distribution rate case. Therefore, AEP requests that this section be deleted. (AEP at 6.)

The Commission notes that, though AEP argues that the information required in this section may also be information relevant to the company's SSO, that does not eliminate the need for the information in an application to increase rates. The requirement in this section may often affect a company's rate case filing and, therefore, the companies must continue to provide the information in its SFRs. Accordingly, the Commission finds that AEP's request should be denied.

Appendix – Chapter II

(15) Paragraph (A)(7), at II-8(19)/p. 13 – The Staff proposed that language be added to this paragraph which would require that all schedules be provided to the Staff in electronic format and that the electronic format must use links to retrieve the data from related schedules and, if necessary, related work papers.

(a) The gas companies recommend that the phrase "To the extent practicable" be added to the Staff-proposed language. According to the gas companies, electronic linkage is not always possible given the fact that spreadsheet links

point to specific files and, when the files are e-mailed or put on a CD-ROM, the files no longer exist in their original locations. (Gas Cos. at 2.) Similarly, FirstEnergy states that the proposed addition by the Staff includes an absolute requirement that all schedules with numerical data include active formulae and calculations; however, FirstEnergy points out that certain files, such as those in a PDF format, may not include active formulae and calculations. Therefore, FirstEnergy recommends that language be added to this paragraph to address this concern. (FE at 2.)

The Commission notes that all companies utilize electronic schedules and calculations for ratemaking purposes. If the Commission were to determine that a company not be required to provide the electronic versions of the schedules, then the Staff would, by necessity, through its investigation, have to try to recreate the electronic versions; thus, duplicating work that the company has already completed. That being said, the Commission finds that the suggestion posed by FirstEnergy, that good cause must be shown if schedules and work papers do not contain active formulas and calculations, is a reasonable resolution of the concerns raised by FirstEnergy and the gas companies. Therefore, the commenters' requests should be granted to the extent set forth in the paragraph attached to this order.

(b) AEP submits that, when referring to the links for related work papers, the parenthetical should be "if applicable," rather than "if necessary." (AEP at 2.)

The Commission finds that this request is reasonable and should be granted.

(c) AEP recommends that the reference to work papers be followed by the words "prepared for

the filing," because some work papers might be a copy of an existing document; thus, changes to active formulas will not propagate through work papers. (AEP at 2.)

The information required by this paragraph is information that is prepared for the filing. Therefore, the Commission does not believe that the language proposed by AEP is necessary and, therefore, the request should be denied.

(d) FirstEnergy states that some of the information requested may contain proprietary or trade secret calculations and formulae, or be based on proprietary software. Thus, FirstEnergy suggests that the requirement to include such formulae and calculations in the spread sheets not be absolute. (FE at 2-3.)

As proposed by the Staff, the schedules will be provided to the Staff in electronic format in order to assist with its investigation. The Staff handles confidential documents in the course of exercising its duties pursuant to Chapter 49, Revised Code. Moreover, the Staff is subject to the statutory duty under Section 4901.16, Revised Code, which states:

> Except in his report to the public utilities commission or when called on to testify in any court or proceeding of the public utilities commission, no employee or agent referred to in section 4905.13 of the Revised Code shall divulge any information acquired by him in respect to the transaction, property, or business of any public utility, while acting or claiming to act as such employee or agent. Whoever violates this section shall be disqualified from acting as agent, or acting in any other capacity under

> the appointment or employment of the commission.
>
> The Commission notes that it is incumbent upon a company to conspicuously mark, and possibly segregate, any schedules which it maintains contain information that may be confidential. Once disclosure is permitted by Section 4901.16, Revised Code, the following process applies to the release of any document or information marked as confidential. Three days' prior notice of intent to disclose shall be provided to the party claiming confidentiality. Three days after such notice, the Staff may disclose or otherwise make use of such documents or information for any lawful purpose, unless the Commission is moved for a protective order pertaining to such documents or information within the three-day notice period. The three-day notice period will be computed according to Rule 4901-1-07, O.A.C. With this process in place, the Commission finds that FirstEnergy's request should be denied.

