

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

COMMENTS OF DUKE ENERGY OHIO, INC.

I. INTRODUCTION

By Entry dated July 31, 2019, the Public Utilities Commission of Ohio (Commission) proposed amendments to Ohio Administrative Code Chapter 4901:1-35 and invited interested parties to comment on the rules. Below are the comments of Duke Energy Ohio, Inc. (Duke Energy Ohio or the Company). Duke Energy Ohio appreciates the opportunity to comment on the proposed rules, including provisions to which the Commission does not propose any changes.

II. COMMENTS

Rule 4901:1-35-03(B)(1) Filing and contents of applications.

Subsection (B)(1) of Rule 4901:1-35-03 lists three requirements “to be demonstrated in a separate section of the SSO application proposing an MRO [market-rate offer].” Duke Energy Ohio suggests that the Commission delete Subsection 4901:1-35-03(B)(1), because all of the electric utilities to whom its requirements apply already fulfill these requirements, and there is no added value in requiring redundant documentation in the SSO application.

All three of these requirements are obsolete, because all of the electric utilities to whom these requirements apply now belong to a regional transmission organization (RTO):

- 4901:1-35-03(B)(1)(a) can be met by establishing that an electric utility belongs to at least one RTO approved by the Federal Energy Regulatory Commission (FERC). All Ohio electric utilities belong to an RTO and therefore meet this requirement.

- 4901:1-35-03(B)(1)(b) can be met by establishing that the RTO to which the electric utility belongs “retains an independent market-monitor function” and possesses certain capabilities. All RTOs have an independent market-monitor function and possess the capabilities described in this subsection; therefore, all Ohio electric utilities meet this requirement.
- 4901:1-35-03(B)(1)(c) can be met by demonstrating that there is a publicly available, “independent and reliable source of electricity pricing information for any energy product or service necessary for a winning bidder to fulfill the contractual obligations resulting from the competitive bidding process (CBP).” This is true for all Ohio electric utilities because RTOs publish their pricing on their publicly available websites.

These requirements added value in earlier years, when some electric utilities did not belong to an RTO and/or when RTOs did not all meet the above conditions. However, now that all electric utilities are widely known to meet these requirements, there is no reason to continue requiring superfluous documentation. Removal of Subsection 4901:1-35-03(B)(1) would streamline the rules and make the SSO application process more efficient.

Rule 4901:1-35-03(B)(2) Filing and contents of applications.

Subsection (B)(2) of Rule 4901:1-35-03 lists the required components of an electric utility’s plan for a competitive bidding process. Duke Energy Ohio believes that three of these requirements contain vague and/or confusing language.

First, the requirement in 4901:1-35-03(B)(2)(b) to submit “[p]rojected generation, transmission, and distribution rate impacts” is confusing and adds little real value. First, nothing in R.C. 4928.142 allows an MRO to include provisions for transmission or distribution, and therefore any projected “rate impacts” could only apply to generation. The reference in the rule to transmission and distribution rate impacts is unnecessarily confusing. Second, a utility can only

obtain generation through a CBP—a process whose outcome is unpredictable. Prior to Commission approval of the CBP and procurement of the actual generation, a utility cannot know or meaningfully project the generation rate impacts. A requirement to provide a highly contingent and uninformed projection is not helpful and should be removed.

Second, 4901:1-35-03(B)(2)(h) requires a “discussion of alternative retail rate options that were considered in the development of the CBP plan,” but does not provide any specifics about what must be considered. The Commission should clarify a baseline standard for what constitutes sufficient discussion of alternatives, both for the benefit of utility applicants and commenters who may believe that different alternatives should have been considered.

Third, 4901:1-35-03(B)(2)(k) requires a utility to describe how its CBP relates to its “plans to comply with” requirements that will cease to exist in the near future: “alternative energy portfolio requirements of [R.C. 4928.64], and energy efficiency requirements and peak demand reduction requirements of [R.C. 4928.66].” The recently passed H.B. 6 provides for utilities to reduce their alternative energy portfolio requirements beginning in 2020 and to terminate energy efficiency portfolio plans at the end of 2020.¹ Thus, this requirement will soon be obsolete and its presence will be unnecessarily confusing.

Rule 4901:1-35-11 Competitive bidding process ongoing review and reporting requirements.

Subsections (A) and (B) of this rule describe the quarterly and annual filings that a utility must make when its CBP is approved subject to a price blending period, even though the price blending requirement is no longer imposed in any CBP approvals. All utilities procure generation for their standard service offer (SSO) pursuant to a CBP, which sets a market price. Therefore,

¹ 2019 Am.Sub.H.B. No. 6, 21, 25, available at http://search-prod.lis.state.oh.us/solarapi/v1/general_assembly_133/bills/hb6/EN/06?format=pdf.

there can be no price blending, and there is no need to regulate price blending. These sections are obsolete and should be removed.²

Respectfully submitted,

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² Accordingly, the Commission should remove references to price blending from Subsection (C), which describes the annual report that must be filed when a CBP plan is approved without a price blending period.

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Summary: Comments Initial Comments of Duke Energy Ohio, Inc. electronically filed by Ms. Emily Olive on behalf of Duke Energy Ohio and D'Ascenzo, Rocco O. Mr. and Kingery, Jeanne W. Ms. and Vaysman, Larisa M. Ms.