

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Review of Ohio Adm.)
Code Chapter 4901-1 Rules Regarding) Case No. 18-0275-AU-ORD
Practice and Procedure Before the)
Commission.)

In the Matter of the Review of Ohio Adm.)
Code Chapter 4901:1-1 Rules Regarding) Case No. 18-0276-AU-ORD
Utility Tariffs and Underground Utility)
Protection Service Registration.)

In the Matter of the Review of Ohio Adm.)
Code Chapter 4901-3 Rules Regarding) Case No. 18-0277-AU-ORD
Open Commission Meetings.)
)

In the Matter of the Review of Ohio Adm.)
Code Chapter 4901-9 Rules Regarding) Case No. 18-0278-AU-ORD
Commission Complaint Proceedings.)

**JOINT MOTION TO EXTEND PROCEDURAL SCHEDULE TO ALLOW MORE
TIME FOR PUBLIC COMMENT
AND
REQUEST FOR EXPEDITED RULING
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL
AND
NORTHWEST OHIO AGGREGATION COALITION**

Under Ohio's law regarding agency rulemakings, the PUCO opened several dockets for the review of important rules affecting Ohio utility consumers, utilities, and attorneys practicing before the PUCO. On December 4, 2019, the PUCO issued an Entry requesting comments (by January 3, 2020) and reply comments (by January 17, 2020) from any interested person on 45 individual rules located in four chapters of the Ohio

Administrative Code.¹ The chapters under review are the PUCO's Rules of Practice and Procedure,² Utility Tariffs and Underground Utility Protection Service Registration,³ Open PUCO Meetings under Ohio's Open Meetings Act,⁴ and proceedings involving complaints against utilities and others.⁵

Some of the rules in these chapters involve complex matters with numerous subparts, including rules regarding rights of consumers and others on discovery, settlements, utility tariffs, and complaint cases. It would benefit stakeholders and the PUCO (that will benefit from recommendations from stakeholders) to allow a modest amount of additional time for comments.

Accordingly, under Ohio Adm.Code 4901-1-13(A) and for good cause shown, the Office of the Ohio Consumers' Counsel ("OCC") and Northwest Ohio Aggregation Coalition ("NOAC") respectfully move the Attorney Examiner for an extension of time of 10 days for Initial Comments and Reply Comments. The current procedural schedule would thus be modified to allow comments to be filed on January 13, 2020 and reply comments on January 27, 2020.

The reasons for requesting this extension are (1) the public import of the rules under review, (2) the significant number of rules that can be addressed, (3) the intervening holidays during the time period, and (4) the press of other work for OCC and

¹ Entry (Dec. 4, 2019) at ¶ 10.

² *In re Ohio Adm.Code Chapter 4901-1*, Case No. 18-275-AU-ORD.

³ *In re Ohio Adm.Code Chapter 4901:1-1*, Case No. 18-276-AU-ORD.

⁴ *In re Ohio Adm.Code Chapter 4901-3*, Case No. 18-277-AU-ORD.

⁵ *In re Ohio Adm.Code Chapter 4901-9*, Case No. 18-278-AU-ORD.

NOAC⁶. The proposed brief extension would not interpose unreasonable delay for these proceedings. For these reasons, the standard of good cause, under Ohio Adm.Code 4901-1-13(A), is met for the PUCO to extend the period of time for interested parties to file comments and reply comments by 10 days.

In addition, under Ohio Adm.Code 4901-1-12(C), an expedited ruling on this Motion should be granted for the reasons set forth above and in the attached memorandum in support. OCC and NOAC cannot certify that no party opposes this request, but requests that the PUCO grant this motion under Ohio Adm. Code 4901-1-12(C) on an expedited basis.

⁶ *e.g.* Ohio S.Ct. 2019-1269 (Briefing Schedule); Ohio S.Ct. 2019-0961 (Briefing Schedule); *In re Commission's Investigation of PALMco*, Case No. 19-957-GE-COI; *In re Commission's Investigation of Verde*, Case No. 19-958-GE-COI; *In re Dominion (MVR Case)*, Case No. 18-1419-GA-EXM; *In re Dayton Power and Light Co.*, Case No. 08-1094-EL-SSO, et al.; *In re Dayton Power and Light Co.*, Case No. 16-395-EL-SSO, et al.

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MEMORANDUM IN SUPPORT

Under the current procedural schedule, initial comments are due January 3, 2020, and reply comments January 17, 2020.⁷ Additional time for the filing of initial comments and reply comments is necessary due to the significance of these rulemakings, the significant number of rules being reviewed (45 rules), and the preparation required for meaningful comments during a busy time of year with work and holidays. Extending the procedural schedule to allow parties to file comments on January 13, 2020 and reply comments on January 27, 2020 would not unreasonably delay or prolong this proceeding.

Good cause, under Ohio Adm.Code 4901-1-13(A), exists for the extension of the procedural schedule proposed by OCC and NOAC to give parties sufficient time to file

⁷ Entry (Dec. 4, 2019) at ¶ 10.

comments and reply comments. Extending the procedural schedule would allow parties such as OCC and NOAC needed time to develop recommendations to aid the PUCO's review. The PUCO's rule will be conducted under R.C. 106.03(A) regarding 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.