(16) Paragraph (A)(9)(e), at II-12(22)/p. 16 – This paragraph requires that an applicant satisfy all requirements relating to management policies, practices, and organization in its first rate case filing after their adoption; thereafter, only changes, enhancements, or modifications to the applicant's management process are required in subsequent rate filings. The Staff proposed that language be added to this paragraph requiring that, if it has been more than ten years since the previous complete filing, then the applicant shall submit a complete filing.

OCC recommends that this paragraph be changed to require large companies to file a complete set of management policies, practices, and organization if they have: been purchased by another regulated company; purchased another regulated company; experienced a substantial change in operations (i.e., exit the merchant function); or merged with another company within the ten-year time frame. (OCC at 6-7.)

FirstEnergy opposes OCC's suggestion contending that it is unnecessary and unduly burdensome. According to FirstEnergy, the controls proposed by the Staff are sufficient to address OCC's concern. Furthermore, FirstEnergy notes that, if the utility does not provide sufficient detail, the Staff has the opportunity to obtain more information through audits and data requests, and other parties may do so through the discovery process. (FE Reply at 3.)

Upon consideration of OCC's proposal, the Commission agrees with OCC's recommendation that a company shall submit a complete filing if it has: been purchased by another regulated company; purchased another regulated company; or merged with another company. However, the Commission disagrees with the proposal that a company must automatically be required to file a complete filing if the company has experienced a substantial change in operations. Therefore, we find that OCC's request should be granted, in part, and denied, in part, and this paragraph should be revised accordingly.

(17) Paragraphs (B)(1) through (9), at II-12(22)/p. 16 – II-18(26)/p. 21 – These paragraphs require that an applicant provide supplemental financial and organizational structure information.

AEP requests that language be added to the introductory paragraph clarifying that, with regard to electric utilities, this information is only that which pertains to the distribution companies. (AEP at 3.)

The Commission realizes that these are requirements for an application for an increase in distribution rates. However, when considering the application, it is necessary that we have information for the whole company in order for the Staff to appropriately consider the applicant's request.

(18) Paragraphs (B)(1) through (6), Schedules S-1, S-2.1, S-2.2, and S-2.3, at II-12(22)/p. 17 – II-16(25)/p. 18 – These paragraphs require that an applicant provide its most recent financial forecast of capital expenditures, income statements, balance sheet items, and changes in its financial position.

The gas companies request that these paragraphs be deleted stating that the projected information contained in the S

schedules is not at a level of detail that assists parties in assessing an applicant's proposed jurisdictional revenue requirement. In addition, the gas companies point out that the Staff has proposed the elimination of the F schedules, which are duplicated, to some degree, in the S schedules. (Gas Cos. at 3.)

The Commission notes that the Staff appropriately recognized that the F schedules were duplicative of the S schedules, and, therefore, recommended the elimination of the duplicative information. However, the information required in these schedules is still essential to the Staff's review of an application to increase rates; therefore, this information must continue to be provided through the S schedules. Accordingly, the gas companies' request should be denied.

(19) Paragraph (B)(2), at II-14(23)/p. 16 – This paragraph requires an applicant to provide the most recent five-year financial forecast.

To be consistent with the data companies provide to rating agencies, AEP recommends that the period be changed to a four-year financial forecast. (AEP at 4.)

The Commission believes that, for regulatory purposes, in order for the Commission to conduct an appropriate review of the application, it is necessary to obtain the information for the five-year period required by this paragraph. Therefore, AEP's request is denied.

(20) Paragraphs (B)(8) and (B)(9)(e)(ii), at II-17(26)/p. 18 and II-20(28) /p. 20, respectively – Paragraph (B)(8) requires that an applicant provide an executive summary of its corporate management process encompassing such areas as ". . .ring fencing (plans and methods for protecting the regulated distribution company)...." Paragraph (B)(9)(e)(ii) requires that an applicant provide an executive summary of its management policies employed to meet the corporate goals, including corporate support services such as ". . .insurance and risk management (i.e., ring fencing, plans and methods for protecting the regulated distribution company from extra corporate business ventures)."

