

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the :
Commission's Review of :
Chapter 4901:1-35 of the : Case No. 18-1188-EL-ORD
Ohio Administrative Code. :
:

In the Matter of the :
Commission's Review of :
Chapter 4901:1-36 of the : Case No. 18-1189-EL-ORD
Ohio Administrative Code. :
:

In the Matter of the :
Commission's Review of :
Chapter 4901:1-37 of the : Case No. 18-1190-EL-ORD
Ohio Administrative Code. :
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In the Matter of the :
Commission's Review of :
Chapter 4901:1-38 of the : Case No. 18-1191-EL-ORD
Ohio Administrative Code. :
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WORKSHOP

before Mr. James Lynn, Attorney Examiner, at the
Public Utilities Commission of Ohio, 180 East Broad
Street, Room 11-C, Columbus, Ohio, called at 10:00
a.m. on Thursday, November 8, 2018.

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Thursday Morning Session,
November 8, 2018.

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EXAMINER LYNN: Hi. Good morning,
everyone. I'm Jim Lynn, and I am the Attorney
Examiner presiding today. We are here for a workshop
concerning four Ohio Administrative Code Chapters.
Those chapters are 4901:1-35 of the Ohio
Administrative Code, 4901:1-36 of the OAC, 4901:1-37,
4901:1-38.

I want to give an overview of what we
will be doing today and just describe how we'll
proceed. We're -- the workshop is being held in
response to the issuance of the Common Sense
Initiative as well as updates to Section 121.82 of
the Revised Code which require the Commission to
evaluate its rules using a business and fact analysis
and provide that analysis to the Common Sense
Initiative Office.

The purpose of the workshop is to get
your feedback on rules concerning alternative -- I'm
sorry, concerning these four chapters, and I want to
emphasize this is your opportunity to give your
feedback on the current state of the rules and any
recommendations how the rules can be improved.

Now after the workshop, the Commission will still issue a proposed set of rules for written comment by Commission entry. And it will be the same comment and reply process you folks are all used to from previous years.

Nothing today is considering binding on the parties, but the purpose is simply to open a dialogue between the parties that are interested in making any changes and Commission Staff. But, again, as I said, we'll have a written comment and reply period after this is over.

So with that in mind, if you have any thoughts about any of the Chapters that I mentioned, I want you to speak up. Now, when I did a workshop like this once before, there were some folks in attendance, not many, and they simply were here to see if anyone else would say anything. So it may happen here again, but I will go Chapter by Chapter.

And begin with Chapter 4901:1-35 that concerns market-based standard service offers and competitive bidding for electric utilities. Does anyone here have any comments to make about that particular Chapter?

If you do, come up here to the witness box here and our court reporter can hear you better

1 and everybody else can hear you better too because
2 there is a microphone.

3 Would you just like to state your name,
4 please, and who you represent.

5 MR. MICHAEL: Certainly. Thank you, your
6 Honor. My name is Bill Michael. I'm with the Office
7 of Ohio Consumers' Counsel, and we appreciate the
8 opportunity to share some preliminary observations
9 regarding the rules and obviously may have more
10 comments and more detailed comments when we file
11 written comments.

12 EXAMINER LYNN: Fine.

13 MR. MICHAEL: But the first observation
14 we would make, your Honor, is regarding Section
15 4901:1-35-03(C)(9), and specifically in the third
16 line of that section of the rule it references
17 "corresponding information" and we would suggest,
18 your Honor, that that use of that term is a little
19 ambiguous, unclear, and there is uncertainty as to
20 its meaning and, therefore, would suggest further
21 definition of that particular phraseology there.

22 EXAMINER LYNN: All right.

23 MR. MICHAEL: The next comment, your
24 Honor, would be regarding (9)(A) --

25 EXAMINER LYNN: I'm sorry, the rule

1 again?