Further, the PUCO has routinely recognized that holidays are significant events for participants, who have the press of business in case matters. The PUCO has granted Motions for Extensions of Time to file comments on rules for the end of the year holidays⁸, Labor Day⁹, spring break¹⁰, Memorial Day¹¹, and Thanksgiving¹². The PUCO often grants Motions for Extensions of Time to file comments in PUCO cases involving

⁸ *In re Standards for Waterworks Companies and Sewage Disposal Companies*, Case No. 16-1568-WS-ORD, Entry (Jan. 25, 2017) at ¶ 2 (“Because of the rate proceeding and the holiday season * * * “); *In re Review of the Alternative Rate Plan and Exemption Rules*, Case No. 11-5590-GA-ORD, Entry (Dec. 12, 2011) at ¶ 2 (“*** the upcoming holiday season hinders the companies’ abilities to file timely comments.”); *In re Citizens Against Clearcutting*, Case No. 17-2344-EL-CSS, Entry (Dec. 19, 2018) at ¶ 6 (“The parties also request the Commission to continue the deadline to file reply briefs by two weeks due to the upcoming holidays.”).

⁹ *In re Adoption of Chapter 4901:1-3*, Case No. 13-579-AU-ORD, Entry (Sept. 4, 2014) at ¶ 4.

¹⁰ *In re Commission’s Review of its rules in Chapter 4901:1-16*, Case No. 13-2237-GA-ORD, Entry (Mar. 26, 2014) at ¶ 3.

¹¹ *In re Review of Chapter 4901:1-3*, Case No. 08-539-TP-ORD, Entry (May 22, 2008) at ¶ 2.

¹² *In re Commission’s Review of Chapter 4901:1-15*, Case No. 11-5605-WS-ORD, Entry (Nov. 23, 2011) at ¶ 2.

review of rules, for good cause as has been shown here.¹³ Finally, there has been a general press of business in recent weeks that warrants the requested extension.¹⁴

For the reasons noted above, the Attorney Examiner should grant this motion on an expedited basis and set a new procedural schedule with initial comments to be filed on January 13, 2020 and reply comments on January 27, 2020.

¹³ *In re Commission's Review of the Gas Pipeline Safety Rules*, Case No. 19-47-GA-ORD, Entry (Aug. 30, 2019); *In re Commission's Review of Ohio Adm.Code Chapter 4901:1-3*, Case No. 19-834-AU-ORD, Entry (Aug. 26, 2019); *In re Commission's Review of Ohio Adm.Code Chapters 4901:1-17 and 4901:1-18*, Case No. 19-52-AU-ORD, Entry (Aug. 9, 2019); *In re Commission's Review of Ohio Adm.Code Chapters 4901:5-1, 4901:5-3, 4901:5-5, and 4901:5-7*, Case No. 15-53-GE-ORD, Entry (Dec. 15, 2015); *In re Commission's Review of its Rules for Energy Efficiency Programs, et al.*, Case Nos. 13-651-EL-ORD, 13-652-EL-ORD, 13-2156-EL-ORD, Entry (Mar. 7, 2014); *In re Commission's Review of its Rules for Motor Carrier Tax Payment Annual Reports*, Case No. 09-222-TR-ORD, et al., Entry (July 20, 2009); *In re Commission's Review of Chapters 4901:1-17 and 4901:1-18*, Case No. 08-723-AU-ORD, Entry (Aug. 1, 2008); *In re Commission's Review of the Minimum Telephone Service Standards*, Case No. 00-1265-TP-ORD, Entry (July 30, 2008); *In re Adoption of Rules for Standard Service Offer*, Case No. 08-777-EL-ORD, Entry (July 28, 2008); *In re Commission's Review of Chapter 4901-7*, Case No. 08-558-AU-ORD, Entry (June 12, 2008); *In re Commission's Review of Chapter 4901:1-15*, Case No. 07-292-WS-ORD, Entry (May 15, 2007); *In re Establishment of Carrier-to-Carrier Rules*, Case No. 06-1344-TP-ORD, et al., Entry (Jan. 18, 2007 and Feb. 5, 2007).

¹⁴ e.g. Ohio S.Ct. 2019-1269 (Briefing Schedule); Ohio S.Ct. 2019-0961 (Briefing Schedule); *In re Commission's Investigation of PALMco*, Case No. 19-957-GE-COI; *In re Commission's Investigation of Verde*, Case No. 19-958-GE-COI; *In re Dominion (MVR Case)*, Case No. 18-1419-GA-EXM; *In re Dayton Power and Light Co.*, Case No. 08-1094-EL-SSO, et al.; *In re Dayton Power and Light Co.*, Case No. 16-395-EL-SSO, et al.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of this Motion to Extend Procedural Schedule was served on the persons stated below via electric transmission this 30th day of December 2019.

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Summary: Motion Joint Motion to Extend Procedural Schedule to Allow More Time for Public Comment and Request for Expedited Ruling by the Office of the Ohio Consumers' Counsel and Northwest Ohio Aggregation Coalition electronically filed by Ms. Deb J. Bingham on behalf of McKenney, Bryce