FirstEnergy believes that the meaning of "ring fencing," as used in these two paragraphs, is unclear. FirstEnergy offers

that its appears in Paragraph (B)(8) that "ring fencing" is a method for protecting the regulated utility, and is separate and apart from "risk management;" however, in paragraph (B)(9)(e)(ii), it appears that "ring fencing" is a risk management activity that is separate from the protection of the regulated utility. FirstEnergy suggests that, if "ring fencing" is meant to refer to methods to protect the regulated utility, then the language needs to be clarified. On the other hand, if the term is meant to refer to protections from extra corporate business ventures, FirstEnergy submits that protections against this exist in the code of conduct and no reference to it is needed here. (FE at 3.)

The Commission agrees with FirstEnergy's distinction between ring fencing and risk management. Ring fencing within the context of Paragraph (B)(8) is intended to be a method for protecting the regulated utility and risk management is the identification and prioritization of risks that the corporation undertakes followed by an application of resources to minimize and control the probability or impact of unfortunate events. In order to clarify what is required by the SFRs, Paragraph (B)(8) should be revised and the words risk management should be eliminated. In addition, in order to obtain the appropriate information pertaining to risk management, a new Paragraph (B)(9)(b)(vii) should be added requiring the necessary information. Therefore, in order to avoid any confusion and in light of the fact that ring fencing and risk management are addressed in Paragraphs (B)(8) and (B)(9)(b)(vii), the Commission will revise Paragraph (B)(9)(e)(ii) and delete the reference to these two terms. The Commission believes that these revisions will clarify that ring fencing indicates plans and methods for protecting a regulated distribution company that limits the exposure of the operating company from the actions of its parent company and/or affiliate.

(21) Paragraph (B)(9), at II-17(26) /p. 18 – II-18(26) /p. 21 – As proposed by the Staff, this paragraph sets forth nine functional areas of a utility's management and organizational structure and requires an applicant to address the three areas identified and requested by the Staff. The Staff further proposes that the paragraph reflect that the pertinent elements to incorporate in a response would include organizational charts, diagrams and flow charts, and testimony.

(a) The gas companies note that it appears that the Staff, in its proposal, is attempting to reduce the requirements of this section; however, they believe the Staff does not go far enough. The gas companies assert that, historically, this information consists of thousands of pages, which have not been of great use in evaluating the utility's financial performance during the test year. Moreover, the gas companies point out that the Staff proposed that information regarding risk management and ring fencing be added to this paragraph; however, the gas companies contend that such a requirement is redundant and unnecessary because the Staff also recommended that risk management and ring fencing information be included in the response to Paragraph (B)(8). Therefore, the gas companies propose that this paragraph be amended to reduce the amount of information required. (Gas Cos. at 3-5.) FirstEnergy recommends that, if the goal of this paragraph is to reduce the information provided, rather than limiting the number of areas to the three that are identified by the Staff, the applicant should be allowed to refer to a previous filing made within the last ten years, with a summary of changes from that report only being required with the current filing. (FE at 4.)

The Commission supports limiting the information that must be provided to the three areas identified by the Staff that are relevant to the applicant specifically and the rate application because we understand that it will help facilitate a more focused review of the issues pertinent to that applicant. In addition, contrary to the inference of the gas companies, we believe that this process will reduce the amount of paper that is filed by the applicant in order to comply with this section. Therefore, the Commission finds that the recommendations made by the gas companies and FirstEnergy to further reduce the information should be denied. With regard to the gas companies' request to clarify the concepts of

risk management and ring fencing as used in the SFRs, we have addressed that concern in finding (20).

(b) The gas companies and FirstEnergy seek clarification as to how the Staff will effectuate its recommendation because it is not clear when or how it will identify the three categories on which the applicant must provide information. (Gas Cos. at 5; FE at 3-4.) In order to timely prepare its rate case, the gas companies state that the applicant will need significant lead time as to which topics it must discuss. (Gas Cos. at 5.)

The Commission agrees that it is necessary for there to be a process followed in order to notify an applicant of the three areas it must discuss. Therefore, we find that, within ten days after the filing of an applicant's notice of intent to file an application for an increase in rate, the Staff shall file a letter in the applicable docket notifying the applicant which three areas of the utility's management policies, practices, and organizations listed in Paragraph B(9)(a) through (i) must be addressed. Therefore, the request made by the gas companies and FirstEnergy is reasonable and should be granted and this paragraph should be revised accordingly. However, nothing prevents a utility that intends to file an application to increase rates from requesting the director of the Commission's Utilities Department to identify the three areas prior to filing its notice of intent.