2 MR. MICHAEL: Same rule, your Honor.

3 EXAMINER LYNN: Same rule, okay.

4 MR. MICHAEL: Yes, sir. So on (9)(A)
5 Subsection (ii) where it references "any benefits
6 available," we would suggest, your Honor, a little
7 bit more definition to that and perhaps to clarify
8 that the benefit should be quantifiable so put a
9 little meat on the bones regarding what benefits
10 exactly we're talking about.

11 Same rule, your Honor, in (iii) we would
12 suggest, your Honor, including between the words
13 "these" and "costs" the word "net." And after
14 "costs" including a parenthetical reading "costs
15 minus benefits" just so that the net value is what we
16 are focusing on. And then in the next line in that
17 same subsection, your Honor, inserting the word "net"
18 between "these" and "costs," again just to focus on
19 net.

20 EXAMINER LYNN: Thank you.

21 MR. MICHAEL: In Section (iv) of that
22 same rule, (9)(A)(iv), the first line we would
23 suggest include -- making "cost" plural and adding
24 "and benefits," again to focus on the net.

25 Same rule, your Honor, I believe it's

1 (9) (C) (i), we would suggest, your Honor,
2 consideration of striking the words "to the extent
3 possible" so that it quantified "justification shall
4 be provided."

5 Again, the same rule, your Honor, still
6 in (9) (G) (iii), we would suggest, your Honor,
7 consideration of beginning that paragraph with the
8 following: "A detailed cost/benefit analysis or
9 other quantitative justification and quantification
10 of the program's projected impact on rates. The
11 detailed cost analysis will include." So that's an
12 insertion to the beginning of that section and among
13 other things it would -- that addition would bring it
14 in line with (H) which follows it.

15 EXAMINER LYNN: All right. Thank you
16 again for your comments.

17 MR. MICHAEL: And I believe -- let me
18 confirm, your Honor, but I believe those are the only
19 suggestions we have at this time.

20 Yes, that's correct, your Honor. Those
21 are the suggestions we have at this time.

22 EXAMINER LYNN: Thank you. You can take
23 your seat.

24 MR. MICHAEL: Thank you.

25 EXAMINER LYNN: And does anyone else have

1 any comments to make on proposed changes to Chapter
2 4901:1-35?

3 Come on up. Thank you. And, again, if
4 you can state your name and who you represent,
5 please.

6 MS. FLEISHER: Thank you, your Honor.
7 Madeline Fleisher, I represent the Environmental Law
8 & Policy Center. And just one suggestion here with
9 respect to 4901:1-35-01(K) in the definition section.
10 This is the definition of time-differentiated
11 pricing. And our suggestion is just as the
12 Commission is exploring time-differentiated pricing
13 options a little more robustly than it has in the
14 past is to clarify that this definition can include
15 demand response programs which I think under that
16 current definition are not clearly encompassed since
17 they're not exactly time varying rates, so I think
18 just some additional language to put that within the
19 scope or to change the term would be useful.

20 EXAMINER LYNN: What kind of programs
21 again was that?

22 MS. FLEISHER: Demand response programs
23 which can include something like a peak time rebate
24 or, you know, demand response controlled by a utility
25 or a third party, something like that.

1 EXAMINER LYNN: Thank you.

2 Do we have anyone else who wants to make
3 any comments on that Chapter?

4 If you can just indicate who you are and
5 who you represent. Thank you very much.

6 MR. DARR: On behalf of IEU-Ohio, my name
7 is Frank Darr. We will have some comments with
8 regard to the specific technical -- or substantive
9 matters when the rules are submitted, but as a
10 technical matter, we would suggest that we eliminate
11 the technical conference. At this point it's too
12 early -- as it's currently set up, it's too early in
13 the process in terms of being a productive meeting
14 among the parties.

15 And typically it basically ends up
16 resolving into a repetition by the company of its --
17 either its press releases or its summary of the case
18 which is already contained in the application.

19 It has no evidentiary value. It can't be
20 used in the hearing because there is no one under
21 oath or, so it's basically useless in that regard.
22 And it's useless in terms of setting issues for
23 settlement, again, because it's too early in the
24 process. It's gotten to the point where in some
25 cases I don't even think we schedule technical

1 conferences. It's evolved to that point.

