

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's Review)
of its Rules for Energy Efficiency) Case No. 13-651-EL-ORD
Programs Contained in Chapter 4901:1-39)
of the Ohio Administrative Code.)

In the Matter of the Commission's Review)
of its Rules for the Alternative Energy) Case No. 13-652-EL-ORD
Portfolio Standard Contained in Chapter)
4901:1-40 of the Ohio Administrative)
Code.)

ENTRY

The attorney examiner finds:

- (1) Section 119.032, Revised Code, requires all state agencies to conduct a review, every five years, of their rules and to determine whether to continue their rules without change, amend their rules, or rescind their rules. At this time, the Commission is reviewing the Energy Efficiency Programs rules contained in Chapter 4901:1-39 of the Ohio Administrative Code and the Alternative Energy Portfolio Standard contained in Chapter 4901:1-40 of the Ohio Administrative Code. (O.A.C.).
- (2) Section 119.032(C), Revised Code, requires that the Commission determine:
 - (a) Whether the rules should be continued without amendment, be amended, or be rescinded, taking into consideration the purpose, scope, and intent of the statute under which the rules were adopted;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 to eliminate unnecessary paperwork; and
 - (d) Whether the rules duplicate, overlap with, or conflict with other rules.
- (3) Furthermore, on June 11, 2012, the governor of the state of Ohio signed into law Am. Sub. S.B. 315 (S.B. 315), which became effective on September 10, 2012. S.B. 315, *inter alia*, amended provisions contained in Chapter 4928, Revised Code, which governs the rules and regulations promulgated by the Commission contained in Chapters 4901:1-39 and 4901:1-40, O.A.C. In order to provide for a comprehensive review of the rules, the attorney examiner finds it appropriate, at this time, to initiate this docket for consideration of both the Commission's five-year review of the rules and possible revisions to rules resulting from the enactment of S.B. 315.
- (4) 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 that a rule has 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.
- (5) Additionally, in accordance with Section 121.82, Revised Code, in the course of developing draft rules, the Commission must evaluate the rules against the business impact analysis. If there will be an adverse impact on businesses, as defined in Section 107.52, Revised Code, the agency is to incorporate features into the draft rules to eliminate or adequately reduce any adverse impact. Furthermore, the Commission is required, pursuant to

Section 121.82, Revised Code, to provide the Common Sense Initiative (CSI) office the draft rules and the business impact analysis. The Commission is to consider any recommendations made by CSI with regard to the draft rules and provide CSI with a memorandum explaining either how CSI's recommendations were incorporated into the rules or why the recommendations were not incorporated into the rules.

- (6) The Commission has considered the current rule review procedures and revised them to incorporate the new CSI process. As part of the Commission's new procedure, a workshop should be held prior to issuing Staff's proposed revisions to the rules for comment. At the workshop Staff should elicit feedback on any proposed revisions to the rules which Staff may have and may permit stakeholders to propose their own revisions to the rules for Staff's consideration. Interested stakeholders should come to the workshop prepared with necessary technical experts to provide appropriate feedback. An attorney examiner from the Commission's legal department will serve as a moderator for the workshop. After Staff has an opportunity to consider the feedback received at the workshop, proposed rule amendments will be issued for comments and reply comments by interested parties.
- (7) Accordingly, the attorney examiner finds that a workshop should be scheduled for April 23, 2013, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, Hearing Room 11-B, Columbus, Ohio 43215. To allow broader access to the workshop, it will be webcast. Persons wishing to view the workshop via the web should access the Commission's web site at www.puco.ohio.gov and click on Webcasts. The workshop is intended as an opportunity for Staff to receive feedback from interested stakeholders before it issues draft rules and opens them up for formal comment. Any interested stakeholder that cannot or does not choose to participate in the workshop may file formal comments with the Commission once the draft rules have been issued.

It is, therefore,

ORDERED, That a workshop be scheduled for April 23, 2013, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, Hearing Room 11-B, Columbus, Ohio. It is, further,

ORDERED, That a copy of this entry be served upon all electric companies in the state of Ohio, all certified competitive retail electric service providers in the state of Ohio, the Ohio Consumers' Counsel, the Electric-Energy industry list-serve, the Renewable and Advanced Energy Portfolio Standards list-serve, and all other interested persons.

THE PUBLIC UTILITIES COMMISSION OF OHIO

s/Bryce McKenney

By: Bryce A. McKenney
Attorney Examiner

BAM/sc

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in

Case No(s). 13-0651-EL-ORD, 13-0652-EL-ORD

Summary: Attorney Examiner Entry scheduling a workshop for 04/23/2013 at 10:00 a.m. at the offices of the Commission, Rm. 11-B, 180 E. Broad St., Columbus, Ohio. - electronically filed by Sandra Coffey on behalf of Bryce McKenney, Attorney Examiner, Public Utilities Commission of Ohio