(c) Finally, the gas companies submit that the Staff's added requirement that the applicant provide organizational charts, diagrams and flow charts, and testimony, etc., is vague and potentially onerous. According to the gas companies, this information could be provided to the Staff during the normal course of the review of the application and it is not clear why this information needs to

be provided at the time the application is filed. (Gas Cos. at 5.)

The Commission finds that the provision of an applicant's organizational charts, diagrams and flow charts, and testimony will provide important information that will assist in the consideration of the application. Therefore, we find that the gas companies' request should be denied.

(22) Paragraph (B)(9)(c), at II-19(27)/p. 19 – This paragraph requires information pertaining to an applicant's rates and tariffs. The Staff proposed revisions to this paragraph and deleted the subheading requirements, which specify or describe the types of information to which each heading is referring.

FirstEnergy submits that, without the subheading information, it is not sure what is to be provided and, if the analysis is to be done on a tariff-by-tariff basis, such an analysis would be extremely burdensome. Therefore, FirstEnergy requests that, given the amount of work that may be required, the Commission clarify the nature of the analysis that is being required by this paragraph and determine if the information provided on an individual tariff schedule basis is necessary. (FE at 4.)

The Commission agrees with FirstEnergy and understands the need to provide subheadings that require applicants to supply more information regarding what is specifically contained in rates and tariffs. In order to achieve the intended goal through the SFRs, the Commission will keep the original description requirements in the SFRs. In addition, we agree that the addition of the words "by tariff schedule" does cause some confusion; therefore, this new language will not be adopted and the current language will be retained. The Commission finds that FirstEnergy's requests are reasonable and should be granted.

(23) Paragraphs (C)(1) through (47), at II-22(29)/p. 21 – II-29(38)/p. 26 – These paragraphs require that an applicant provide various supplemental information.

(a) Initially, the Commission notes that Paragraphs (C)(1) through (C)(23) require that the applicant

provide the requisite information to the rate case manager in the Commission's Utilities Department, and Paragraphs (C)(24) through (47) require the applicant to provide the requisite information to the Staff on the first day of the field audit. In order to ensure that it is clear what information is provided to whom and when, the Commission has determined that a new Paragraph (D) should be created and this paragraph will include the information that is required to be provided on the first day of the field audit; while Paragraph (C) will continue to designate the information to be provided to the rate case manager when the application is filed.

(b) AEP requests that language be added to the introductory paragraph clarifying that, with regard to electric utilities, this information is only that which pertains to the distribution companies. (AEP at 5.)

As discussed previously, the Commission believes that information pertaining to the whole company is relevant to a rate increase application; therefore, AEP's request to add introductory language is denied.

(24) Paragraph (C)(13), at II-25(31)/p. 24 – This paragraph requires that an applicant provide a copy of the general system layout maps for its service territory.

The gas companies submit that there are security risks related to the making of these maps; therefore, they request that this section be revised to only require that the maps be made available to the Staff for inspection or otherwise kept confidential. (Gas Cos. at 6.) FirstEnergy, pointing out that this information is provided as supplemental information and not as part of the actual filing, believes that this requirement should be deleted. FirstEnergy is concerned about homeland security, as well as economic and efficiency issues related to this information. Therefore, FirstEnergy proposes that, if this information is needed, it be reviewed as part of a Staff audit. (FE at 5.)

While the Commission believes that it is necessary that we have access to the information set forth in the paragraph, we are sensitive to the concerns raised by the commenters. In order to address these concerns, yet allow for review of the information, we will revise this language to require that the applicant utility shall make available for the Staff's inspection general system layout maps for the applicant's service territory. In addition, this requirement will be moved to new Paragraph (D) and the applicant will be required to make this information available to the Staff on the first day of the field audit. Therefore, the gas companies' and FirstEnergy's requests should be granted and the paragraph revised consistent with this finding.