2 Because it's not required by statute and
3 it doesn't do anything in terms of advancing the
4 ball, basically it's a deadweight loss, and as a
5 result, I would recommend -- we would recommend that
6 that be eliminated from the rule.

7 EXAMINER LYNN: And which rule is this in
8 particular?

9 MR. DARR: I believe it's 35-05.

10 EXAMINER LYNN: Okay. Thank you.

11 MR. DARR: Thank you, your Honor.

12 EXAMINER LYNN: Anybody other -- any
13 other comments about this chapter?

14 MS. FLEISHER: All right. First
15 embarrassing experience of the day, I forgot one.

16 EXAMINER LYNN: Not a problem.

17 MS. FLEISHER: Madeline Fleisher again
18 with the Environment Law & Policy Center. I can't
19 read my own handwriting, but within 4901:1-35 in this
20 case dash 08(A), with respect to the competitive
21 bidding process for standard service offer, two
22 specific suggestions there. One is related to
23 information provided to potential bidders in this CBP
24 process which my understanding has traditionally been
25 historic load information.

1 And our view is that given at least
2 somewhat increasing penetrations of both distributed
3 generation and electric vehicle adoption, it would
4 make sense to require the utility to provide at least
5 reasonable attempts at forecasts of future DG
6 penetration and EV adoption in the service territory
7 so that the forward-looking load, basically load
8 forecast information is as complete as possible. And
9 I believe this would result in more accurate pricing
10 through the bidding process.

11 And then the other is a suggestion that
12 the competitive bidding process proposal include
13 consideration of terms ranging beyond the current
14 length which is usually three years but also
15 basically be structured as an all source RFP for
16 lengths ranging up to 15 years. And what's driving
17 this suggestion is that we're seeing nationally but
18 also regionally in the midwest prices coming down for
19 renewables particularly, but because of the financing
20 of renewables, it's difficult for them to compete in
21 this three-year construct.

22 But over in Indiana NIPSCO did an all
23 source RFP and got significantly lower megawatt
24 prices for the longer terms, and so we think it would
25 be valuable to have that information available for

1 what potential prices could be for the SSO as the
2 utility is reviewing bids.

3 EXAMINER LYNN: And anything beyond that?

4 MS. FLEISHER: That's it for real this
5 time. Thank you.

6 EXAMINER LYNN: Come back again if you
7 want. Thank you.

8 If anyone from our Staff has any replies
9 at this point in time, that's fine. However, I
10 realize this is the first time Staff would have heard
11 any of these proposals, so maybe Staff and the
12 parties could collaborate at a later time.

13 With that in mind, we'll move on to
14 Chapter 4901:1-36, transmission cost recovery rider.
15 And does anyone have any comments to make concerning
16 that Chapter? If so, you can come on up.

17 Please indicate your name and who you
18 represent.

19 MS. O'BRIEN: My name is Amy
20 Botschner-O'Brien representing the Office of the Ohio
21 Consumers' Counsel.

22 We just have a couple preliminary
23 observations. The rule does not mention the base
24 transmission rider which Duke and maybe others has
25 instead of the TCRR.

1 So turning to the definitional section,
2 maybe the first line under definitions, it could say
3 "Application means an application for transmission
4 cost recovery rider or a base transmission rider."

5 EXAMINER LYNN: You would still say
6 "pursuant to this chapter"?

7 MS. O'BRIEN: Yes.

8 EXAMINER LYNN: Okay.

9 MS. O'BRIEN: Second observation, 02,
10 4901:1-36-02, purpose and scope, (A) "credited to the
11 electric utility including -- including regional
12 transmission expansion plan (RTEP) credits." Add
13 that after the -- where it says "other
14 transmission-related revenues credited to the
15 electric utility," and then add "including regional
16 transmission expansion plan (RTEP) credit."

