

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's Review of )  
Ohio's Coal Research and Development Rate ) Case No. 11-1203-GA-ORD  
Rules Contained in Chapter 4901:1-12 of the )  
Ohio Administrative Code. )

FINDING AND ORDER

The Commission finds:

- (1) Section 119.032, Revised Code, requires all state agencies, every five years, to conduct a review of each of its rules and to determine whether to continue its rules without change, amend its rules, or rescind its rules. In general, the rules contained in Chapter 4901:1-12, Ohio Administrative Code (O.A.C.), address coal research and development cost recovery.
- (2) Section 119.032(C), Revised Code, requires that the Commission determine each of the following:
  - (a) Whether the rule should be continued without amendment, be amended, or be rescinded, taking into consideration the purpose, scope, and intent of the statute under which the rule was adopted.
  - (b) Whether the rule needs amendment or rescission to give more flexibility at the local level.
  - (c) Whether the rule needs amendment to eliminate unnecessary paperwork.
  - (d) Whether the rule duplicates, overlaps with, or conflicts with other rules.
- (3) In addition, on January 10, 2011, the governor of the state of Ohio issued Executive Order 2011-01K, entitled "Establishing the Common Sense Initiative," which sets forth several factors to be considered in the promulgation of rules and the review of existing rules. Among other things, the Commission must review its rules to determine the impact on small businesses; attempt to balance the critical objectives of regulation and the cost of compliance by the regulated parties; and amend or rescind rules that are unnecessary, ineffective, contradictory,

redundant, inefficient, or needlessly burdensome, or that have had negative, unintended consequences, or unnecessarily impede business growth.

- (4) Following its review, the Commission's Staff recommended non-substantive edits to several rules contained in Chapter 4901:1-12, O.A.C. Staff further recommended a minor amendment of Rule 4901:1-12-08, O.A.C., to allow for public comment on issues relating to audit reports. The proposed amendment explained that, if issues remain unresolved following the public comment period, the Commission may then hold a hearing to address any unresolved issues.
- (5) The Commission issued an entry on March 16, 2011, requesting those persons or entities interested in making comments to file their comments in writing, or electronically, with the Commission's docketing division by April 15, 2011. No comments were filed in this docket.
- (6) In making the determinations required by Section 119.032(C), Revised Code, the Commission considered the matters set forth in the executive order and in Section 119.032(C), Revised Code, as well as the continued need for the rules; the nature of any complaints or comments received concerning these rules; and any relevant factors that have changed in the subject matter area affected by the rules. With these factors in mind, and upon consideration of the Staff's proposal, the Commission concludes that: no change should be made to Rules 4901:1-12-01, 4901:1-12-03, and 4901:1-12-06, O.A.C.; and Rules 4901:1-12-02, 4901:1-12-04, 4901:1-12-05, 4901:1-12-07, 4901:1-12-08, and 4901:1-12-09, O.A.C., should be amended. Therefore, Chapter 4901:1-12, O.A.C., as attached to this finding and order, should be adopted.

It is, therefore,

ORDERED, That attached amended Rules 4901:1-12-02, 4901:1-12-04, 4901:1-12-05, 4901:1-12-07, 4901:1-12-08, and 4901:1-12-09, O.A.C., be adopted and 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 attached existing Rules 4901:1-12-01, 4901:1-12-03, and 4901:1-12-06, O.A.C., be filed, without amendment, 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 rules be effective on the earliest day permitted by law. Unless otherwise ordered by the Commission, the five-year review date for Chapter 4901:1-12, O.A.C., shall be September 30, 2016. It is, further,

ORDERED, That a copy of this finding and order be served upon all regulated natural gas companies, the Office of Ohio Consumers' Counsel, the Ohio Coal Development Office, and all interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

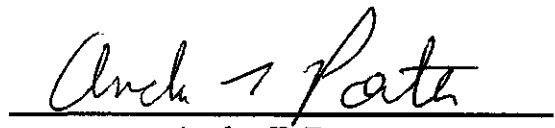


Todd A. Snitchler, Chairman

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Paul A. Centolella



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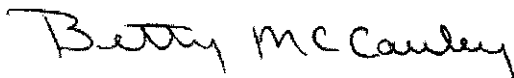
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Entered in the Journal