(25) Paragraphs (C)(16)(e) and (f), at II-26(32)/p. 23 – These paragraphs require the provision of the calculations of the tax straight line depreciation and the tax accelerated depreciation. The Staff proposed that the time frame in which this information is provided be changed from the test year to the date certain.

FirstEnergy disagrees with the Staff's proposal to change the time frame, stating that the information provided pursuant to these paragraphs are expense items and that, under basic ratemaking principles, expense items are determined on a test year basis. In addition, FirstEnergy points out that Schedule C-4 sets forth book-tax timing differences based on the test year and, therefore, date certain calculations will not tie into Schedule C-4, or any other schedule. (FE at 6.)

The Commission disagrees with the assertions made by FirstEnergy. Book-tax depreciation is based upon what is used and useful as of a date certain, and, to maintain consistency throughout the SFRs, tax straight line and accelerated depreciation should also be based on the date certain; therefore, allowing the numbers to tie. Accordingly, we find that FirstEnergy's request to continue to provide tax straight line and accelerated depreciation to be based upon the test year should be denied.

(26) Paragraph (C)(27), at II-29(34)/p. 24 – II-30(34)/p. 25 – The Staff proposed that this paragraph be added which requires that certain information pertaining to transactions with affiliated companies be provided.

The gas companies and AEP submit that this requirement is duplicative of the requirement set forth in the Staff-proposed Paragraph (C)(47), at II-33(37), which is a requirement under the current rules; therefore, they request that either the Staff-proposed Paragraph (C)(27) be deleted or that the Staff-proposed Paragraph (C)(47) be deleted. (Gas Cos. at 7; AEP at 5.)

The Commission agrees that these paragraphs are duplicative. Consequently, we find that the commenters' request should be granted and Paragraph (C)(47), at II-33(37) should be deleted.

(27) Paragraph (C)(40), at II-32(36) /p. 25 – This paragraph requires an applicant to provide the "[s]tandard journal entries with description of entries."

In order to eliminate the burden of producing hundreds of entries for each month, the gas companies request that this paragraph be revised such that the actual entries not be required, only a listing of the entries and a description of the entries. (Gas Cos. at 7.)

The Commission finds the information provided in response to this paragraph is valuable for our Staff's review of a utility's rate increase application. Therefore, we find that the gas companies' request should be denied.

(28) Section A, Schedule A-2/p. 31 – This schedule sets forth the computation of the gross revenue conversion factor.

AEP recommends that the schedule be modified to include the Ohio commercial activity tax and the state and local income taxes, which are part of the gross revenue conversion process. (AEP at 5.)

The Commission finds that AEP's proposal is reasonable and should be granted. Therefore, Schedule A-2 should be revised to include a provision for state, local, and commercial activity tax (CAT), if applicable.

(29) Section B, Paragraph (E)(1), at II-6(49)/p. 36 – The Staff proposed that this paragraph be amended to require that an applicant shall provide a lead-lag study to support an allowance for cash working capital.

According to the gas companies, lead-lag studies are time and resource intensive; therefore, they propose that this paragraph be changed such that, if an applicant is not requesting working capital, it should not have to undertake a lead-lag study. In addition, the gas companies request that an alternative approach for determining a cash working capital allowance be included in this paragraph. (Gas Cos. at 7-8.)

OCC supports the Staff's proposal to require a lead-lag study. In response to the comments of the gas companies, OCC notes that the companies did not provide support for their position and, therefore, to protect consumers, the Commission should reject the proposal of the gas companies. (OCC Reply at 4-5.)

The Commission agrees with Staff's proposal that, if an applicant requests an allowance for working capital, the applicant should support that request with a recent lead-lag study that accurately represents the conditions during the test period. Conversely, if an applicant is not requesting an allowance for working capital, no lead-lag study is required. Therefore, to the extent the gas companies are requesting that the lead-lag study requirement in support of an allowance for cash working capital be eliminated, the request should be denied.

(30) Section B, Paragraph (F)(1), at II-6(49)/p. 37, and Schedule B-6/p. 62 – The Staff proposed that customer deposits be included in Schedule B-6, which is the summary of other rate base items.