17 EXAMINER LYNN: And this is in
18 4901:1-36-02?

19 MS. O'BRIEN: Yes, (A).

20 EXAMINER LYNN: (A), all right.

21 MS. O'BRIEN: And then the last
22 observation would be we would want to include in the
23 rule that the tariff language should include the
24 reconciliation and refund language.

25 EXAMINER LYNN: Sorry. 4901:1-36-03?

1 MS. O'BRIEN: Yes.

2 EXAMINER LYNN: Okay. Thanks very much
3 then.

4 MS. O'BRIEN: That concludes. Thank you.

5 EXAMINER LYNN: Any other comments from
6 anyone else out there concerning this particular
7 Chapter, 4901:1-36? Okay. Thank you.

8 Oh, I'm sorry. We do have one comment.

9 MR. SERYAK: I'm John Seryak. I'm an
10 energy consultant with OMA Energy Group.

11 EXAMINER LYNN: What's the group again?

12 MR. SERYAK: The Ohio Manufacturers'
13 Association Energy Group.

14 EXAMINER LYNN: Okay. Thank you.

15 MR. SERYAK: So I guess the comment we'll
16 share is in reading through the rules, specifically
17 1-36-04(B), "the transmission cost recovery rider
18 shall be avoidable by all customers who choose
19 alternative generation suppliers." I'm an engineer
20 that works with customers, and I was surprised that
21 was a rule because it's not common practice in the
22 state.

23 And so I think when the Staff and
24 Commission is looking at this rule, they should
25 consider that by not following this rule, there's

1 been some major problems created for customers.
2 Billing transmission on monthly peaks doesn't give
3 the customer the ability to manage their costs. It
4 also doesn't give the state the ability to manage the
5 system peaks or manage system costs. Certainly
6 doesn't follow cost causation and it creates a wall
7 between system costs and solutions and non-wired --
8 non-wires alternatives that might be able to happen
9 at the customer's site.

10 So what we would like to see is market
11 pricing for transmission that's applied at the -- on
12 the coincident peak for the transmission system. And
13 so clarifying that in the rules might be helpful.
14 And when transmission is on the distribution bill, it
15 would be incumbent, we think, on the ED -- the
16 distribution utility to provide forecasting and
17 notifications of the peaks and timely communication
18 to customers on the coincident peaks for their -- for
19 their facilities because that information isn't
20 communicated today. So to the extent that could be
21 incorporated in the rules, we think that would be
22 good.

23 EXAMINER LYNN: Okay. So are you
24 suggesting 4901:1-36-04(B) to eliminate that sentence
25 then?

1 MR. SERYAK: No.

2 EXAMINER LYNN: Or amend it? Simply
3 amend it?

4 MR. SERYAK: No. I think it's a good
5 sentence that should be there. It's not followed in
6 practice, so I think when you are looking at the
7 rules, they should be considered about how -- the
8 totality of these rules how this (B) is not actually
9 followed in practice.

10 EXAMINER LYNN: I see.

11 MR. SERYAK: So you may need to
12 strengthen some of the language in the other parts of
13 the rule.

14 EXAMINER LYNN: Okay. All right. Thank
15 you.

16 MS. FLEISHER: Madeline Fleisher
17 representing the Environmental Law & Policy Center.
18 Just have one comment here, for real this time, on
19 4901:1-36-03 which relates to the application for
20 transmission cost recovery rider.

21 And sort of similar to Mr. Seryak's
22 comments, it's our view that for all customers, not
23 just commercial/industrial, as smart meters and AMI
24 are being deployed, there are additional rate design
25 options on the table for transmission in addition to

1 generation and distribution in order to, you know,
2 minimize system costs and also just, you know,
3 provide comprehensible rates to customers that they
4 can act on.

5 And in this spirit we propose that any
6 TCRR application should address two related topics.
7 One is -- should address potential
8 time-differentiated rate options on the transmission
9 side to the extent, you know, the metering is in
10 place to support those and also should address
11 alignment of transmission rider rate design with the
12 applicable distribution rates. And to the extent
13 it's a nonshopping customer, the SSO rates because I
14 think, you know, these days you look at a customer's
15 bill and depending where they are on the residential
16 side, it's maybe half distribution and maybe 30 or
17 40 percent generation, but the transmission piece is
18 getting bigger.