**MAY 19 2011**



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Betty McCauley

Betty McCauley  
Secretary

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4901:1-12-01      **Definitions.**

- (A) "Commission" means the public utilities commission.
- (B) "Gas company" and "natural gas company" have the meanings set forth in section 4905.03 of the Revised Code.
- (C) "Ohio coal research and development cost adjustment" means a provision in a schedule of a gas or natural gas company that requires or allows the company to, without adherence to section 4909.18 or 4909.19 of the Revised Code, recover on a uniform basis per unit of sales Ohio coal research and development costs, determined to be reasonable by the commission.
- (D) "Ohio coal research and development costs" means all reasonable costs associated with a facility or project undertaken by a public utility, for which a recommendation to allow the recovery of costs associated therewith has been made by the director of the Ohio coal development office under division (B)(8) of section 1551.33 of the Revised Code and accepted by the commission, less any expenditures of grant moneys received from the Ohio coal development office and any federal agency.
- (E) "Ohio coal research and development project" means any coal research and development, or any coal research and development facility with all or a part of the cost thereof being paid from a loan or grant from the Ohio coal development office or a loan guaranteed by the office under division (C) of section 1555.01 of the Revised Code.
- (F) "Ohio coal research and development rate" means the updated semiannual research and development cost adjustment determined in accordance with rule 4901:1-12-06 of the Administrative Code.
- (G) "Mcf" means a unit of gas equal to one thousand cubic feet.
- (H) "Ccf" means a unit of gas equal to one hundred cubic feet.
- (I) "Customer" means each billing account of a gas or natural gas company.
- (J) "Total sales" means all sales of includable gas supplies to retail customers. "Total sales" does not include volumes transported to consumers under self-help arrangements.
- (K) "Jurisdictional sales" means total sales, less sales to customers under municipal ordinances rates, except sales under municipal ordinances which have adopted, by reference or otherwise, rates established by the commission.

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- (L) "Reconciliation adjustment" means a positive or negative adjustment to future Ohio coal research and development recovery rates ordered by the commission pursuant to rule 4901:1-12-06 of the Administrative Code.

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4901:1-12-02      **Purpose.**

(A) The purpose of this chapter rule is to:

- (1) Establish a uniform Ohio coal research and development cost recovery clause to be included in the schedules of gas and natural gas companies subject to the jurisdiction of the commission;
- (2) Establish an Ohio coal research and development cost recovery process, which is designed to separate the cost of Ohio coal research and development projects from all other costs incurred by gas or natural gas companies; and
- (3) Provide for each company's recovery of the cost of its includable Ohio coal research and development expenditures from its customers by means of the semiannual updated Ohio coal research and development rate and other provisions of this chapter.

(B) The provisions of this chapter rule also:

- (1) Establish investigative procedures and proceedings, including periodic reports, audits, and hearings to examine the reasonableness and the arithmetic and accounting accuracies of the Ohio coal research and development costs reflected in each company's cost recovery rate; and
- (2) Review each company's policies to the extent that those policies affect the Ohio coal research and development projects and the recovery of costs associated therewith.

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4901:1-12-03      **Scope.**

- (A) Once the Ohio coal development office approves a coal research and development project for the purpose of section 4905.304 of the Revised Code, the director of the coal development office is to submit to the commission a report recommending that the commission allow the recovery of costs associated with the facility or project including the reasons for the recommendation. Such a report shall include the total cost of the project and the part of the costs thereof being paid from a loan, loan guarantee, or grant.
- (B) Once the report has been received by the commission and the recommendation by the director has been accepted by the commission, the utility may apply for the recovery of reasonable costs associated with the project and incurred since the approval by the coal development office less any expenditures of grant moneys, to be recovered under section 4905.304 of the Revised Code.
- (C) When prudent, each gas or natural gas company shall acquire patents, copyrights and trademarks for any development, discovery or invention for which that gas or natural gas company seeks recovery through the Ohio coal research and development component.