(a) The gas companies state that they have no objection to this requirement, as long as the customer deposits may continue to be based on a 13-month average, rather than a date certain amount. (Gas Cos. at 8-9.)

The Commission notes that the gas companies are correct that the customer deposits will continue to be based upon a 13-month average.

(b) FirstEnergy states that the Staff proposal essentially removes customer deposits from Schedule B-5.1, working capital, and puts it in Schedule B-6, other rate base items. According to

FirstEnergy, the Commission has consistently viewed customer deposits as working capital; thus, FirstEnergy urges the Commission to reject the Staff's proposed change. (FE at 6.)

In response to FirstEnergy's comment, the Commission points out that, when considering an application, as a matter of practice, we have moved the customer deposits from Schedule B-5.1 to Schedule B-6, because these deposits are not investor related and should be netted against the rate base valuation. Therefore, the Commission finds that FirstEnergy's request should be denied.

(31) Section B, Schedule B-5.1/p. 61 – This schedule sets forth the miscellaneous working capital items.

The gas companies request that a line be added to this schedule that lists the net of the "revenue lag" and the "expense lag" to identify the "net cash working capital"; thus, allowing for the distinction between cash and other forms of working capital. (Gas Cos. at 8.)

The Commission notes that the term "net cash working capital" is not a term commonly used or recognized in utility accounting. Therefore, we find that the gas companies' request should be denied.

(32) Section B, Paragraph (H), at II-9(51)/p. 38, and Schedule B-8, Gas Data/p. 70 - This paragraph and schedule require a gas utility to provide data regarding the gas received, gas sales, company use, and unaccounted for gas.

The gas companies request that this requirement be eliminated, because this information is reviewed as part of the gas cost recovery (GCR), financial and management performance (m/p) audit processes. In addition, the gas companies submit that the information is not used to determine the jurisdictional revenue requirements and is of limited use to determine the test year throughput, because it is not normalized or broken down by customer class or rate schedule. (Gas Cos. at 9.)

Initially, the Commission notes that several of Ohio's gas companies have exited the merchant function and no longer

undergo a GCR evaluation; therefore, for these companies, this information is not reviewed through the GCR process. Moreover, the Commission believes that this information is needed as part of the SFRs in order to appropriately evaluate the requested rate increase application. Therefore, the gas companies' request should be denied.

(33) Section C, Schedules C-4 and C-4.1/pp. 87-92 – These schedules require information pertaining to the adjusted jurisdictional federal income tax and the development of the jurisdictional federal income taxes.

(a) AEP proposes that there be comparable schedules for state and local income tax information. (AEP at 5.)

The Commission agrees that these schedules should contain comparable state and local income tax information. Therefore, AEP's request is reasonable and should be granted. Accordingly, these Schedules should be revised.

(b) In addition, the Commission notes that the numbered tax brackets contained in these schedules have been eliminated, because those numbers often change.

(34) Section C, Paragraphs (E)(1) and (2) at II-6(93)/p. 75, and Schedules C-10.1 and C-10.2,[2]/pp. 101-102 – These paragraphs and schedules require an applicant to provide comparative balance sheets and income statements for the most recent five calendar years.

The gas companies request that these requirements and schedules be eliminated because the applicants are already required to provide such information in the annual reports submitted to the Commission. In addition, the gas companies note that the information is not normalized or at a level that will assist parties in assessing the proposed jurisdictional revenue requirement. (Gas Cos. at 10.)

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2 The gas companies reference Schedules C-11.1 and C-11.2; however, in the staff proposal, these schedules are C-10.1 and C-10.2. The staff-proposed schedule numbers will be utilized for reference herein.

The Commission finds that the information contained in a company's annual report does not contain the comparisons needed for ratemaking purposes. Therefore, we conclude that the gas companies' request should be denied.

(35) Section C, Paragraph (E)(3) at II-6(93)/75, and Schedules C-11.1 and C-11.2,[3]/pp.103-104 – This paragraph and these schedules require an applicant to provide revenue statistics for the total company, as well as jurisdictional, by customer class and average revenue by customer class.