19 And so one of our overall concerns, you
20 know, at the Commission is that the different rates
21 for the different pieces of the bill all, you know,
22 work together, that they are not sending conflicting
23 price signals to customers. So we think it's -- you
24 know, especially as transmission costs are getting to
25 be a higher piece of the bill, it's important to have

1 that addressed up front and part of the discussion of
2 any rider or rate. That's it.

3 EXAMINER LYNN: Thank you. Do we have
4 anyone else concerning this Chapter at all? Now is
5 your opportunity.

6 Okay. We will move on to 4901:1-37 Ohio
7 Administrative Code, corporate separation for
8 electric utilities and affiliates. Does anyone out
9 there have any comments concerning that Chapter?

10 No one at all? If you don't, that's
11 fine.

12 And we'll go to our last Chapter for
13 review today then, 4901:1-38, reasonable arrangements
14 for electric utility customers. Any comments?

15 Mr. Darr.

16 MR. DARR: Yes, thank you, your Honor.
17 Only comment that we would have with regard to the
18 reasonable arrangement rules refers -- or references
19 to Rule 04 under Chapter 38. This is a rule
20 concerning energy efficiency arrangements. There are
21 in practice very few of these, I believe, going
22 through the Commission, so the first thought was
23 eliminate the rule.

24 But as a practical matter, what's -- the
25 way these things are coming through are under pilots

1 or under very specialized agreements. The pilot,
2 however, is buried in an application form buried on a
3 page of the Commission's website with no -- unless
4 you know where to find it, you're going to be hard
5 put to even recognize that's an option available to
6 you.

7 One suggestion would be that if you are
8 going to keep the EE rule in its current form, that
9 you consider linking it to the forum or the page that
10 describes the mercantile pilot or incorporate that
11 mercantile pilot into the EE rule.

12 Probably the -- the first option is
13 easier inasmuch as it comports with current practice,
14 and you could follow something along the lines of the
15 Schedule A requirement under the rate case filings to
16 just reference it as an appendix or something like
17 that, an appendix to the rule. So as a way of making
18 the rule more -- the process more transparent, we
19 would suggest that you incorporate some -- some sort
20 of cross reference into the -- to the pilot program
21 into the formal rules.

22 EXAMINER LYNN: All right. Thank you.
23 Okay. Thank you, Mr. Darr.

24 Anyone else concerning Chapter 4101:1-38?

25 And if Staff has any comments concerning

1 4901:1-35, 36, 37, 38, again, feel free to speak up,
2 but I realize you may need some time to take in and
3 consider what was said today, so you do not have to
4 speak today. Any thoughts from Staff at all? If
5 not, so be it.

6 Okay. I want to thank everyone for
7 attending. We will take these comments into account,
8 and we will issue some proposed rules for written
9 comment in the future. Have a good morning.

10 (Thereupon, at 10:25 a.m., the hearing
11 was adjourned.)

12 - - -

CERTIFICATE

I do hereby certify that the foregoing is
a true and correct transcript of the proceedings
taken by me in this matter on Thursday, November 8,
2018, and carefully compared with my original
stenographic notes.

Karen Sue Gibson
Karen Sue Gibson, Registered
Merit Reporter.

(KSG-6645)

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Summary: Transcript In the Matter of the Commission's Review of Chapter 4901:1-35 of the Ohio Administrative Code; In the Matter of the Commission's Review of Chapter 4901:1-36 of the Ohio Administrative Code; In the Matter of the Commission's Review of Chapter 4901:1-37 of the Ohio Administrative Code and In the Matter of the Commission's Review of Chapter 4901:1-38 of the Ohio Administrative Code, hearing held on November 8th, 2018. electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Gibson, Karen Sue Mrs.