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4901:1-12-04      **Applicability.**

- (A) The provisions of this chapter rule shall apply to any gas or natural gas company subject to the jurisdiction of the commission, with respect to the establishment or approval by the commission of a uniform rate or provision pursuant to section 4905.304 of the Revised Code, and as provided under paragraph (A) of rule 4901:1-12-06 of the Administrative Code.
- (B) The provisions of this chapter rule shall not apply to municipal ordinance rates established under section 743.26 or 4909.34 of the Revised Code or Article XVIII, section 4 of the Constitution of Ohio, except in instances where a municipal ordinance adopts, by reference or otherwise, rates established by the commission.



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4901:1-12-05      **Monthly reports.**

- (A) Each gas or natural gas company subject to the provisions of this chapter rule shall submit monthly Ohio coal research and development cost recovery reports to the commission for the prior calendar month. The monthly report shall be submitted on the "Ohio Coal Research and Development Cost Report" prescribed by the commission in appendix A to this rule. The monthly report shall include the data required by the Ohio coal research and development cost form to calculate the Ohio coal research and development component as specified in paragraphs (A)(1) and (A)(2) of rule 4901:1-12-06 of the Administrative Code.

- (B) Semiannual reports.

Each gas or natural gas company subject to the provisions of this chapter rule shall submit semiannual Ohio coal research and development reports with every sixth monthly report. The semiannual report shall include the data required by the Ohio coal research and development cost form to calculate the Ohio coal research and development rate as specified in paragraphs (B), (C) and (D) of rule 4901:1-12-06 of the Administrative Code.

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4901:1-12-06

**Ohio coal research and development rate.**

- (A) The Ohio coal research and development component equals the costs to be recovered less the costs to be refunded.
- (1) Costs to be recovered: Each gas or natural gas utility for which Ohio coal research and development projects or facilities are recommended to and accepted by the commission pursuant to division (B)(8) of section 1551.33 of the Revised Code shall recover those reasonable incurred costs associated with projects for the reporting period, less any expenditures of grant moneys. The coal research and development costs to be included shall equal the reasonable coal research and development costs incurred. These costs include all reasonable costs incurred through the most recent month for which actual data is available at the time of filing the initial application allowed by paragraph (B) of rule 4901:1-12-03 of the Administrative Code and each subsequent semiannual report required by paragraph (B) of rule 4901:1-12-05 of the Administrative Code, which costs have not been included previously in the gas or natural gas company's Ohio coal research and development component as a cost to be recovered.
- (2) Costs to be refunded: Each gas or natural gas utility shall refund all rents, royalties, income or other profits received by the utility as a result of the developments, discoveries or inventions, including patents or copyrights which result in whole or in part from coal research and development projects and/or facilities in proportion to the share of ratepayer financing to the project.
- (B) Each gas or natural gas utility shall calculate and apply to the Ohio coal research and development rate reconciliations to correct for under-or-over-recoveries of the Ohio coal research and development component due to differences in sales volumes expected and delivered during the billing period, as well as any adjustments ordered by the commission.
- (C) The Ohio coal research and development rate equals the Ohio coal research and development component plus or minus any adjustments or reconciliations, divided by the total sales of the gas or natural gas company for the six monthly billing periods commencing on or after the date one year prior to the effective date of the filing.
- (D) The Ohio coal research and development rate shall be calculated on a companywide basis, and shall be expressed on a dollars and cents per Mcf basis.

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4901:1-12-07      **Customer billing.**

- (A) Unless otherwise ordered by the commission, the semiannual updated Ohio coal research and development rate filed in accordance with rule 4901:1-12-05 of the Administrative Code shall become effective and shall be applied to customer bills for service rendered on or after the thirtieth day following the filing date established by the commission, or, at the option of the gas or natural gas company, on or after the first day of the month following the thirtieth day after the filing date established by the commission. The commission may at any time order a reconciliation adjustment as a result of errors or erroneous reporting.
- (B) Each gas or natural gas company shall indicate on each customer bill:
  - (1) The Ohio coal research and development rate expressed in dollars and cents per Mcf or Ccf, ~~and~~
  - (2) The total charge attributable to the Ohio coal research and development rate expressed in dollars and cents.