According to the gas companies, because of the changes in gas commodity prices and in the mix of sales and transportation volume in a class, the resulting figures are meaningless for comparison purposes. Therefore, the gas companies request that this requirement be eliminated for gas companies. (Gas Cos. at 10.)

The Commission considers this information to be an important piece of the information obtained through the SFRs and the Commission's Staff relies on the information in its evaluation of a rate case application. Therefore, we find that the gas companies' request should be denied.

(36) Section D, General, at II-2(135)/p. 115 – This paragraph summarizes the information an applicant must provide pertaining to rate of return, including the information that must be provided if the applicant is a subsidiary or a parent company.

AEP recommends that language be added to clarify that the required data would only consist of data relating to the service function covered by the application. In addition, AEP requests clarification that the sentence concerning parent company data is only applicable in the context of a utility subsidiary of a parent company, which utility/subsidiary does not have securities that are traded publicly. (AEP at 5-6.)

OCC opposes AEP's recommendation. OCC points out that the utilities regulated by the Commission are generally wholly

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3 The gas companies reference Paragraphs (E)(1) and (2), and Schedules C-12.1 and C-12.2; however, in the staff proposal, the paragraph number is (E)(3) and the schedules are C-11.1 and C-11.2. The staff-proposed paragraph and schedule numbers will be utilized for reference herein.

owned subsidiaries of publicly traded parent companies; thus, the subsidiaries usually have no securities of their own on the stock market and often borrow funds from or through their parent companies. Moreover, OCC submits that the Commission has historically relied on the financial data of the parent companies to determine the appropriate capital structure to use in a rate case. OCC opines that, while it is accurate to consider the data relating to the service function covered by the application, more often than not, the analysis of the application requires an analysis of the financial data of publicly traded companies that are only comparable to the parent companies of the utilities regulated by the Commission. Therefore, OCC maintains that eliminating this requirement is unwarranted and would impose an unnecessary burden on intervenors in rate cases. (OCC Reply at 5-8.)

The Commission disagrees with AEP's assertion that the required data should only consist of that data relating to the service function covered by the application. However, the Commission believes that this section should be clarified to reflect that the required data should be provided on both a stand-alone and on a parent-consolidated basis, as it is often used in determining the appropriate cost of capital. Therefore, AEP's request for clarification should be granted, in part, and denied, in part.

(37) Section D, Paragraph (B), at II-2(135)/p. 115 – This is a new paragraph proposed by the Staff that requires information concerning the common equity of the applicant's parent company and subsidiary companies.

FirstEnergy believes that this requirement is too broad and does not recognize a holding company scenario in which the holding company may include holdings in unregulated entities. According to FirstEnergy, the information requested at the holding company level is irrelevant to the applicant's filing. Therefore, FirstEnergy suggests that this provision either be deleted or modified to exclude any requirement for utilities that are wholly owned subsidiaries of holding companies. (FE at 6-7.)

As with its argument summarized in finding (36) above, OCC disagrees with FirstEnergy's assessment of this requirement,

maintaining that eliminating this requirement is unwarranted and would impose an unnecessary burden on intervenors in rate cases. (OCC Reply at 5-8.)

The Commission believes that the equity information of the entire corporate structure is important in our determination of the appropriate cost of capital in rate cases. Therefore, we conclude that FirstEnergy's request should be denied.

(38) Section D, Paragraph (D) at II-2(135)/p. 115, and Schedule D-5 pages 1-3/pp. 122-125 – This paragraph and schedule require an applicant to provide comparative financial data for the test year and the ten most recent years.

The gas companies request that this requirement and pages 1-3 of Schedule D-5 be eliminated because, like their argument in finding (34) above, this information is already provided in annual reports to the Commission. In addition, the gas companies submit that pages 1-3 of Schedule D-5, consolidated financial data, should be eliminated for the publicly traded parent-consolidated companies because this information is publically available and it will not assist parties in assessing the proposed jurisdictional revenue requirement. (Gas Cos. at 11.)

As with its arguments summarized in finding (36) above, OCC disagrees with the gas companies' request to eliminate this requirement for the publicly traded parent-consolidated companies. According to OCC, eliminating this requirement is unwarranted and would impose an unnecessary burden on intervenors in rate cases. (OCC Reply at 5-8.)

The Commission finds this information useful in evaluating a utility's application to increase rates. Therefore, we conclude that the gas companies' request should be denied.

(39) Section E, Paragraph (B)(2) II-3(147)/p. 127 – This paragraph and the related schedules require an applicant to file proposed tariffs that are underscored and redlined on the same copy, with the designated codes set forth in this paragraph in the margin of the document to explain the proposed change.

The gas companies request that the requirement that a designated code be set forth in the margin of the proposed tariff pages in Schedule E-2.1 be eliminated. According to the

gas companies, the coding is extremely time-consuming and does not yield any benefit. Furthermore, the gas companies point out that the rationale for the tariff changes is set forth in Schedule E-3; therefore, the coding is not needed in Schedule E-2.1. (Gas Cos. at 11-12.)

The Commission agrees with the gas companies that the coding required in Schedule E-2.1 more appropriately ties to the information needed in Schedule E-3; therefore, the gas companies' request should be granted. Accordingly, the coding requirements should be moved from Section E, Paragraph (B)(2) to Section E, Paragraph (B)(3).

(40) In making the determinations required by Section 119.032(C), Revised Code, the Commission considered those matters set forth in the executive order and in Section 119.032(C), Revised Code, as well as the continued need for the rule and the appendix; the nature of any complaints or comments received concerning the rule and appendix; and any relevant factors that have changed in the subject matter area affected by the rule and appendix. With these factors in mind and, upon consideration of the Staff proposal and the initial and reply comments, the Commission concludes that Rule 4901-7-01, O.A.C., and Appendix A to the rule should be amended as set forth in the attachment to this finding and order.

(41) This order, as well as the rule and appendix, will be served upon numerous stakeholders, including the commenters and all utilities that can file rate cases before the Commission. The Commission notes that the appendix is almost 200 pages. Therefore, we find that a hard copy of the order should be served upon all commenters, all utilities that can file rate cases, and all other interested persons of record; they may access the attachment by accessing the Commission's website at www.puco.ohio.gov/PUCO/rules /. If an entity has questions regarding how to access the attachment or does not have access to the internet, it may contact the Commission's Docketing Division at (614) 466-4095.

It is therefore,

ORDERED, That Rule 4901-7-01, O.A.C., and Appendix A to Rule 4901-7-01, O.A.C., be adopted and that Rule 4901-1-01 and Appendix A be filed with the Joint Committee on

Agency Rule Review, the Secretary of State, and the Legislative Service Commission in accordance with divisions (D) and (E) of Section 111.15, Revised Code. It is, further,

ORDERED, That the final rule and appendix be effective on the earliest date permitted by law. Unless otherwise ordered by the Commission, the review date for Chapter 4901-7, O.A.C., shall be September 30, 2012. It is, further,

ORDERED, That, in accordance with finding (41), entities access the appendix at the above internet site or contact the Commission's Docketing Division. It is further,

ORDERED, That, in accordance with finding (41), a hard copy of this finding and order be served upon all electric distribution utilities, all natural gas local distribution companies, all heating and cooling companies, all waterworks and/or sewage disposal system companies, all local exchange telephone companies, and all other interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Alan R. Schriber, Chairman

Paul A. Centolella

Valerie A. Lemmie

Steven D. Lesser

Cheryl L. Roberto

CMTP/vrm

Entered in the Journal

MAY 13 2010

Reneé J. Jenkins
Secretary

*** DRAFT - NOT YET FILED ***

4901-7-01 Standard filing requirements.

All applications for an increase in rates filed under section 4909.18 of the Revised Code, all complaints filed under section 4909.34 of the Revised Code, and all petitions filed by a public utility under section 4909.35 of the Revised Code shall conform to the standard filing requirements. ~~"Standard Filing Requirements,"~~ set forth in ~~"~~appendix A~~"~~ to this rule. The commission may, upon timely motion, waive specific provisions of the standard filing requirements. ~~"Standard Filing Requirements,"~~ but such waivers must be obtained prior to the time that application, complaint, or petition is filed with the commission. In the absence of such a waiver, the commission may reject any filing which fails to comply with the requirements of this rule.