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4901:1-12-08

**Audits and hearings.**

- (A) The commission shall examine the Ohio coal research and development costs incurred by the utility once every six months in proceedings limited to that purpose. The utility must file with the commission all of the information filed with the coal development office, including the semiannual project progress reports. All costs incurred on the project during the period to be considered are to be itemized in accordance with the uniform system of accounts. These costs shall delineate total costs, costs/expenditures of grant moneys, and costs requested to be recovered. This information shall be submitted concurrently with the semiannual report required by paragraph (B) of rule 4901:1-12-05 of the Administrative Code.
- (B) Interested persons may file comments on At least thirty days after the filing of the information filed pursuant to required under paragraph (A) of this rule within thirty days after the filing of the information. Within ten days after the filing of comments, the gas or natural gas company shall file a response to the comments stating whether the issues raised in the comments have been resolved. If the issues are not resolved, the commission may shall hold a public hearing to examine the report and recommendations submitted by the director of the Ohio coal development office, all facts, data and other information pertinent to the coal research and development costs. Based upon examination of the report and other information, the commission shall determine the reasonableness of the total costs proposed to be recovered and the appropriateness of the recovery period.
- (C) The commission shall conduct or cause to be conducted periodic audits of each gas or natural gas utility subject to the provisions of this rule chapter.
- ~~(D) The gas or natural gas company shall publish notice of the hearing required under paragraph (B) of this rule in a newspaper or newspapers of general circulation throughout its service territory at least fifteen and not more than thirty days prior to the scheduled date of the hearing.~~
- ~~(E)~~(D) Following the conclusion of the hearing, the The commission shall issue an appropriate order containing:
- (1) A summary of any audit findings, conclusions and recommendations;
  - (2) Any adjustments or reconciliations to be included in the semiannual Ohio coal research and development report for the next billing period; and
  - (3) Such other information or directives as the commission considers appropriate.

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4901:1-12-09      **Tariffs.**

Each gas or natural gas company desiring to avail itself of the provisions of this ~~rule-~~  
chapter shall file tariffs with the commission which incorporate this rule in its entirety.

APPENDIX A  
4901:1-12-05

OHIO COAL RESEARCH AND DEVELOPMENT COST  
GAS UTILITY SUMMARY REPORT FOR RATES EFFECTIVE FROM:

FROM: \_\_\_\_\_ TO: \_\_\_\_\_

Company Name: \_\_\_\_\_

CALCULATION OF THE OHIO COAL RESEARCH AND DEVELOPMENT COMPONENT  
(OCRDC)

\* Month: \_\_\_\_\_

Total Expenditure: \_\_\_\_\_

Loans: \_\_\_\_\_

Loan Guarantee: \_\_\_\_\_

Grants (State): \_\_\_\_\_

Grants (Federal): \_\_\_\_\_

Company Absorbed Costs: \$ \_\_\_\_\_

Costs To Be Refunded: \$ \_\_\_\_\_

Net OCRDC Costs: \$ \_\_\_\_\_

\*\* Net OCRDC Costs: \$ \_\_\_\_\_

(Total for Six Months): \$ \_\_\_\_\_

Net Recoverable Costs From Previous Filing \$ \_\_\_\_\_

OCRDC Rate: \$ \_\_\_\_\_ / (MCF)

Actual Sales for Six Monthly Billing Periods: \$ \_\_\_\_\_ (MCF)

Resulting Revenue Recovery: \$ \_\_\_\_\_

Reconciliation Adjustment: \$ \_\_\_\_\_

Commission Ordered Recovery Or (Credit): \$ \_\_\_\_\_

Net Recoverable Costs: \$ \_\_\_\_\_

Total Company Sales: \$ \_\_\_\_\_ (MCF)

OCRDC Rate: \$ \_\_\_\_\_

\* File Monthly

\*\* File Semiannually